HOUSE STATE AFFAIRS 1979-80

1979-1980

HOUSE STATE AFFAIRS

LIST OF FILES (PAGE 1)

HB 12

HB 23

HB 26

HB 28

HB 29

HB 34

HB 55

HB 84

HB 135

HB 139

HB 154

HB 164

HB 174

HB 203

HB 207

HB 213

HB 230

HB 240 - FILE NO. 1

HB 240 - FILE NO. 2

HB 240 - FILE NO. 3

HB 248

HB 264

HB 267

HB 278

HB 285

HB 299

1979-1980

HOUSE STATE AFFAIRS

LIST OF FILES (PAGE 2)

HB 312

HB 329

HB 358

HB 373

HB 396

HB 421

HB 510

HB 514

HB 534

HB 537

HB 539

HB 542

HB 563

HB 563

HB 575

HB 576

HB 589

HB 593

HB 605

HB 606

HB 638

HB 643

HB 667

HB 696

HB 729

HB 746

HB 757

1979-1980

HOUSE STATE AFFAIRS

LIST OF FILES (PAGE 3)

HB 764

HB 782

HB 806

HB 883

HB 906

HB 907

HB 908

HB 927

HB 931

HB 972

HB 1013

HCR 2

HCR 12

HCR 41

HCR 47

HCR 53

HCR 57

HJR 4

HJR 71

SB 2

SB 25

SB 59

SB 116

SB 198

SB 361

SB 470

SCR 9

1979-1980

HOUSE STATE AFFAIRS

LIST OF FILES (PAGE 4)

SCR 20

SCR 41

HB

12

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 12
Title An Act Relating to Northern Technology
Requested by B. Rogers Date 2-8-79

II. FISCAL DETAIL
Agency Affected Governor's Office, Policy Development and Planning
Program Category Affected
Budget Request Unit(s) Affected Policy Development and Planning

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES		39.4	41.7	44.2		
200 TRAVEL		2.7	2.8	3.0		
300 CONTRACTUAL		3.0	3.2	3.4		
400 COMMODITIES		.3	.3	.3		
500 EQUIPMENT		-	-	-		
600 LAND & STRUCTURES		-	-	-		
700 GRANTS, CLAIMS, ETC.		50.0	50.0	50.0		
TOTAL		95.4	98.0	100.9		

FUNDING (Thousands of Dollars)

GENERAL FUND		95.4	98.0	100.9		
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		1	1	1		
PART TIME		1	1	1		
TEMPORARY						

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

See Attachment.

IV. DATE 2/8/79 PREPARED BY Rep. Brian Rogers
AGENCY
PHONE 465-4925

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

33-001 (Rev. 10/78)

(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

1/24/79

Date: _____

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 12
"An Act relating to northern technology; eff. 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

&
John D Miller Dopass
Bill P
Terry Chambers

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Ken Fowler Do not pass
Jerry Martin - Do not Pass

_____
CHAIRMAN

H 60 (Rev. 12/78)

FY 80 Fiscal Note Analysis - HB 12

100 Personal Services

Grants Administrator	Range 17A	$23,210
Clerk Typist III	8B	6,530
		29,740
	Benefits @ 26%	9,630
		$39,370

200 Travel and Per Diem

8 2-day intrastate trips	@ $285	$ 2,280
1 2-day interstate trips	@ $400	400
		$ 2,680

300 Contractual

Communication - newsletter, postage, telephone, telecopier	$ 1,000
Professional services - newsletter, informational brochures, audio-visual progarms, research and other studies and investigations	2,000
	$ 3,000

400 Commodities

Office supplies, subscriptions	$ 300

700 Grants

As per Sec. 44.19.884(a)(2)	$50,000

TOTAL	$95,350

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 12

Title An Act Relating to Northern Technology

Requested by B. Rogers Date 1-24-79

II. FISCAL DETAIL

Agency Affected Governor's Office, Policy Development and Planning

Program Category Affected

BRU, Program, or Subprogram(s) Affected Policy Development and Planning

(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)

OPTION 1*

		FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES		63.5	67.3	71.3		
200	TRAVEL		4.6	4.9	5.2		
300	CONTRACTUAL		16.5	17.5	18.5		
400	COMMODITIES		0.3	0.3	0.3		
500	EQUIPMENT		-	-	-		
600	LAND & STRUCTURES		-	-	-		
700	GRANTS, CLAIMS, ETC.		**	50.0	50.0		
	TOTAL		84.9	140.0	145.3		

FUNDING (Thousands of Dollars)

GENERAL FUND		84.9	140.0	145.3		
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		1	1	1		
PART TIME		2	2	2		
TEMPORARY						

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

See Attachment for FY 80 Budget Analysis - 2 options presented.

* Option 1 - Provides for staff and resources to disseminate information and provide financial and technical assistance.

** FY 80 DPDP Budget allocation of $50.0 for Northern Technology activities.

IV. DATE 1/31/79 PREPARED BY Bill Luria

AGENCY Division of Policy Development and Planning

PHONE 465-3573

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/78)

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 12

Title An Act Relating to Northern Technology

Requested by B. Rogers Date 1-24-79

II. FISCAL DETAIL

Agency Affected Governor's Office - Policy Development and Planning

Program Category Affected

BRU, Program, or Subprogram(s) Affected Policy Development and Planning

(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)

OPTION 2*

		FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES		53.3	56.5	59.9		
200	TRAVEL		3.1	3.3	3.5		
300	CONTRACTUAL		3.0	3.2	3.4		
400	COMMODITIES		0.3	0.3	0.3		
500	EQUIPMENT		-	-	-		
600	LAND & STRUCTURES		-	-	-		
700	GRANTS, CLAIMS, ETC.		**	50.0	50.0		
	TOTAL		59.7	113.3	117.1		

FUNDING (Thousands of Dollars)

GENERAL FUND		59.7	113.3	117.1		
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		1	1	1		
PART TIME		1	1	1		
TEMPORARY						

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

See Attachment for FY 80 Budget Analysis - 2 options presented.

* Option 2 - Provides for grants administration but would not allow for a complete "information broker" activity.

** FY 80 DPDP budget allocation of $50.0 for Northern Technology activities.

IV. DATE 1/31/79 PREPARED BY Bill Luria

AGENCY Division of Policy Development and Planning

PHONE 465-3573

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/78)

Two options are offered. Option 1 satisfies completely the requirements of HB 12. It provides for staff and resources to disseminate information and provide financial and technical assistance. Option 2 would provide for a grants administration function, but would not allow for complete "information broker" activities such as a regular newsletter or grantsletter, or informational and "how-to" brochures, in-house research and studies.

A. Option 1

Personal Services

Northern Technology Program Manager	Range 23A	$36,120
Research Analyst I (½-time)	13A	8,150
Clerk Typist III (½-time)	8A	6,330
		$50,600
	Benefits @ 25.5%	12,903
		$63,503

Travel and Per Diem

12 2-day intrastate trips	@ $285	$ 3,420
3 2-day interstate trips	@ $400	1,200
		$ 4,620

Contractual Services

Communication - newsletter, postage, telephone, telecopier	$ 1,500
Professional services - newsletter, informational brochures, audio-visual programs, research and other studies and investigations	15,000
	$16,500

Commodities

Office supplies, subscriptions	$300

Grants

As per Sec. 44.19.884(a)(2)		*
	Total	$84,923

* FY 80 DPDP budget allocation of $50,000 for Northern Technology activities.

B. Option 2

Personal Services

Northern Technology Program Manager	Range 23A	$36,120
Clerk Typist III (½-time)	8A	6,330
		$42,450
	Benefits @ 25.5%	10,825
		$53,275

Travel and Per Diem

8 2-day intrastate trips	@ $255	$ 2,280
8 2-day interstate trips	@ $400	800
		$ 3,080

Contractual Services

Communication - newsletters, postage, telephone, telecopier	$ 1,000
Professionsl Services - newsletter	2,000
	$ 3,000

Commodities

Office supplies, subscriptions	$300

Grants

As per Sec. 44.19.884(a)(2)		*
	Total	$59,655

* FY 80 DFDP budget allocation of $50,000 for Northern Technology activities.

Introduced: 1/24/79
Referred: State Affairs and Finance

IN THE HOUSE BY ROGERS

HOUSE BILL NO. 12

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to northern technology; and providing for an effective date."

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

* Section 1. FINDINGS. The legislature finds that there is a need for development of small-scale and low cost alternatives for Alaskans in the area of building design, food production, recycling, transportation, energy generation, waste disposal, and small-scale residential and industrial enterprise. Therefore, the legislature finds that the development and wider use of low-cost and small-scale technologies appropriate to Alaska should be encouraged.

* Sec. 2. AS 44.19 is amended by adding new sections to read:

Sec. 44.19.882. OFFICE OF NORTHERN TECHNOLOGY. There is established in the division of policy development and planning an office of northern technology. The office shall be supervised by a coordinator who must be familiar with northern technology.

Sec. 44.19.883. PURPOSE. The purpose of the office of northern technology is to assist in the development and use of low-cost and small-scale technologies appropriate to Alaska through the dissemination of information and the provision of financial and technical assistance to individuals and businesses in Alaska.

Sec. 44.19.884. DUTIES OF OFFICE OF NORTHERN TECHNOLOGY. (a) The office of northern technology shall

(1) gather and disseminate information relating to all research and development undertaken in regard to northern technology;

is this a one time funding? (Duffy)

$10,000 (Pletnikoff)

and institutions (Bob Gibson)

(2) as funds are appropriated, make grants of financial assistance of up to ~~$5,000~~ to persons engaged in the development of northern technology;

(3) assist persons engaged in the development of northern technology to obtain financial assistance from all available sources; and

+ non-profit organizations

(4) assist and advise the governor, the legislature, and all state departments and agencies in developing and implementing northern technologies; liason w/ approp. local agencies

(b) Applications for grants made under this section shall be submitted to the office of northern technology. The office shall adopt regulations prescribing procedures for the review and approval of grant applications. Applications for grants under this section shall be processed by the office within 30 days of receipt. The office may make grants in coordination with other funding sources. An applicant for funds for a demonstration project shall include with his application a statement that the completed project will be available for public inspection. who has right for patent (Ross)

(Ross) - is this conceivable w/ one person in office?

* Sec. 3. AS 45 is amended by adding a new chapter to read:

CHAPTER 89. NORTHERN TECHNOLOGY REVOLVING LOAN FUND.

Sec. 45.89.010. FUND ESTABLISHED. There is established in the Department of Commerce and Economic Development the northern technology revolving loan fund to finance pilot projects in northern technology. Loans made under this chapter are to be used to develop and implement methods of energy generation, waste disposal, recycling, food production, transportation, building design, and industrial enterprise which are more efficient, and less costly and less energy-intensive than those methods presently utilized and which are appropriate to the Alaska environment.

Sec. 45.89.020. POWERS AND DUTIES OF THE DEPARTMENT IN ADMINISTERING THE FUND. (a) The department may, after consultation with the office of northern technology,

(1) make loans for the development and implementation of appropriate technologies;

(2) adopt regulations necessary to carry out the provisions of this chapter.

(b) The department, in coordination with the office of northern technology, shall develop eligibility standards for loans made under this chapter and adopt guidelines for the determination of loan terms.

Sec. 45.89.030. LOAN TERMS. (a) A loan for the development or implementation of a northern technology under this chapter may not exceed $10,000. $50,000 pr. project? Pletnikoff $20,000 (Strachel rodt)

(b) The duration for repayment of the loan may not exceed 20 years.

(c) Loans made under this chapter may be used to finance no more than 80 per cent of the cost of development and implementation of a northern technology.

(d) All principal and interest payments on loans made under this chapter shall be paid into the northern technology revolving loan fund.

(e) The rate of interest may not exceed eight per cent a year on the unpaid balance of the loan.

Sec. 45.89.040. SALE OR TRANSFER OF MORTGAGES AND NOTES. (a) The commissioner may sell or transfer at par value or at a premium or discount to any bank or other private purchaser for cash or other consideration the mortgages and notes held by the department as security for loans made under this chapter.

(b) The commissioner may sell or transfer at par value to the Department of Revenue the mortgages and notes held by the Department of

AK - lower initial loss & lower interest than reduced repayment terms required for residency loan

Commerce and Economic Development as security for loans made under this chapter. The Department of Revenue shall purchase all of these mortgages and notes offered, allowing the Department of Commerce and Economic Development a one-half of one per cent service fee.

Sec. 45.89.050. DEFINITIONS. In this chapter

(1) "commissioner" means the commissioner of commerce and economic development;

(2) "department" means the Department of Commerce and Economic Development.

* Sec. 4. AS 44.19.881 is repealed and re-enacted to read:

Sec. 44.19.881. DEFINITIONS. In AS 44.19.870 - 44.19.884

(1) "division" means the division of policy development and planning;

(2) "director" means the director of the division of policy development and planning;

(3) "northern technology" means the application in Alaska of methods of energy generation, waste disposal, recycling, food production, transportation, building design, and industrial enterprise which may be ~~are~~ more efficient, ~~and~~ less costly and less energy-intensive than those methods presently utilized.

* Sec. 5. This Act expires June 30, 1984.

* Sec. 6. This Act takes effect July 1, 1979.

Bob Knowles
Ketzebone

Rep. Miller:

Here is a list of the witnesses and observers in Fairbanks who participated in the teleconference on 2/5, relating to HB 12.

Claudia Coyner
Teleconference Network

Alaska State Legislature

TELECONFERENCE HEARINGS

HOUSE STATE AFFAIRS COMMITTEE

DATE: February 5, 1979

LOCATION: Fairbanks

SUBJECT: House Bill 12
Northern Technology

NAME	REPRESENTING	ADDRESS	PHONE	HERE TO OBSERVE	HERE TO TESTIFY
William McAmis	self	P. O. Box 2298 Fairbanks, AK 99707	456-7091		X
Ben F. Harding	Fairbanks North Star Borough	Box 1267 Fairbanks, AK 99707	452-4761		X
John Forrest	self	310 Juneau Fairbanks, AK 99701	456-2119		X
Sherry Modrow	Jane Galblum P. O. Box 80902 Fbks. 99708 456-2037	Box 2847 Fairbanks, AK 99707	452-8731		X
Russell Wertz	Alaska Federation for Community Self Reliance	S. R. 50667 Fairbanks, AK 99701	(message) 456-[illegible]		X
Michael Simnowitz	Polestar Farm	P. O. Box 2750 Fairbanks, AK 99707	479-3257		X
Helen Ross	Fbks. Environmental Cntr.	431 Steese Fairbanks, AK 99701	452-5021		X
Mark Baumgartner	self (by mail)	P. O. Box 73312 Fairbanks, AK 99707			
Lee Leonard	self (by mail)		479-7798		
Donna Putnam		726 Moore Hall U of A/Fairbanks, AK 99701	479-7352	X	

ALASKA STATE LEGISLATURE

Legislative Affairs Agency

Pouch Y - State Capitol
Juneau, Alaska 99811

REGIONAL INFORMATION OFFICE
1024 West 6th Avenue
Anchorage, Alaska
99501
(907) 278-3668

February 5, 1979

Dear Representative Miller:

Enclosed for your information are copies of the announcements sent out on the hearing on HB 12 and copies of the sign-in sheets of those testifying and observing.

Judy Hopkins

LAA 11
(Rev. 4-29-77 M)

HB 12 2/5 teleconference

Phone contacts at request of Representative Miller:

- Newton Chase 265-5383 HUD
- Lawrence Brys 279-5577 279-7691 ~~346-4524~~ DNR
- Clark Gruening 278-4691
- Sherry Valentine 279-2441
- Nancy Lee 274-3621 Center for Environment

TELECONFERENCE

A teleconference will be 11 a.m. to 1 p.m. Monday with public testimony on a bill to establish an office of Northern Technology and a Northern Technology Revolving Loan Fund. According to the House State Affairs Committee, the bill would encourage development and wider use of low cost and small scale technologies appropriate to Alaska.

Residents interested in presenting testimony may participate at the Anchorage Legislative Information Office, 1024 West Sixth Avenue. The office has more details at 278-3668.

Clubline

Alaska State Legislature

TELECONFERENCE HEARINGS

January 30, 1979

Contact: Judy Hopkins
278-3668

PUBLIC SERVICE ANNOUNCEMENT - run through 9:00 a.m. Monday, February 5

PUBLIC TESTIMONY ON A BILL ESTABLISHING AN OFFICE OF NORTHERN TECHNOLOGY AND A NORTHERN TECHNOLOGY REVOLVING LOAN FUND WHICH WOULD ENCOURAGE DEVELOPMENT AND WIDER USE OF LOW COST AND SMALL SCALE TECHNOLOGIES APPROPRIATE TO ALASKA IS INVITED BY THE HOUSE STATE AFFAIRS COMMITTEE AT A TELECONFERENCE SCHEDULED FOR 11:00 A.M. MONDAY, FEBRUARY 5.

AREA RESIDENTS INTERESTED IN PRESENTING TESTIMONY OR OBSERVING THE HEARING MAY PARTICIPATE AT THE ANCHORAGE LEGISLATIVE INFORMATION OFFICE, 1024 WEST SIXTH AVENUE. FOR MORE INFORMATION, CALL 278-3668.

Alaska State Legislature

TELECONFERENCE HEARINGS

January 31, 1979

Contact: Judy Hopkins 278-3668

FOR IMMEDIATE RELEASE

HEARINGS SET ON NORTHERN TECHNOLOGY BILL

The House State Affairs Committee, chaired by Representative Mike Miller, will hold teleconference hearings on HB 12, northern technology, Monday, February 5 starting at 11:00 a.m.

The bill, sponsored by Representative Brian Rogers of Fairbanks, would establish an Office of Northern Technology in the Division of Policy Development and Planning to assist in the development and use of low-cost and small-scale technologies appropriate to Alaska through the dissemination of information and the provision of financial and technical assistance to individuals and businesses in Alaska. A Northern Technology Revolving Loan Fund would be established in the Department of Commerce and Economic Development to finance pilot projects in northern technology. Loans made would be used to develop and implement methods of energy generation, waste disposal, recycling, food production, transportation, building design, and industrial enterprise which are more efficient, and less costly and energy-intensive than methods presently utilized, and which are appropriate to the Alaska environment.

Area residents interested in presenting testimony or observing the hearing may participate at the Anchorage Legislative Information Office,

(MORE)

1024 West Sixth Avenue. Witnesses may register in advance by calling 278-3668.

#####

Name Pat Pletnikoff — Here to TESTIFY X

Representing Aleutian/Pribilof Islands Assoc. — testified (1)

Address 1689 C St. Anch. AK — Here to OBSERVE ____

Phone 278-3567

BROADCAST CONSENT: This proceeding may be broadcast live or recorded for later broadcast by radio or television stations. Please indicate your consent by signing below:

Pat Pletnikoff
(signature)

Have you participated in other legislative teleconferences? NO How many? ____

Would you have participated in this hearing if the network were not available? NO

How did you learn about this hearing? Rural Cap

If yes, did you use the network:
___ instead of travel
___ instead of phone conversations
___ instead of mailed testimony

Date: 2-5-79 Subject: HB 12 - Northern Technology Location: Anchorage

PLEASE PRINT

Name MICHAEL B. JONES — Here to TESTIFY ✓

Representing HABITAT NORTH, INC. ARCHITECTS & PLANNERS — testified (2)

Address ~~P.O. BOX 2240 ANC. AK 99510~~ — Here to OBSERVE ____

Phone 277-3691

BROADCAST CONSENT: This proceeding may be broadcast live or recorded for later broadcast by radio or television stations. Please indicate your consent by signing below:

Michael B. Jones
(signature)

Have you participated in other legislative teleconferences? ____ How many? ____

Would you have participated in this hearing if the network were not available? ____

How did you learn about this hearing?

If yes, did you use the network:
___ instead of travel
___ instead of phone conversations
___ instead of mailed testimony

Date: 2-5-79 Subject: HB 12 - Northern Technology Location: Anchorage

Name Dee Lane, Energy Planner — Here to TESTIFY V
testified (3)

Representing RurAL CAP

Address 327 Eagle St — Here to OBSERVE ____

Phone ~~27~~ 279-2441 ext. 36

BROADCAST CONSENT: This proceeding may be broadcast live or recorded for later broadcast by radio or television stations. Please indicate your consent by signing below:

Darlene L Lane
(signature)

Have you participated in other legislative teleconferences? No How many? ____

Would you have participated in this hearing if the network were not available? yes

How did you learn about this hearing?
from Judy Hopkins & Ross Sobel off

If yes, did you use the network:
___ instead of travel
___ instead of phone conversations
___ instead of mailed testimony

Date: 2-5-79 Subject: HB 12 - Northern Technology Location: Anchorage

PLEASE PRINT

Name M. Thea Smelcer — Here to TESTIFY X
testified (4)

Representing Self

Address Box 19 Copper Center — Here to OBSERVE ____

Phone 822-3424 (Anch 274-1358

BROADCAST CONSENT: This proceeding may be broadcast live or recorded for later broadcast by radio or television stations. Please indicate your consent by signing below:

M. Thea Smelcer
(signature)

Have you participated in other legislative teleconferences? No. How many? ____

Would you have participated in this hearing if the network were not available? ?

How did you learn about this hearing?
RurAL CAP / Anch. Times / Pagu

If yes, did you use the network:
___ instead of travel
___ instead of phone conversations
___ instead of mailed testimony

Date: 2-5-79 Subject: HB 12 - Northern Technology Location: Anchorage

Name (Nancy Lee) Elshoke

Representing AK Center for the Environment

Address 1069 W 6th

Phone ~~334~~ 274-3621

Here to TESTIFY V

testified (5)

Here to OBSERVE ___

BROADCAST CONSENT: This proceeding may be broadcast live or recorded for later broadcast by radio or television stations. Please indicate your consent by signing below:

Nancy Lee Elshoke
(signature)

Have you participated in other legislative teleconferences? no How many? ___

How did you learn about this hearing?

Call from Rep Miller's Office

Would you have participated in this hearing if the network were not available? no

If yes, did you use the network:
___ instead of travel
___ instead of phone conversations
___ instead of mailed testimony

Date: 2-5-79 Subject: HB 12 - Northern Technology Location: Anchorage

---

PLEASE PRINT

Name W B SCHOEPHOESTER

Representing AIPIA, Anc.

Address 1687 C st.

Phone 278-3567

Here to TESTIFY ___

Here to OBSERVE X

BROADCAST CONSENT: This proceeding may be broadcast live or recorded for later broadcast by radio or television stations. Please indicate your consent by signing below:

W B Schoephoester
(signature)

Have you participated in other legislative teleconferences? no How many? ___

How did you learn about this hearing?

Would you have participated in this hearing if the network were not available? ___

If yes, did you use the network:
___ instead of travel
___ instead of phone conversations
___ instead of mailed testimony

Date: 2-5-79 Subject: HB 12 - Northern Technology Location: Anchorage

Name JOHN RANDALL Here to TESTIFY ____

Representing ____

Address 817 N FLOWER ANCH. 99507 Here to OBSERVE X

Phone 278-3144

BROADCAST CONSENT: This proceeding may be broadcast live or recorded for later broadcast by radio or television stations. Please indicate your consent by signing below:

John L. Randall
(signature)

Have you participated in other legislative teleconferences? No How many? ____

How did you learn about this hearing?

WORD OF MOUTH

Would you have participated in this hearing if the network were not available? YES

If yes, did you use the network:

X instead of travel
X instead of phone conversations
X instead of mailed testimony

Date: 2-5-79 Subject: HB 12 - Northern Technology Location: Anchorage

Alaska State Legislature

TELECONFERENCE HEARINGS

February 5, 1979

House State Affairs
Pouch V
Juneau, Alaska 99811

Attn: Chairman Mike Miller/Rogers

Dear Sirs:

Enclosed please find two testimonies on "HB#12 - Northern Technology", one is given by Dr. John Kelley of Naval Arctic Research Labratory and the other by Kent Grinage, Director of Utility Department, North Slope Borough.

Thank you.

Sincerely,

Emily Nusunginya

Emily Nusunginya
Moderator

Enclosures -2

Legislative Affairs Agency
Legislative Teleconferencing Network
State Capitol . Pouch Y . Juneau . 99811

Phone: 465-4980

MAYOR'S OFFICE
EXT. 211

PUBLIC SAFETY
EXT. 233

ADMINISTRATION AND FINANCE
EXT. 210

PHYSICAL PLANT
EXT. 244

PLANNING DEPARTMENT
EXT. 245

PUBLIC WORKS DEPARTMENT
EXT. 249

NORTH SLOPE BOROUGH
P. O. BOX 69
BARROW, ALASKA 99723
(907) 852-2611

ACCOUNTING
EXT. 239

HEALTH AGENCY
EXT. 265

ENVIRONMENTAL SECURITY
EXT. 255

PERSONNEL
EXT. 272

ASSESSING
EXT. 263

HOUSING AGENCY
EXT. 242

HUMAN RIGHTS COMMISSION
EXT. 252

February 6, 1979

House State Affairs Committee
Legislative Affairs Agency
Legislative Teleconferencing Network
State Capitol
Pouch Y
Juneau, Alaska 99811

Dear Sirs,

I must apologize for not being able to attend the Teleconference on HB-12: Northern Technology, held on February 5, 1979. However, I do appreciate this opportunity to testify in writing.

The proposed bill HB-12 addresses itself to many critical areas for rural Alaska. As structured, it can help many individuals and businesses in developing small-scale technology. It can help all rural areas in the dissemination of information concerning new developments.

The problem I have with this bill and the previous Alternate Energy Sources Bill is the small level of financial assistance. There seems to be a gross misconception on both the Federal and State levels that small-scale technological development can be achieved through small-scale funding. This is not so, especially when dealing with the total community and its problems.

One of the few demonstration projects which the State has undertaken along these lines was the Nelson Lagoon Windmill project which cost $100,000 plus. The North Slope plans, in the near future, on converting its smallest village's energy source from oil to coal. This has been estimated to cost $100,000. To date, I haven't been able to obtain any State or Federal assistance on this project. The Air-Cushioned Vehicle project scheduled for Kotzebue is funded for approximately 2.3 million dollars. It appears a greater financial committment will have to be made in order to help resolve the rural area's problems with energy, transportation, waste disposal, etc.

I'm sure many feel the monies received from this proposed office can be used as seed money. I'm sure that for some projects this may be viable. However, for the majority of the projects, joint funding with various State and Federal units of government places a heavy burden on a rural area which does not have the human resource to administer several grants for one project.

We support this bill for the individual and businessman with an idea. We also support this bill for its potential of being an information center on new technologies. However, we feel that the bill falls short in its financial committment and potential legislative impact. There needs to be a greater Federal and State committment in helping the rural areas of Alaska resolve their stifling energy crisis.

I thank you for this opportunity to testify.

Sincerely,

Kent M. Grinage

Kent M. Grinage
Utility Manager
North Slope Borough

KMG/sj

cc: Eben Hopson, Mayor
Files

BARROW, ALASKA 99723

907-852-6566

UNDER CONTRACT WITH THE UNIVERSITY OF ALASKA

NAVAL ARCTIC RESEARCH LABORATORY

IN REPLY REFER TO

Ser: S-2245

5 February 1979

TO: House State Affairs Committee

FROM: Dr. John J. Kelley *John J Kelley*

Technical Director, NARL

SUBJECT: Testimony for Teleconference Related to HB-12: Northern Technology.

It is most important that the State of Alaska develop an effective program to address alternative technologies to meet future needs. It is well recognized that there are six possible energy systems available to the Western World for the next 20 years: Coal, oil, gas, nuclear power, importation and new technologies. The first four of these will not meet the foreseeable demands unless very strict energy conservation, even rationing, is considered. Squandering of fossil fuels will almost certainly be ruinous to our present standard of living. We must use all of the talents available to us if we are to adequately address this serious global problem.

A greatly increased standard of living in our northern regions coupled with a shift away from living off the land gives great impetus to the development of alternative technologies to ensure that we will retain a reasonable and healthful living standard. We already waste an abundance of energy by employing inadequate technologies related to food production, power, water, transportation, and many others. For example, it makes little sense to build long roadways and power transmission lines to service small communities when the development of local resources and alternative technologies may be preferred. The use of greenhouses in high latitudes has great potential but is poorly developed. The use of coal, solar energy, and wind may be preferred in areas where other energy sources are not available or too costly to sustain for long periods of time. Building technology must be greatly improved to meet high latitude climatic demands. The cost of research and development now may offset a much more costly alternative later. It is all too often that we wait until the situation is critical before we address the problem. The result of these "crash" programs is often wasteful and inadequate. It is true that we need energy not only now but for future generations. However, this energy need takes many different forms and we must plan accordingly and in a timely and deliberate way. I cannot stress the point enough that the transfer of technical information to the public as well as to scientists, engineers, and technologists is vital. Awareness of the need to seek rational and cost effective solutions to energy-related problems through education must be encouraged. I strongly endorse House Bill 12.

FOR NORTHERN TECH

Inventors Day Is Reminder That Jobs Can Be Created

By JOHN CUNNIFF

NEW YORK (AP) — The most effective way to produce jobs is to invent them, said the gentleman. He wasn't being superficial. Jobs can be invented, he said. Productive jobs, not federal make-work projects.

Such as the electric light bulb which, he noted, developed into an industry that since 1879 has provided work for scores of millions of people in dozens of industries relying upon electric power.

Or the airplane, which gave rise to millions of jobs in engineering, construction, piloting, traffic control, maintenance and the like, or the analytical engine, which developed into today's digital computer.

With nagging unemployment and nagging productivity growth two of the country's biggest problems, invention will be acclaimed, celebrated and honored this year in dozens of pageants, fairs, exhibits and the like.

President Carter proclaimed Edison's birthday, Feb. 11 (1847), as National Inventors' Day. Fort Myers, Fla., his winter home, began a two-week pageant today. Centennial of Light events, recalling the light bulb's invention on Oct. 21, 1879, are scheduled throughout the year.

It's as if to invoke the spirit of the Edisons, Wrights, Bells, Fords, Marconis (radio-telegraph), Goddards (rocketry) and other productive tinkerers who launched the industrial world of the 20th century.

The question on many a mind, however, is whether ceremony is enough. Sociologists claim the spirit is gone, conquered by big business and big government. Critics of education say it, too, stifles curiosity.

You'll get an argument on such claims. In the past three decades or so, you are reminded, we've split the atom, broke the sound barrier, conquered polio, explored space, developed instant photography, perfected the computer, made television a household fixture.

What's different today, say scientists, is that invention is often so complex and costly it may require the efforts of many individuals, disciplines, and laboratories — as well as business and government.

Jim Cook, president of the Thomas Alva Edison Foundation, Southfield, Mich., isn't so sure. He feels that our attitudes toward education, formal and in the home, do indeed tend to discourage investigation.

What should be fun, what should arouse the youngster's curiosity, he suggests, is presented as something sterile and difficult. "There's no reason why it shouldn't be fun," he says. "Science is human."

In Cook's view, we should seek to have children experiment for themselves, even if it sometimes means taking risks, even if it means breaking something. Edison did too.

Cook feels also that, the tax structure being what it is, the incentive to invent and develop a product might not be what it was. But he seems to concentrate on the negative educational approach.

"I am alarmed, and I hope all of you are," he said in a recent address, "that in over half of this country's schools not even a basic course in physics is offered."

ADMINISTRATIVE ORDER NO. 51

Under the authority of Article III, Section 1, Alaska Constitution and AS 44.19.880(c), I hereby establish, within the Division of Policy Development and Planning, the Office of Northern Technology.

(a) The Office of Northern Technology shall:

(1) assist the Governor, the legislature, and all state departments and agencies in developing and implementing small-scale northern technologies;

(2) gather and disseminate information and serve as a statewide clearinghouse for small-scale northern technologies;

(3) as funds are made available, make grants of financial assistance to persons engaged in the development of small-scale northern technologies;

(4) assist persons engaged in the development of small-scale northern technologies to obtain financial assistance from all available sources;

(5) serve as intergovernmental liaison for the state of Alaska in the area of small-scale northern technologies; and,

(6) coordinate its activities with those of the Alaska Council on Science and Technology.

(b) The Division of Policy Development and Planning shall, where appropriate, adopt procedures and guidelines for review and approval of grant applications submitted to the Office of Northern Technology.

This Order takes effect on July 1, 1978

Jay S. Hammond
Governor

July 21, 1978
Date

JSH:jp
7/13/78

HB
23

(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

1/24/79

Date: _____

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 23

"An Act extending the benefits of group insuance to certain temporary employees of the state and its governmental units; eff. 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)

[X] replace with CS for HB 23 [X] 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

M. M. Ole

Terry Harbin

John Fuller

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Terry Martin - no rec.

Ed Stanfill Do not Pass

M. M. Ole
CHAIRMAN

H 60 (Rev. 12/78)

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF ADMINISTRATION

DIVISION OF RETIREMENT & BENEFITS

POUCH CR
JUNEAU, ALASKA 99811

February 2, 1979

The Honorable Mike Miller
Representative
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Miller:

In response to your question during testimony on HB 23, I have reviewed the bid proposal received from Blue Cross upon which our current rate of $117.77 per month per employee group health care premium is based. The dental, audio, vision coverage accounts for $29.01 per month per employee. By including the 20% projected increase in premium, the fiscal note for HB 23 could be reduced by $434.8 in FY 80. Proportionate reductions would be achieved in succeeding fiscal years.

Thus, by removing the dental, audio, vision coverage from HB 23, the resulting fiscal impact for FY 80 would be reduced to $1,351.0.

Sincerely,

Paul B. Arnoldt

Paul B. Arnoldt
Director

PBA/jb

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill 23

Title Group Insurance Extended to Temporary Employees of the State & Political Subdivisions

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement and Benefits

Program Category Affected Retirement and Benefits

BRU, Program, or Subprogram(s) Affected Other Benefits (Health/Life Insurance)

(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES		19.6	20.8	22.0	23.3	24.7
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES		0.3	0.3	0.3	0.3	0.3
500	EQUIPMENT		0.5				
600	LAND & STRUCTURES						
700	TRS STATE MATCH						
100	BENEFITS		1765.4	2118.5	2542.2	3050.6	3660.8
	TOTAL		1785.8	2139.6	2564.5	3074.2	3685.8

FUNDING (Thousands of Dollars) NONE

GENERAL FUND	1466.2	1756.2	2104.4	2522.0	3023.1
FEDERAL FUNDS	81.2	97.5	116.9	140.3	168.4
VETERAN'S FUND	3.5	4.2	5.1	6.1	7.3
FISH & GAME FUND	10.6	12.7	15.3	18.3	22.0
HIGHWAY FUND	23.0	27.5	33.0	39.7	47.6
AIRPORT FUND	51.2	61.4	73.7	88.5	106.2
CAPITAL FUND	150.1	180.1	216.1	259.3	311.2
PERS					
TRS					

POSITIONS

FULL TIME	1	1	1	1	1
PART TIME					
TEMPORARY					

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

1. Estimate that an average of 1041 State temporary employees will qualify for benefits based on 1978 average monthly actuals.
2. Assume constant members in temporary work force in each fiscal year.
3. Actual cost to provide group insurance benefits is $117.77 per month per employee during FY 79.
4. Estimate that the cost to provide group insurance benefits will increase 20% per annum.
5. Administrative costs as attached.
6. Cost for coverage of political subdivisions (approximately 50 subdivisions) participating in group insurance not included; recommend that the Alaska Municipal League, 204 Franklin St., Juneau, AK 586-1325, be contacted for input.

Paul B. Arnoldt

IV. DATE 1/26/78 PREPARED BY Paul B. Arnoldt, Director

AGENCY Division of Retirement & Benefits

PHONE 465-4460

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named) Representative Duncan

Office of the Governor (Keith Specking)

33-001 (Rev. 12/78)

APPENDIX

The following administrative funds would be required to implement the provisions of HB 23.

1. Personal Services - one permanent full-time position Accounting Clerk III (range 10) - salary and merit increases at 6% per year.

FY 80 monthly salary	$1,254 X 12 =	$15,048
Plus benefits at 30.23%	=	$ 4,549
		$19,597

2. Miscellaneous Expenses - initial cost office equipment and annual commodity and replacement costs.

FY 80	= $ 800
Succeeding FY's	= $ 300

These funds should be appropriated to the Division of Finance, Department of Administration, William C. Mullin, Director, 465-2240.

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF ADMINISTRATION

DIVISION OF RETIREMENT & BENEFITS

POUCH CR
JUNEAU, ALASKA 99811

February 2, 1979

The Honorable Mike Miller
Representative
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Miller:

In response to your question during testimony on HB 23, I have reviewed the bid proposal received from Blue Cross upon which our current rate of $117.77 per month per employee group health care premium is based. The dental, audio, vision coverage accounts for $29.01 per month per employee. By including the 20% projected increase in premium, the fiscal note for HB 23 could be reduced by $434.8 in FY 80. Proportionate reductions would be achieved in succeeding fiscal years.

Thus, by removing the dental, audio, vision coverage from HB 23, the resulting fiscal impact for FY 80 would be reduced to $1,351.0.

Sincerely,

Paul B. Arnoldt

Paul B. Arnoldt
Director

PBA/jb

HB23

ALASKA PUBLIC EMPLOYEES ASSOCIATION

State Headquarters: 130 Seward Street, Suite 508, Juneau, Alaska 99801 • Tel: (907) 586-2334

February 2, 1979

Cherie Shelley
General Counsel
Alaska Public Employees Association
130 Seward St., Suite 508
Juneau, Alaska 99801

Dear Cherie:

Having talked with three independent insurance agents and Blue Cross, it has become apparent that it's virtually impossible to obtain individual audio/visual/dental insurance coverage for a person over 55 years-of-age.

The problem doesn't appear to be the age factor; rather, it's the type of coverage. Generally speaking, audio/visual/dental insurance is offered in a group plan (as opposed to individual coverage) and is tied in with major medical coverage. Furthermore, dental coverage is not readily available, even in a group plan. Should a person locate suitable coverage (and, as one insurance agent said, "chances are virtually zero,"), the policy issuance is contingent upon the acceptability of the potential policy holder's health statement review.

If I can be of further help in this matter, please feel free to call on me.

Sincerely,

Lynn C. Morley
Benefits Specialist
Alaska Public Employees Association

LCM/lb

ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS for House Bill 23

Title Hospital, Surgical and Major Medical Insurance Extended to Temporary Employees of th

Requested by State Date

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement and Benefits

Program Category Affected Retirement and Benefits (OTHER BENEFITS)

BRU, Program, or Subprogram(s) Affected 02-96-8-01-02-00

(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES		19.6	20.8	22.0	23.3	24.7
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES		0.3	0.3	0.3	0.3	0.3
500	EQUIPMENT		0.5				
600	LAND & STRUCTURES						
700	TRS STATE MATCH						
100	BENEFITS		670.6	804.7	965.6	1158.7	1390.4
	TOTAL		691.0	825.8	987.9	1182.3	1415.4

FUNDING (Thousands of Dollars)

GENERAL FUND		569.8	680.2	813.1	972.5	1163.7
FEDERAL FUNDS		30.8	37.0	44.4	53.3	64.0
VETERAN'S FUND		1.3	1.6	1.9	2.3	2.8
FISH & GAME FUND		4.0	4.8	5.8	7.0	8.3
HIGHWAY FUND		8.7	10.5	12.6	15.1	18.1
AIRPORT FUND		19.4	23.3	28.0	33.6	40.3
CAPITAL FUND		57.0	68.4	82.1	98.5	118.2
PERS						
TRS						

POSITIONS

FULL TIME		1	1	1	1	1
PART TIME						
TEMPORARY						

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

1. Estimate that an average of 535 State temporary employees will qualify for benefits based on 1978 average monthly actuals.

2. Assume constant membership in temporary workforce in each fiscal year.

3. Actual cost to provide hospital, surgical and major medical insurance benefits is $87.05 per month per employee during FY 79.

4. Estimate that the cost to provide group insurance will increase 20% per year.

5. Administrative costs as attached.

Paul B. Arnoldt

IV. DATE 3/12/79 PREPARED BY Paul B. Arnoldt, Director

AGENCY Division of Retirement & Benefits

PHONE 465-4460

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

Office of the Governor (Keith Speaking)

APPENDIX

The following administrative funds would be required to implement the provisions of CS HB 23.

1. Personal Services - one permanent full-time position Accounting Clerk III (range 10) - salary and merit increases at 6% per year.

FY 80 monthly salary	$1,254 X 12 =	$15,048
Plus benefits at 30.25%	=	$ 4,549
		$19,597

2. Miscellaneous Expenses - initial cost office equipment and annual commodity and replacement costs.

FY 80	= $ 800
Succeeding FY's	= $ 300

These funds should be appropriated to the Division of Finance, Department of Administration, William C. Mullin, Director, 465-2240.

HB

26

(7)

COMMITTEE REPORT

HOUSE

1/24/79

FURTHER: FINANCE

Date: 2-7-79

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 26

"An Act relating to insurance coverage for persons receiving benefits under the public employees' and teachers' retirement systems."

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)

[X] replace with CS for HB 26 [X] 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

M. M. Ellis

Lewis Martin

Kay Patterson

Kerby Gardner

R. L. P.

John B. Fullen

MEMBERS HAVING
OTHER RECOMMENDATIONS:

M. M. Ellis
CHAIRMAN

(Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS House Bill 26

Title Insurance Coverage for Persons Receiving Benefits Under the PERS and TRS

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement and Benefits

Program Category Affected Retirement and Benefits

BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-01 and 02-96-8-01-01-02

(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES		19.6	20.8	22.0	23.4	24.8
200	TRAVEL						
300	CONTRACTUAL		0.5				
400	COMMODITIES		0.3	0.3	0.3	0.3	0.3
500	EQUIPMENT		0.5				
600	LAND & STRUCTURES						
700	TRS STATE MATCH						
100	BENEFITS						
	TOTAL		20.9	21.1	22.3	23.7	25.1

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS		10.5	10.6	11.2	11.9	12.6
TRS		10.4	10.5	11.1	11.8	12.5

POSITIONS

FULL TIME		1	1	1	1	1
PART TIME						
TEMPORARY						

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

1. Audio, dental, vision coverage will be extended to present and future retirees.
2. The following administrative funds would be required to implement the provisions of this bill:
   A. Personal Service - one permanent full-time position - Accounting Clerk III (range 10) - salary and merit increases at 6% per year.

FY 80 monthly salary	$1,254 X 12	=	$15,048
Plus benefits at 30.23%		=	4,549
			$19,597

   B. Miscellaneous Expenses - initial cost office equipment, annual commodities, replacement costs, and printing/mailing costs.

FY 80	=	$ 1,300
Succeeding FY's	=	$ 300

IV. DATE 2/15/79 PREPARED BY Paul B. Arnoldt, Director

AGENCY Division of Retirement & Benefits

PHONE 465-4460

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
Office of the Governor (Keith Specking)

33-001 (Rev. 12/78)

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill 26

Title Insurance Coverage for Persons Receiving Benefits Under the Teachers' Retirement Syste

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement and Benefits

Program Category Affected Retirement and Benefits (TRS)

BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-02

(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES		9.8	10.4	11.0	11.7	12.4
200	TRAVEL						
300	CONTRACTUAL		0.2				
400	COMMODITIES		0.1	0.1	0.1	0.1	0.1
500	EQUIPMENT		0.3				
600	LAND & STRUCTURES						
700	TRS STATE MATCH		967.0	1,063.7	1,170.1	1,287.1	1,415.8
100	BENEFITS		221.8	244.0	268.4	295.2	324.7
	TOTAL		1,199.2	1,318.2	1,449.6	1,594.1	1,753.0

FUNDING (Thousands of Dollars)

GENERAL FUND		1,188.8	1,307.7	1,438.5	1,582.3	1,740.5
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS						
TRS		10.4	10.5	11.1	11.8	12.5

POSITIONS

FULL TIME		1/2	1/2	1/2	1/2	1/2
PART TIME						
TEMPORARY						

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

1. Audio, dental, vision coverage will be extended to present and future retirees.
2. Estimate FY 80 covered TRS payroll to be $231,000,000.
3. Estimate future state payrolls will increase at 10% annually.
4. Increase in combined TRS State Match and district contribution rate will be .8372%.
5. Administrative costs per attachment (Page 2).

Paul B. Arnoldt

IV. DATE 2/02/79 PREPARED BY Paul B. Arnoldt, Director

AGENCY Division of Retirement & Benefits

PHONE 465-4460

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named) Representative Duncan

Office of the Governor (Keith Specking)

APPENDIX

The following administrative funds would be required to implement the provisions of HB 23.

1. Personal Services - one permanent full-time position Accounting Clerk III (range 10) - salary and merit increases at 6% per year.

FY 80 monthly salary	$1,254 X 12 =	$15,048
Plus benefits at 30.23%	=	$ 4,549
		$19,597

2. Miscellaneous Expenses - initial cost office equipment and annual commodity and replacement costs.

FY 80	= $ 800
Succeeding FY's	= $ 300

These funds should be appropriated to the Division of Finance, Department of Administration, William C. Mullin, Director, 465-2240.

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill 23

Title Group Insurance Extended to Temporary Employees of the State & Political Subdivisions

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement and Benefits

Program Category Affected Retirement and Benefits

BRU, Program, or Subprogram(s) Affected Other Benefits (Health/Life Insurance)

(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES		19.6	20.8	22.0	23.3	24.7
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES		0.3	0.3	0.3	0.3	0.3
500	EQUIPMENT		0.5				
600	LAND & STRUCTURES						
700	TRS STATE MATCH						
100	BENEFITS		1765.4	2118.5	2542.2	3050.6	3660.8
	TOTAL		1785.8	2139.6	2564.5	3074.2	3685.8

FUNDING (Thousands of Dollars) NONE

GENERAL FUND	1466.2	1756.2	2104.4	2522.0	3023.1
FEDERAL FUNDS	81.2	97.5	116.9	140.3	168.4
VETERAN'S FUND	3.5	4.2	5.1	6.1	7.3
FISH & GAME FUND	10.6	12.7	15.3	18.3	22.0
HIGHWAY FUND	23.0	27.5	33.0	39.7	47.6
AIRPORT FUND	51.2	61.4	73.7	88.5	106.2
CAPITAL FUND	150.1	180.1	216.1	259.3	311.2
PERS					
TRS					

POSITIONS

FULL TIME	1	1	1	1	1
PART TIME					
TEMPORARY					

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

1. Estimate that an average of 1041 State temporary employees will qualify for benefits based on 1978 average monthly actuals.
2. Assume constant members in temporary work force in each fiscal year.
3. Actual cost to provide group insurance benefits is $117.77 per month per employee during FY 79.
4. Estimate that the cost to provide group insurance benefits will increase 20% per annum.
5. Administrative costs as attached.
6. Cost for coverage of political subdivisions (approximately 50 subdivisions) participating in group insurance not included; recommend that the Alaska Municipal League, 204 Franklin St., Juneau, AK 586-1325, be contacted for input.

Paul B. Arnoldt

IV. DATE 1/26/78 PREPARED BY Paul B. Arnoldt, Director

AGENCY Division of Retirement & Benefits

PHONE 465-4460

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named) Representative Duncan

Office of the Governor (Keith Specking)

33-001 (Rev. 12/78)

ATTACHMENT

Bill/Resolution No. HB 26

ASSUMPTIONS:

1. Estimated FY80 Payroll (Total System) = $213,000,000
2. State Contribution Rate to Fund Bill = .4186%
3. State TRS Matching Rate to Fund Bill = .4186%
4. School District Rate to Fund Bill = .4186%

COST ANALYSIS:

	Employer	Payroll		Rate	Cost	Appropriation
1.	Department of Education	$ 6,000,000	X	.4186%	$ 25.1	To Their Budget
2.	University of Alaska	$ 47,000,000	X	.4186%	$ 196.7	To Their Budget
					$ 221.8	
3.	State TRS Matching	$231,000,000	X	.4186%	$ 967.0	To TRS Match
4.	State TRS Regular Budget:					
	Personal Services				$ 9.8	To Personal Services
	Travel				$ -0-	To Travel
	Contractual				$ 0.2	To Contractual
	Commodities				$ 0.1	To Commodities
	Equipment				$ 0.3	To Equipment
	COST TO STATE IN FY80				$1,199.2	
5.	All School Districts	$178,000,000	X	.4186%	$ 745.1	
	TOTAL COST IN FY80				$1,944.3	

February 16, 1979

Legislative Board of Retirement Benefits analysis and recommendations on:

House Bill No. 26

The board endorses the attached fiscal note as its fiscal analysis of HB 26.

Three members of the board recommend that HB 26 do pass; three members recommend that it do not pass and one member was absent.

The members who voted do not pass did so on account of the fiscal impact and did support passage of CSHB 26.

SUMMARY OF HOUSE BILL NO. 26

Retirement system affected: TRS and PERS

Allows a person receiving benefits under TRS or PERS to elect to receive auditory, visual, and dental insurance. Requires the individual to pay one-half the cost of the insurance and the retirement system from which he is receiving benefits to pay the other one-half.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill 26
Title Insurance Coverage for Persons Receiving Benefits Under the Public Employees' R/S
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Administration - Division of Retirement and Benefits
Program Category Affected Retirement and Benefits (PERS)
BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-01
(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES		9.8	10.4	11.0	11.7	12.4
200	TRAVEL						
300	CONTRACTUAL		0.3				
400	COMMODITIES		0.2	0.2	0.2	0.2	0.2
500	EQUIPMENT		0.2				
600	LAND & STRUCTURES						
700	TRS STATE MATCH						
100	BENEFITS		1,597.8	1,757.6	1,933.3	2,126.7	2,339.3
	TOTAL		1,608.3	1,768.2	1,944.5	2,138.6	2,351.9

FUNDING (Thousands of Dollars)

GENERAL FUND		1,308.6	1,439.6	1,583.4	1,741.7	1,916.0
FEDERAL FUNDS		73.5	80.8	88.9	97.8	107.6
VETERAN'S FUND		3.2	3.5	3.9	4.3	4.7
FISH & GAME FUND		9.6	10.5	11.6	12.8	14.0
HIGHWAY FUND		20.8	22.8	25.1	27.6	30.4
AIRPORT FUND		46.3	51.0	56.1	61.7	67.8
CAPITAL FUND		135.8	149.4	164.3	180.8	198.8
PERS		10.5	10.6	11.2	11.9	12.6
TRS						

POSITIONS

FULL TIME		1/2	1/2	1/2	1/2	1/2
PART TIME						
TEMPORARY						

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

1. Audio, dental, vision coverage will be extended to present and future retirees.
2. Estimate FY 80 covered state payroll to be $241,000,000.
3. Estimate future state payrolls will increase at 10% annually.
4. Increase in state employer contribution rate would be .6630% of covered payroll
5. Administrative costs per attachment (Page 2).

Paul B. Arnoldt

IV. DATE 2/02/79 PREPARED BY Paul B. Arnoldt, Director
AGENCY Division of Retirement & Benefits
PHONE 465-4460

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) Representative Duncan
Office of the Governor (Keith Specking)

33-001 (Rev. 12/78)

ATTACHMENT HB 26

The following administrative funds would be required to implement the provisions of this bill.

1. Personal Service - one permanent full-time position Accounting Clerk III (range 10) - salary and merit increases at 6% per year.

FY 80 monthly salary	$1,254 X 12 =	$15,048
Plus benefits at 30.23%	=	$ 4,549
		$19,597

2. Miscellaneous Expenses - initial cost office equipment, annual commodity, replacement costs, and printing/mailing costs.

FY 80	= $ 1,300
Succeeding FY's	= $ 300

Administrative costs will be shared equally between the Public Employees' Retirement System and the Teachers' Retirement System.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House . Bill 26
Title Insurance Coverage for Persons Receiving Benefits Under the Teachers' Retirement Syst
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Administration - Division of Retirement and Benefits
Program Category Affected Retirement and Benefits (TRS)
BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-02
(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES		9.8	10.4	11.0	11.7	12.4
200	TRAVEL						
300	CONTRACTUAL		0.2				
400	COMMODITIES		0.1	0.1	0.1	0.1	0.1
500	EQUIPMENT		0.3				
600	LAND & STRUCTURES						
700	TRS STATE MATCH		967.0	1,063.7	1,170.1	1,287.1	1,415.8
100	BENEFITS		221.8	244.0	268.4	295.2	324.7
	TOTAL		1,199.2	1,318.2	1,449.6	1,594.1	1,753.0

FUNDING (Thousands of Dollars)

GENERAL FUND		1,188.8	1,307.7	1,438.5	1,582.3	1,740.5
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS						
TRS		10.4	10.5	11.1	11.8	12.5

POSITIONS

FULL TIME		1/2	1/2	1/2	1/2	1/2
PART TIME						
TEMPORARY						

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

1. Audio, dental, vision coverage will be extended to present and future retirees.
2. Estimate FY 80 covered TRS payroll to be $231,000,000.
3. Estimate future state payrolls will increase at 10% annually.
4. Increase in combined TRS State Match and district contribution rate will be .8372%.
5. Administrative costs per attachment (Page 2).

Paul B. Arnoldt

IV. DATE 2/02/79 PREPARED BY Paul B. Arnoldt, Director
AGENCY Division of Retirement & Benefits
PHONE 465-4460

Original: Legislative Finance
cc: Budget and Management
Prime Spon (First Legislator Named) Representative Duncan
Office of the Governor (Keith Specking)

33-001 (Rev. 12/78)

ATTACHMENT

Bill/Resolution No. HB 26

ASSUMPTIONS:

1. Estimated FY80 Payroll (Total System) = $213,000,000
2. State Contribution Rate to Fund Bill = .4186%
3. State TRS Matching Rate to Fund Bill = .4186%
4. School District Rate to Fund Bill = .4186%

COST ANALYSIS:

	Employer	Payroll		Rate	Cost	Appropriation
1.	Department of Education	$ 6,000,000	X	.4186%	$ 25.1	To Their Budget
2.	University of Alaska	$ 47,000,000	X	.4186%	$ 196.7	To Their Budget
					$ 221.8	
3.	State TRS Matching	$231,000,000	X	.4186%	$ 967.0	To TRS Match
4.	State TRS Regular Budget:					
	Personal Services				$ 9.8	To Personal Services
	Travel				$ -0-	To Travel
	Contractual				$ 0.2	To Contractual
	Commodities				$ 0.1	To Commodities
	Equipment				$ 0.3	To Equipment
	COST TO STATE IN FY80				$1,199.2	
5.	All School Districts	$178,000,000	X	.4186%	$ 745.1	
	TOTAL COST IN FY80				$1,944.3	

ATTACHMENT

Bill/Resolution No. HB 26

ASSUMPTIONS:

1. Estimated FY80 Payroll (Total System) = $213,000,000
2. State Contribution Rate to Fund Bill = .4186%
3. State TRS Matching Rate to Fund Bill = .4186%
4. School District Rate to Fund Bill = .4186%

COST ANALYSIS:

	Employer	Payroll		Rate	Cost	Appropriation
1.	Department of Education	$ 6,000,000	X	.4186%	$ 25.1	To Their Budget
2.	University of Alaska	$ 47,000,000	X	.4186%	$ 196.7	To Their Budget
					$ 221.8	
3.	State TRS Matching	$231,000,000	X	.4186%	$ 967.0	To TRS Match
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	Contractual				$ 0.2	To Contractual
	Commodities				$ 0.1	To Commodities
	Equipment				$ 0.3	To Equipment
	COST TO STATE IN FY80				$1,199.2	
5.	All School Districts	$178,000,000	X	.4186%	$ 745.1	
	TOTAL COST IN FY80				$1,944.3	

HB
28

COMMITTEE REPORT

HOUSE

FURTHER: JUDICIARY

1/24/79 Date: 2-26-79

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 28

"An Act providing for preferential presidential party primary elections; eff. date."

der consideration and (a majority of the committee) (the committee) ports it back with the following recommendations:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for [X] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

BERS SIGNING PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

CHAIRMAN

Rev. 12/78)

HB28.

Alaska, West could join for primary vote

By JOHN GREELY
Daily News reporter

JUNEAU — Alaska could band together with other Western states to stage a regional primary election for president in 1984, says Rep. Mike Miller, D-Juneau.

Miller posed the possibility after the Senate voted Wednesday to authorize a presidential party primary in Alaska four years from now.

The bill, passed 16 to 4, sets the date for the 1984 election as the third Tuesday in April. But, the lieutenant governor would be free to call the election at any other time of that year.

That flexibility in calling the election, Miller told The Daily News, would allow Alaska to join other Western states in holding primaries on the same day.

"We might not be able to attract major candidates up here, if we hold the election by ourselves," said Miller, the chief sponsor of the bill.

In recent months, Alaska officials, particularly Lt. Gov. Terry Miller, have traveled to several Western states to underscore what they view as common interests in dealings with the federal government on land ownership and other issues. Although Rep. Miller didn't say so, a regional primary could be used as another forum on those issues.

Under Miller's lobbying, the House passed the primary bill last year, in hopes that Alaska might host presidential contenders in this year's primaries. But, opposition from Democratic and Republican party officials stalled the bill in the Senate.

On Wednesday, various senators indicated the bill wouldn't have emerged for a floor vote without a threat from the House to delay or stop passage of other bills sought by the Senate.

"Vote your head, not your heart," Senate President Clem Tillion jokingly told his colleagues from the podium.

With little debate, the Senate voted to remove from the bill language authorizing an advisory vote of the people in 1984 on whether another primary election should be held in 1988. As it stands, the bill would not allow for any primary election beyong 1984.

Delegates to national party conventions now are picked by state conventions in Alaska, one of about 15 states to choose delegates by convention.

Under the bill, deleg pledged to candidates by primary returns would bound through the second b at each national convention.

Miller predicted ame ments to the bill by the Se would win acceptance of House this week, sending i the governor's desk for signature.

Rape center gets $25,240 contract

Your Trip Is Planned.
Your Ticket Is Bought.

TIMES Mar 5 '79

State Presidential Primary Could Be Tool For Stevens

By SUSAN ANDREWS
Times Staff Writer

If the Legislature decides to hold a presidential primary in Alaska next year, U.S. Sen. Ted Stevens says he may run as a favorite son candidate to give Alaska some bargaining power at the Republican national convention.

The purpose would be to publicize Alaskans' position on the issue of federal land use in Alaska, the senator said here this morning.

"I am a serious candidate for majority leader of the Senate," not for president, he said.

Stevens said U.S. Rep. Don Young is using the same tactics by considering entry into the New Hampshire presidential primary.

A D2 bill once it passes Congress "is just the first round" of what Stevens says will be a long and continuing battle over the rights of Alaskans in regard to federal land in Alaska.

"The bill would assure the state its land under the Statehood Act and the natives their land under the settlement act," he said. "But it's going to be one long war as far as the adversary role of the federal government is concerned."

He estimated that 30 million acres of state selections will be out of reach if Congress doesn't pass a D2 bill this year, including land in national monuments created by the president and land withdrawn under section 204B of the Bureau of Land Management's organic act. "That's why it was to our benefit to get a bill last year," he said.

The House Interior Committee's action to choose the Huckaby substitute D2 bill as its markup bill instead of the Udall bill was significant, Stevens said.

Also significant was the committee's decision not to amend the Huckaby bill — which is the Senate compromise bill worked out last fall. "It was a calculated decision that was the best they could do," Stevens said.

Members of the House Merchant Marine and Fisheries Committee, which are to visit Alaska next week, may be allowed to offer amendments to the bill. Stevens said they are "new people with fresh approaches." Committee chairman Rep. John Breaux, D-La., "is not against Alaskans' concerns," the senator noted. "He has seen oil and gas developed in a compatible way. He's also interested in fisheries."

If the Huckaby bill survives on the House floor, "we have a good chance of maintaining it in the Senate," Stevens said. "But if the Udall bill (HR 39) is adopted as a substitute, we will be hard pressed to amend it." He expects Senate action to come by August or September.

"There's a good chance there will be no bill," Stevens cautioned. "The extreme environmentalists are urging that there be no bill. If that happens, we're in tough straits."

- Last Tues./ JAN : Lt Gov. announces list
- Last Tues./ FEB : Candidate may withdraw from election.
- By Last Tues./FEB : Supporters can file petition
- First Tues./MARCH : Petition candidate may withdraw from election
- Third Tues /APRIL : PRESIDENTIAL PRIMARY

IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

CS FOR HOUSE BILL NO. 28

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act providing for presidential party primary elections; and providing for an effective date."

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

* Section 1. AS 15.25.010 is amended to read:

Sec. 15.25.010. PROVISION FOR PRIMARY ELECTION. Candidates for the elective state executive and state and national legislative offices shall be nominated in a primary election by direct vote of the people in the manner prescribed by AS 15.25.010 - 15.25.200 [THIS CHAPTER].

* Sec. 2. AS 15.25 is amended by adding new sections to read:

ARTICLE 3. PRESIDENTIAL PARTY PRIMARY ELECTIONS.

Sec. 15.25.220. PRESIDENTIAL PARTY PRIMARY ELECTION. (a) The lieutenant governor shall call a presidential party primary election on the third Tuesday in April of a presidential election year.

(b) The ballot shall be prepared and distributed by the lieutenant governor in the manner prescribed by AS 15.25.060.

Sec. 15.25.230. PLACING RECOGNIZED NAMES ON THE BALLOT. (a) The lieutenant governor shall place on the ballot the name of each candidate generally recognized throughout the United States as a candidate for nomination for President of the United States.

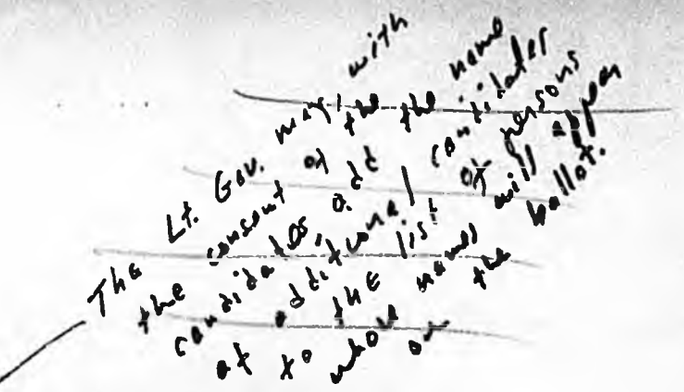
(b) The lieutenant governor shall announce on the last Tuesday in January of a presidential election year a list of candidates who will appear on the ballot. The lieutenant governor shall also notify each candidate that the candidate's name will appear on the ballot in this state.

Using the same criteria in 15.25.230 (a) the Lt. Gov. may add to the list candidates ~~for~~ at any time until the FIRST Tuesday in March, provided:

(1) the candidate ~~does~~ does not file a statement that he is not now and does not intend to become a candidate for the office of Pres. of the U.S.

OR

(1) ~~the~~ the candidate agrees to have his name added.



(c) The lieutenant governor shall notify each candidate that he may withdraw his name from the ballot by filing with the lieutenant governor no later than the last Tuesday in February of a presidential election year a statement that he is not now and does not intend to become a candidate for the office of President of the U ited States at that presidential election and requesting the removal of his name. The name of a candidate withdrawing under this section may not appear on the ballot.

Sec. 15.25.240. PETITION FOR PRESIDENTIAL CANDIDATE. (a) Supporters of a candidate for nomination for President of the United States may file a petition to have the name of the candidate of their choice on the ballot. A petition under this section must be filed by the last Tuesday in February of a presidential election year and must contain the signatures of qualified voters residing in no less than two-thirds of the election districts of the state equal in number to five per cent of the number of votes cast for the candidates for governor in the preceding election for governor. A petition under this section shall include (1) the full name of the candidate; (2) the name of the political group supporting the candidate; (3) the name of the political party in which the candidate is registered; (4) a statement that the subscribers are qualified voters of this state; and (5) a statement that the subscribers request that the candidate's name be placed on the ballot. The signature sheets shall also contain the printed name and residence address of each qualified voter whose signature appears on the petition.

(b) The lieutenant governor shall notify a candidate of the filing of a petition under this section and advise that he may withdraw his name from the ballot by filing with the lieutenant governor no later than the first Tuesday in March of a presidential election year a state-

ment that he is not now nor does he intend to become a candidate for the office of President of the United States at that presidential election and requesting the removal of his name. The name of a candidate withdrawing under this subsection may not appear on the ballot.

Sec. 15.25.250. SELECTION OF DELEGATES. (a) The political parties in the state shall select delegates to their national conventions according to the party's plan of organization. The final selection of delegates shall be held after the presidential party primary election.

(b) Each candidate who receives more than 15 per cent of the votes cast in that party's primary is entitled to receive a proportionate number of delegate votes equal to the proportionate number of votes the candidate received in the primary after excluding the number of votes cast for candidates of his party who each received less than 15 per cent of the votes in that party's primary. The proportions of delegate votes shall be expressed as fractional delegate votes or the nearest whole number of delegate votes as the rules of the particular national party or convention may provide.

Sec. 15.25.260. DELEGATES PLEDGED. A delegate selected under AS 15.25.250 must cast his vote to secure the nomination for the candidate to whom he is pledged until that candidate is nominated by the convention, receives less than 30 per cent of the delegate votes for nomination by the convention, releases the delegates from the pledge, or until two convention nominating ballots have been taken.

Sec. 15.25.270. PROCEDURES FOR CONDUCT OF ELECTION. The provisions of AS 15 regarding the conduct of a general election govern the conduct of the presidential party primary election, except to the extent that the provisions of AS 15.25.220 - 15.25.270 are inconsistent with those provisions.

SUPER SUNSET

* Sec. 3. AS 15.25.220 - 15.25.270 are repealed on July 1, 1981.

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

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 28

Title "An Act providing for preferential presidential party primary election; and providing for an effective date."

Requested by Miller Date 2/23/79

II. FISCAL DETAIL

Agency Affected Office of the Governor-Division of Elections

Program Category Affected

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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES		17.0				
200 TRAVEL		7.0				
300 CONTRACTUAL		250.0				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		274.0				

FUNDING (Thousands of Dollars)

GENERAL FUND		274.0				
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		0				
PART TIME		0				
TEMPORARY		1				

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

Personal Services: Some additional help will be required in each of 4 regional election supervisors' offices and the Director's office. By budgeting for one temporary, help can be hired for approximately 2 months in each office. In addition, overtime for election supervisors and their staff is necessary.

(12.2 for a Clerk III and $4.8 for overtime)

Travel: These funds are for the election supervisors to travel to train election board members.

Contractual: This area includes payments to election boards, counters, absentee canvass boards, state canvass boards, printing (ballots, tally books, registers, absentee affidavit envelopes, etc.), postage, advertising, communications, etc.

IV. DATE 2/23/79 PREPARED BY Patty Ann Polley, Director

AGENCY Division of Elections

PHONE 586-6181

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/78)

PROJECTED DATES FOR 1980 PRIMARIES

TUESDAYS

February 26	New Hampshire
* * * * * * * * * * * * *	
March 4	Massachusetts Vermont
March 11	Georgia Florida
March 18	Illinois
March 25	North Carolina
* * * * * * * * * * * * *	
April 1	New York Wisconsin
April 8	
April 15	
April 22	Pennslyvannia
April 29	
* * * * * * * * * * * * *	
May 3 (Saturday)	Texas
May 6	Indiana Tennessee Washington D.C.
May 13	Nebraska West Virginia
May 20	Maryland Michigan
May 27	Arkansas Oregon Idaho Nevada
* * * * * * * * * * * * *	Kentucky
June 3	Montana California Rhode Island South Dakota Ohio New Jersey New Mexico

Alabama, Georgia - not determined.

2-26-79

I spoke with Elaine Karmack at the Democratic National Committee, Washington D.C. (202-797-5900) regarding the exact dates of presidentail primaries in 1980.

---AT THIS TIME THOSE DATES ARE NOT AVAILABLE, ALL STATE LEGISLATURES ARE CURRENTLY IN SESSION AND WILL NOT HAVE ANY CHANGES FINALIZED UNTIL APRIL 15.

----THE FOLLOWING STATES ARE CONSIDERING CHANGING THEIR PRIMARY DATES, BUT AS OF THIS TIME HAVE MADE NO FINAL DECISION:

Washington
New Hampshire
Maine
New York
Puerto Rico

----ALL PRIMARIES MUST BE HELD BETWEEN THE 2nd TUESDAY IN MARCH AND THE 2nd TUESDAY IN JUNE. A STATE THAT HELD IT'S PRIMARY in 76 OUTSIDE OF THAT TIME FRAME MAY ASK FOR A WAIVER TO CONTINUE TO HOLD IT OUTSIDE OF THAT TIME FRAME. STATES THAT HELD THEIR PRIMARY WITHIN THAT TIME FRAME IN 76 MAY NOT CHANGE OUTSIDE THOSE DATES.

----THE EXACT DATES WILL NOT BE KNOWN UNTIL APRIL 15, 1979, THAT IS THE DATE THEY MUST BE SUBMITTED TO DEMOCRATIC NATIONAL HEADQUARTERS.

DS

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 19 "An Act providing for preferential presidential primary elections; and providing for an effective date."

Title

Requested by Representative Mike Miller Date 1-26-77

II. FISCAL DETAIL

Agency Affected Office of the Lieutenant Governor, Division of Elections

Program Category Affected

Budget Request Unit(s) Affected

EXPENDITURES (Thousands of Dollars)

		FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100	PERSONAL SERVICES				17.0		
200	TRAVEL				7.0		
300	CONTRACTUAL				250.0		
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL				274.0		

FUNDING (Thousands of Dollars)

GENERAL FUND				274.0		
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME				0		
PART TIME				0		
TEMPORARY				1		

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

Personal Services: Some additional help will be required in each of 4 regional election supervisors' offices and the Director's office. By budgeting for one temporary, help can be hired for approximately 2 months in each office. In addition, overtime for election supervisors and their staff is necessary.

(12.2 for a Clerk III and $4.8 for overtime)

Travel: These funds are for the election supervisors to travel to train election board members.

Contractual: This area includes payments to election boards, counters, absentee canvass boards, state canvass boards, printing (ballots, tally books, registers, absentee affidavit envelopes, etc.), postage, advertising, communications, etc.

IV. DATE 1-26-77 PREPARED BY Patricia Polly Director

AGENCY Division of Elections

PHONE 586-6181

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 10/76)

Work Order #5888
Bradley

Original sponsors: Miller, Duncan
and Rogers

IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

CS FOR HOUSE BILL NO. 28

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act providing for ~~preferential~~ presidential party primary elections; and providing for an effective date."

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

* Section 1. AS 15.25.010 is amended to read:

Sec. 15.25.010. PROVISION FOR PRIMARY ELECTION. Candidates for the elective state executive and state and national legislative offices shall be nominated in a primary election by direct vote of the people in the manner prescribed by AS 15.25.010 - 15.25.200 [THIS CHAPTER].

* Sec. 2. AS 15.25 is amended by adding new sections to read:

ARTICLE 3. ~~PREFERENTIAL~~ PRESIDENTIAL PARTY PRIMARY ELECTIONS.

Sec. 15.25.220. ~~PREFERENTIAL~~ PRESIDENTIAL PARTY PRIMARY ELECTION. (a) The lieutenant governor shall call a ~~preferential~~ presidential party primary election on the ~~second~~ third Tuesday in April of a presidential election year.

(b) The ballot shall be prepared and distributed by the lieutenant governor in the manner prescribed by AS 15.25.060 ~~except that space for the writing in or pasting in of names shall be provided for on the ballot.~~

Sec. 15.25.230. PLACING RECOGNIZED NAMES ON THE BALLOT. (a) The lieutenant governor shall place on the ballot the name of ~~a~~ all candidate~~s on the ballot when he determines in his discretion that the candidate is~~ generally recognized throughout the United States as ~~a~~ candidate~~s~~ for nomination

for President of the United States.

(b) The lieutenant governor shall announce on the last Tuesday in January of a presidential election year a list of candidates who will appear on the ballot. The lieutenant governor shall also notify the candidate that the candidate's name will appear on the ballot in this state.

(c) The lieutenant governor shall notify the candidate that he may withdraw the name from the ballot by filing with the lieutenant governor no later than the last Tuesday in February of that year a statement that he is not now a candidate for the office of President of the United States and requesting the removal of his name. The name of a candidate withdrawing under this section may not appear on the ballot.

Sec. 15.25.240. PETITION FOR PRESIDENTIAL CANDIDATE. (a) Supporters of a candidate for nomination for President of the United States may file a petition to have the name of the candidate of their choice on the ballot. Petitions under this section shall be filed no later than the next to last Tuesday in February of a presidential election year, shall contain the signatures of qualified voters residing in no less than two-thirds of the election districts of the state equal in number to five per cent of the number of votes cast for the candidate for governor in the preceding gubernatorial election, and shall state (1) the full name of the candidate; (2) the name of the political group supporting the candidate; (3) that the subscribers are qualified voters of this state; and (4) that the subscribers request that the candidate's name be placed on the ballot. The signature sheets shall also contain the printed name and residence address of each qualified voter whose signature appears on the petition.

(b) The lieutenant governor shall notify a candidate of the filing of the petition under this section and advise that he may withdraw his

name from the ballot by filing with the lieutenant governor no later than the ~~last Tuesday in February~~ 1st Tues. in March of that year a statement that he is not now (or does he intend to become) a candidate for the office of President of the United States and requesting the removal of his name. The name of a candidate withdrawing under this section may not appear on the ballot.

Sec. 15.25.250. SELECTION OF DELEGATES. (a) In the years when a President of the United States is to be nominated and elected, political parties in the state shall select delegates to their national conventions according to the party's plan of organization. The procedures for the final selection of delegates shall be held after the preferential presidential party primary election.

(b) Each candidate receiving more than 15 per cent of the ballot votes cast in that party's primary shall be entitled to receive a proportionate number of delegate votes equal to the proportionate number of ballot votes the candidate received after excluding the number of ballot votes cast for candidates of his party who each received less than 15 per cent of the ballot votes in that party's primary. The proportions of delegate votes shall be expressed as fractional delegate votes or the nearest whole number of delegate votes as the rules of the particular national party or convention may provide.

Sec. 15.25.260. DELEGATES PLEDGED. A delegate selected under AS 15.25.250 must ~~use his best efforts~~ cast his votes to secure the nomination for the candidate to whom he is pledged until that candidate is nominated by the convention, receives less than 30 per cent of the delegate votes for nomination by the convention, releases the delegates from the pledge, or until two convention nominating ballots have been taken.

Sec. 15.25.270. PROCEDURES FOR CONDUCT OF ELECTION. The provisions of AS 15 regarding the conduct of a general election govern the conduct of a [~~preferential~~] presidential party primary election, ~~including~~ excluding

provisions for write-ins, except to the extent that the provisions of AS 15.25.220 - 15.25.270 are inconsistent with those provisions.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-070(c).

SB 160 - one time only
does not amend
AS 15 - go for 1980
if success continue

Introduced: 1/24/79
Referred: State Affairs and Judiciary

IN THE HOUSE BY MILLER DUNCAN AND ROGERS

HOUSE BILL NO. 28

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act providing for preferential presidential party primary elections; and providing for an effective date."

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

* Section 1. AS 15.25.010 is amended to read:

Sec. 15.25.010. PROVISION FOR PRIMARY ELECTION. Candidates for the elective state executive and state and national legislative offices shall be nominated in a primary election by direct vote of the people in the manner prescribed by AS 15.25.010 - 15.25.200 [THIS CHAPTER].

* Sec. 2. AS 15.25 is amended by adding new sections to read:

ARTICLE 3. PREFERENTIAL PRESIDENTIAL PARTY PRIMARY ELECTIONS.

Sec. 15.25.220. PREFERENTIAL PRESIDENTIAL PARTY PRIMARY ELECTION. (a) The lieutenant governor shall call a preferential presidential party primary election on the second Tuesday in April of a presidential election year. [third SB160]

(b) The ballot shall be prepared and distributed by the lieutenant governor in the manner prescribed by AS 15.25.060 except that space for the writing in or pasting in of names shall be provided for on the ballot.

Sec. 15.25.230. PLACING RECOGNIZED NAMES ON THE BALLOT. (a) The lieutenant governor shall place the name of a candidate on the ballot when he determines in his discretion that the candidate is generally recognized throughout the United States or Alaska as a candidate for

nomination for President of the United States.

(b) No later than the last Tuesday in January of a presidential election year the lieutenant governor shall announce a list of candidates who will appear on the ballot. The lieutenant governor shall also notify the candidate that the candidate's name will appear on the ballot in this state.

(c) The lieutenant governor shall notify the candidate that he may withdraw the name from the ballot by filing with the lieutenant governor no later than the last Tuesday in February of that year a statement that he is not now a candidate for the office of President of the United States and requesting the removal of his name. The name of a candidate withdrawing under this section may not appear on the ballot.

Sec. 15.25.240. PETITION FOR PRESIDENTIAL CANDIDATE. (a) Supporters of a candidate for nomination for President of the United States may file a petition to have the name of the candidate of their choice on the ballot. Petitions under this section shall be filed no later than the last Tuesday in January of a presidential election year, shall contain the signatures of at least 1,000 qualified voters, and shall state (1) the full name of the candidate; (2) the name of the political group supporting the candidate; (3) that the subscribers are qualified voters of this state; (4) that the subscribers intend to vote for the candidate at the general election if the candidate is nominated; and (5) that the subscribers request that the candidate's name be placed on the ballot. The signature sheets shall also contain the printed name and residence address of each qualified voter whose signature appears on the petition.

(b) The lieutenant governor shall notify a candidate of the filing of the petition under this section and advise that he may withdraw his name from the ballot by filing with the lieutenant governor no later

than the last Tuesday in February of that year a statement that he is not now a candidate for the office of President of the United States and requesting the removal of his name. The name of a candidate withdrawing under this section may not appear on the ballot.

Sec. 15.25.250. SELECTION OF DELEGATES. (a) In the years when a President of the United States is to be nominated and elected, political parties in the state shall select delegates to their national conventions according to the party's plan of organization. The procedures for the selection of delegates shall be held after the preferential presidential party primary election.

(b) Each candidate receiving more than 15 per cent of the ballot votes cast in that party's primary shall be entitled to receive a proportionate number of delegate votes equal to the proportionate number of ballot votes the candidate received after excluding the number of ballot votes cast for candidates of his party who each received less than 15 per cent of the ballot votes in that party's primary. The proportions of delegate votes shall be expressed as fractional delegate votes or the nearest whole number of delegate votes as the rules of the particular national party or convention may provide.

Sec. 15.25.260. DELEGATES PLEDGED. A delegate selected under AS 15.25.250 must use his best efforts to secure the nomination for the candidate to whom he is pledged until that candidate is nominated by the convention, receives less than 35 per cent of the delegate votes for nomination by the convention, releases the delegates from the pledge, or until two convention nominating ballots have been taken.

Sec. 15.25.270. PROCEDURES FOR CONDUCT OF ELECTION. The provisions of AS 15 regarding the conduct of a general election govern the conduct of a preferential presidential party primary election, including provisions for write-ins, except to the extent that the provisions of

AS 15.25.220 - 15.25.270 are inconsistent with those provisions.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Alaska State Legislature

REPRESENTATIVE
FRED F. ZHAROFF
P.O. BOX 405
KODIAK, ALASKA 99615
(907) 486-3254

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA
99811
(907) 465-4926
465-4951

House of Representatives

February 8, 1979

DISTRICT 14:

BELLSFLATS
CHINIAK
KODIAK
OUZINKIE

Rep. Bill Parker, Chairman
Special Sub-Committee on Elections
Pouch V
Juneau, Alaska 99811

Dear Bill:

I support Representative Nels Anderson's position on Election Reform, APOC, and the Presidential Primary.

I have deep concern with fishermen and the policy on absentee voting. With a fishing period opening just prior to the General Election in Kodiak, only 32% of Kodiak's registered voters voted last fall. You might take this into consideration when working with special election problems.

I too am a supporter of a presidential primary for Alaska.

Sincerely,

Fred F. Zharoff

Fred F. Zharoff
District 14 Representative

FFZ:lms

cc: Lt. Governor Terry Miller
Bush Delegation

Alaska State Legislature

House of Representatives

Office of the Majority Leader

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

February 2, 1979

MEMORANDUM

TO: Representative Parker, Chairman
Special Sub-Committee on Elections

FROM: Representative Nels A. Anderson, Jr.

SUBJECT: Election Reform, APOC, Presidential Primary

1. The election reform issue is an interesting challenge. I hope that you will be able to move ahead expeditously to remove many of the problem areas that have arisen in the past. As you know, I had a difficult time after being removed from office because of election problems.

I do not intend to embarrass any of my constituents who have not followed the letter of the law as election officials for the state of Alaska. I honestly believe that those infractions of the law that led to my removal came as a result of the Lt. Governor's office failure to properly train its personnel in the field.

I would suggest that your committee look at the case file that was before the court regarding "irregularities" in my case. The case file shows that a person wrote in my name on the ballot and others placed a sticker over where my name was written in. The question that comes to mind is why didn't the election judge know that this was not proper?

Additionally, stickers were found within the voting areas and within 100 yards of the voting areas. Again, I would ask why election officials were not told that this was not proper.

Bill, I hope that you will look at this problem with sympathy toward the election official who act <u>without</u> proper guidance from the Lt. Governor's office.

A suggestion that has been considered by many is to provide intense training for election officials in Rural Alaska. It is obvious that the last governor's election uncovered substantial irregularities that are not necessarily rural in nature. However I do wish to convey to you my sincere wish that you expedite action.

As you know, the problem of proper training and election reform needs to be handled quickly because of recall moves, school board elections in REAA's etc.. The problems of elections is not a 1980 problem but a problem for us to solve post-haste.

2. APOC has not been my favorite agency by any means. You already know that I co-sponsored a bill that does away with APOC entirely. I realize that the office of APOC will probably continue in some form.

I have thought that APOC has been going overboard in its reporting requirements. For rural legislators, the 7 day, 24 hour reporting gets to be a real headache since telegrams or working phones are hard to find in many of our villages.

The question I have is this - would you object to the following proposal?

A. One reporting requirement prior to and after the primary.

1. A report seven days before the election.
2. A report 30 days after the primary with a 15 day grace period after which fines would be imposed.

B. One reporting requirement prior to and after the general.

1. A report seven days before the general election.
2. A report 30 days after the general with a 15 day grace period after which fines would be imposed.

3. The presidential primary idea is an idea worth pushing for one major reason. The people of Alaska are having a difficult time in getting our views across to the president. If future candidates were to run a primary in Alaska people of various political persuasion could express their wants, needs and desires directly to presidential aspirints.

The D2 issue is a case in point that dramatizes how much we are at the mercy of federal officials who work for the president. I have given the idea some thought and I may be submitting a bill that parallels bills that have been submitted in past legislatures.

You have my support on any efforts to establish a presidential primary for Alaska.

(If you have any questions please call or trip me in the hall)

cc: Lt. Governor Terry Miller
Bush Delegation

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

M E M O R A N D U M December 14, 1978

SUBJECT: Preferential Presidential Party Primary Election (Work Order #5888)

TO: Representative Mike Miller

FROM: Richard A. Bradley
Legislative Counsel

Your request to me was for a duplication of the last version of House Bill 19 of the 1977 session. My review of our files indicates that Committee Substitute for House Bill 19 by the State Affairs Committee was the last version typed. Accordingly, I have used it in my preparation of the attached bill. However, I encountered what I thought were substantial conceptual problems with House Bill 19 and accordingly I have departed measurably from at least the language of CS for HB 19. In this memorandum I will seek to identify for you the extent of those deviations and perhaps indicate reasons for them.

(1) House Bill 19 indicated that the preferential presidential primary election ballot would be prepared and distributed by the lieutenant governor in the manner prescribed for the general election ballot and it indicated that the lieutenant governor shall place the names of all candidates on the same ballot. I gather that I am not altogether letting the cat out of the bag when I observe that there will be an effort in this legislature to go back to party columns on election ballots. And accordingly, rather than leaving this reference in existing framework, I tied the instruction to the lieutenant governor to the specific section involved, that is, AS 15.25.060. This section must inevitably be amended if party column voting is re-established, and accordingly, the preferential primary ballot will be prepared either in a single column if the law is unchanged or by party col[illegible] if the law is changed.

(2) Both t[illegible] rovisions of HB 19 [at sec. 15.25.270] and my redraft o[illegible] at recognized that write-in votes are a

possibility. This is, you will recall, unlike the primary system in Alaska for statewide and district candidates where write-in votes are disregarded. Note that the present format of my draft would allow those votes to be counted. In preparing this bill I reviewed California's very comprehensive presidential preferential party primary laws and in California write-in votes are not counted unless a candidate who anticipates receiving write-in votes notifies the lieutenant governor a specified period before the election that he is a candidate for the office of president; failing that statement, write-in votes in California are not counted.

(3) House Bill 19 would have allowed the lieutenant governor only one week from the time that he published his determination as to the identity of the presidential candidates who would appear on the ballot for the candidate to remove his name from the ballot. This seems an unreasonably short period for national candidates otherwise involved in presidential party politics to make a determination as to whether they wished their name removed from the ballot. Accordingly, I have expanded this period to one month and provided that the lieutenant governor makes his determination no later than the last Tuesday in January. A candidate would have until the last Tuesday in February to remove his name from the ballot.

(4) I have made one other change in this area. Section 250 of HB 19 would have allowed a candidate to withdraw his name by filing an affidavit stating his desire not to have his name printed on the presidential primary ballot. My change, which appears in secs. 230 and 240, allows a candidate to withdraw only by a declaration that he is not now a candidate for the office of president. I note that this is a substantive change. I wonder whether the earlier language was not the result of imprecision of thought. Obviously, should you wish to go back to the earlier language and allow an individual who remains a candidate to take himself off the presidential ballot because he doesn't wish to participate in the Alaska primary, the language can be amended easily.

(5) The language in sec. 240 in HB 19 provides that a petition for the nomination of the candidate shall meet the requirement of AS 15.25.180. That section is very largely inappropriate to a presidential party primary petition and, accordingly, I have rewritten 240 to specify those aspects of sec. 180 which are applicable. Otherwise, I do not believe there are any changes of substance from former sec. 240 to my present sec. 240.

Sec. 260 (in HB19)

(6) ~~This paragraph~~ deals with the procedures utilized in Alaska for the selection of delegates to the national convention and would provide, by inference, that only political party conventions held after the presidential party primary would be used to select delegates. I don't believe I have changed things substantially by providing that the delegates will be selected according to the "party's plan of organization."

(7) Section 260(b) provides for the allocation of delegate votes relative to ballot votes cast in the primary and also provides for a delegate being pledged based on certain conditions. The concept in that section appeared in secs. 250 and 260 of my redraft. I believe the formula that I use in sec. 250 is consistent with the language of 260(b). I do depart from it measurably and hopefully I simplify it.

Similarly, I believe that my sec. 260 regarding the pledging of delegates is quite consistent with the earlier draft.

(8) Similarly, there are no differences in the requirement or party delegate being pledged under sec. 260(b) in HB 19 and in sec. 260 of my draft.

(9) And there are no changes in the two sec. 270's.

(10) One other change should be noted. The timeframes in HB 19 were described by Patty Ann Polley as "too tight for reasonable operation of the election." Rather, she asked that the election office have at least 45 days to prepare and distribute the ballots. I have adjusted the timeframes in the bill accordingly. The election remains on the second Tuesday in April; the candidates have until the last Tuesday in February of that year to remove their name from the ballot by filing the statement that they are not a candidate for president and the lieutenant governor's determination as to the names he proposes to put on the ballot and the last day that he can accept petitions occur on the last Tuesday in January.

I believe these changes are an improvement on HB 19. I will be happy to discuss with you any of the changes I propose in this redraft of that bill.

RAB:jdm

Attachment

LA21 0524 09.55 JA03 0009 09.55 02/26/79

CLAUDIA FROM TRUDY

FOLLOWING IS THE NAME OF WITNESS WHO TESTIFIED AT THE SPECIAL SUBCOMMITTEE ON ELECTION REFORM ON SATURDAY, FEBRUARY 24. PLEASE SEE THAT THE COMMITTEE RECEIVES A COPY OF THIS FOR THEIR OFFICIAL RECORDS.

1. ARLAYNE KLEIN, SELF, S.R. BOX 20059, FBX 99701 - 479-6376.

PLEASE ACKNOWLEDGE RECEIPT OF MESSAGE. /TC/ EOM

State Presidential Primary Could Be Tool For Stevens

By SUSAN ANDREWS
Times Staff Writer

If the Legislature decides to hold a presidential primary in Alaska next year, U.S. Sen. Ted Stevens says he may run as a favorite son candidate to give Alaska some bargaining power at the Republican national convention.

The purpose would be to publicize Alaskans' position on the issue of federal land use in Alaska, the senator said here this morning.

"I am a serious candidate for majority leader of the Senate," not for president, he said.

Stevens said U.S. Rep. Don Young is using the same tactics by considering entry into the New Hampshire presidential primary.

A D2 bill once it passes Congress "is just the first round" of what Stevens says will be a long and continuing battle over the rights of Alaskans in regard to federal land in Alaska.

"The bill would assure the state its land under the Statehood Act and the natives their land under the settlement act," he said. "But it's going to be one long war as far as the adversary role of the federal government is concerned."

He estimated that 30 million acres of state selections will be out of reach if Congress doesn't pass a D2 bill this year, including land in national monuments created by the president and land withdrawn under section 204B of the Bureau of Land Management's organic act. "That's why it was to our benefit to get a bill last year," he said.

The House Interior Committee's action to choose the Huckaby substitute D2 bill as its markup bill instead of the Udall bill was significant, Stevens said.

Also significant was the committee's decision not to amend the Huckaby bill — which is the Senate compromise bill worked out last fall. "It was a calculated decision that was the best they could do," Stevens said.

Members of the House Merchant Marine and Fisheries Committee, which are to visit Alaska next week, may be allowed to offer amendments to the bill. Stevens said they are "new people with fresh approaches." Committee chairman Rep. John Breaux, D-La., "is not against Alaskans' concerns," the senator noted. "He has seen oil and gas developed in a compatible way. He's also interested in fisheries."

If the Huckaby bill survives on the House floor, "we have a good chance of maintaining it in the Senate," Stevens said. "But if the Udall bill (HR 39) is adopted as a substitute, we will be hard pressed to amend it." He expects Senate action to come by August or September.

"There's a good chance there will be no bill," Stevens cautioned. "The extreme environmentalists are urging that there be no bill. If that happens, we're in tough straits."

Blumenthal Asks Japan For Imports

By R. GREGORY NOKES

ANCHORAGE, Alaska (AP) — Treasury Secretary W. Michael Blumenthal said today that Japan must restructure its economy to allow more imports of manufactured goods or run the risk that Congress will raise barriers against that nation's exports.

Blumenthal said after meetings in Toyko today with Japanese leaders, including Prime Minister Masayoshi Ohira, that the Japanese fear Congress may order a surcharge.

2-26-79

I spoke with Elaine Karmack at the Democratic National Committee, Washington D.C. (202-797-5900) regarding the exact dates of presidentail primaries in 1980.

---AT THIS TIME THOSE DATES ARE NOT AVAILABLE, ALL STATE LEGISLATURES ARE CURRENTLY IN SESSION AND WILL NOT HAVE ANY CHANGES FINALIZED UNTIL APRIL 15.

----THE FOLLOWING STATES ARE CONSIDERING CHANGING THEIR PRIMARY DATES, BUT AS OF THIS TIME HAVE MADE NO FINAL DECISION:

Washington
New Hampshire
Maine
New York
Puerto Rico

----ALL PRIMARIES MUST BE HELD BETWEEN THE 2nd TUESDAY IN MARCH AND THE 2nd TUESDAY IN JUNE. A STATE THAT HELD IT'S PRIMARY in 76 OUTSIDE OF THAT TIME FRAME MAY ASK FOR A WAIVER TO CONTINUE TO HOLD IT OUTSIDE OF THAT TIME FRAME. STATES THAT HELD THEIR PRIMARY WITHIN THAT TIME FRAME IN 76 MAY NOT CHANGE OUTSIDE THOSE DATES.

----THE EXACT DATES WILL NOT BE KNOWN UNTIL APRIL 15, 1979, THAT IS THE DATE THEY MUST BE SUBMITTED TO DEMOCRATIC NATIONAL HEADQUARTERS.

DS

EDITORIAL PAGE

The Anchorage Times

ROBERT B. ATWOOD
Editor and Publisher

WILLIAM J. TOBIN
Associate Editor
And General Manager

CLINTON T. ANDREWS JR.
Managing Editor

To Rep.
Bill Parker
Attn: Dwight
Olson

Presidential Primary

THE PROSPECT of a presidential primary vote in Alaska is one of the few new ideas before the Legislature that is refreshing.

The proposal itself is not new, for it has been considered in the past. Indeed, such a primary law was passed last year but was vetoed by Gov. Jay Hammond to save the state the expense, estimated at about $225,000.

If the Legislature will pass the measure again this year, there is reason to expect that the governor will sign it, regardless of his continuing austerity budget.

ALASKA WOULD GAIN more than the cost by having candidates for president come here to seek the support of this state's delegates to their national conventions.

Candidates have been known to show great sensitivity to the wants of those whose support they seek. Some of them have, from time to time, found it possible to take public stands in favor of what those supporters want. There have been instances when candidates have made promises.

Never has a candidate for nomination to the presidency had occasion to give Alaska more than a casual thought during the primary campaigns. They have been busy with the presidential primary elections in the Lower 48 and, because there has been no vote here, they have rarely visited Alaska.

A presidential primary would provide the occasion and the platform for candidates to take public stands on issues important to Alaska. A candidate could, if he chose, promise to protect Alaska from unreasonable encroachment on this state by special interests who would set aside huge blocks of land for their own special purposes.

The reason candidates might be interested in making themselves attractive to Alaskans is that this state has votes in the national party nominating conventions. The delegation has a dozen or more votes, depending on party rules. Sometimes only a handful of votes selects the winner.

ECONOMIC BENEFITS that would result from a presidential primary vote have been cited often, but recent events have enlarged the list and broadened the categories of benefits.

Entertaining the candidate's entourage would involve expenditures that would help the state's economy.

The financial benefit could be of minor importance compared to the national exposure Alaska would get as the candidates are on television, in the magazines and newspapers as they discuss this area's problems.

The state is spending more than $2 million to foster a better understanding of the land problems, with much of it allocated to media information. The cost of a primary election would be a bargain price to pay for the national exposure that would result.

It would be false economy if the primary were to be dropped because of the cost. State officials are surrounded by opportunities for economy that will not harm the state. One consultant contract dropped could save more than the cost and the only loss would be a mimeographed report destined for the dusty shelves of a backroom closet.

It is to be hoped that the Legislature will enact the new primary proposal and give Gov. Hammond a chance to sign it in 1979.

HB
29

(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

1/24/79

Date: _____

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 29

"An Act relating to the public employees' retirement system; eff. 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)

[X] replace with CS for HB 29 [X] same title [ ] new title

and recommends [illegible] CSHB 29 with [illegible]

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

K Kilgore - DO PASS

Rick Parker - DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Terry Martin - Do Not Pass

Terry Gardner Do Not Pass

Jack Ballard do not pass

_____ CHAIRMAN

H 60 (Rev. 12/78)

STATE OF ALASKA

inter-Department Route Slip

TO:
MAIL STATION NUMBER 3100

DEPARTMENT Alaska State Leg.

ATTENTION Howard Staves/Jane

☐ 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:
MAIL STATION NUMBER 0208

DEPARTMENT Adm/Adm Svcs

BY K. Jewell DATE 2-16

02-002 (REV.10/73)

130E100&123A cop

House Bill 29

1. This bill would not affect existing retirees, including early retirees.

2. If this bill were totally funded by the employer, the cost would be .2156% of covered non police/fire payroll. Since employee contributions are worth 78% of employer contributions (employee contributions are refundable) the 25% increase in employee contributions is actually worth .1950% in terms of employer contributions (78% X .2500). The difference of .0206% (.2156% - .1950%) is the total net cost to the State.

3. The .0206% total net cost to the State is based upon an estimated FY 80 non police/fire payroll of $207,400,000 increasing at 10% annually.

4. The present value of the unfunded liability is $4,361,943. The unfunded liability is the cost to provide a "25 year and out" service retirement to existing employees as opposed to future new employees only. The unfunded liability is amortized over 25 years.

5. The consulting actuary for the PERS has determined that only 1% of all employees would receive a benefit as a result of the "25 year and out" provision of this bill, even though all employees will be contributing towards this benefit.

6. Personal services - one temporary position - Retirement and Benefits Specialist I (range 13) for three (3) months to prepare for and conduct the election.

FY 80 monthly salary	$1,519 X 3 =	$4,557
Plus benefits @ 10.13%	=	462
		$5,019

7. Printing and mailing of ballots = $5,000

February 16, 1979

Legislative Board of Retirement Benefits analysis and recommendations on:

House Bill No. 29:

The board endorses the attached fiscal note as its fiscal analysis of HB 29.

The board unanimously recommended that HB 29 do pass; one member was absent.

A majority of the members of the board feel that the requirement that the "Department of Administration remain impartial and take no position" should be removed.

SUMMARY OF HOUSE BILL NO. 29

Retirement system affected: PERS

Directs the Public Employees' Retirement Board to conduct an election among the active members of PERS to determine if both the following should occur: (1) an increase in the employee contribution rate from four and one-quarter to four and one-half percent of compensation for employees other than peace officers and firemen; and (2) a reduction from 30 to 25 years in the credited service required for normal retirement at any age for employees other than peace officers and firemen.

Provides that the above changes will take effect on January 1, 1980, if approved by a majority of the votes cast in the election.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill 29
Title An Act Relating to the PERS (25 Year Service Retirement)
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Administration - Division of Retirement and Benefits
Program Category Affected Retirement and Benefits
BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-01
(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES		5.0				
200	TRAVEL						
300	CONTRACTUAL		5.0				
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	TRS STATE MATCH						
100	BENEFITS		21.4	46.9	51.5	56.6	62.2
	TOTAL		31.4	46.9	51.5	56.6	62.2

FUNDING (Thousands of Dollars)

GENERAL FUND		17.5	38.3	42.1	46.5	50.9	
FEDERAL FUNDS		1.0	2.2	2.4	2.6	2.9	
VETERAN'S FUND			0.1	0.1	0.1	0.1	
FISH & GAME FUND		0.2	0.3	0.3	0.3	0.4	
HIGHWAY FUND		0.3	0.6	0.7	0.7	0.8	
AIRPORT FUND		0.6	1.4	1.5	1.6	1.8	
CAPITAL FUND		1.8	4.0	4.4	4.8	5.3	
PERS		10.0					
TRS							

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY		3-mos.				

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

See Page 2

Paul B. Arnoldt

IV. DATE 2/15/79 PREPARED BY Paul B. Arnoldt, Director
AGENCY Division of Retirement & Benefits
PHONE 465-4460

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
Office of the Governor (Keith Specking)

33-001 (Rev. 12/78)

1. This bill would not affect existing retirees, including early retirees.

2. If this bill were totally funded by the employer, the cost would be .2156% of covered non police/fire payroll. Since employee contributions are worth 78% of employer contributions (employee contributions are refundable) the 25% increase in employee contributions is actually worth .1950% in terms of employer contributions (78% X .2500). The difference of .0206% (.2156% - .1950%) is the total net cost to the State.

3. The .0206% total net cost to the State is based upon an estimated FY 80 non police/fire payroll of $207,400,000 increasing at 10% annually.

4. The present value of the unfunded liability is $4,361,943. The unfunded liability is the cost to provide a "25 year and out" service retirement to existing employees as opposed to future new employees only. The unfunded liability is amortized over 25 years.

5. The consulting actuary for the PERS has determined that only 1% of all employees would receive a benefit as a result of the "25 year and out" provision of this bill, even though all employees will be contributing towards this benefit.

6. Personal services - one temporary position - Retirement and Benefits Specialist I (range 13) for three (3) months to prepare for and conduct the election.

FY 80 monthly salary	$1,519 X 3 =	$4,557
Plus benefits @ 10.13%	=	462
		$5,019

7. Printing and mailing of ballots = $5,000

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS for House Bill 29

Title An Act Relating to the PERS (25 Year Service Retirement)

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement and Benefits

Program Category Affected Retirement and Benefits (PERS)

BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-01

(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES		5.0				
200	TRAVEL						
300	CONTRACTUAL		5.0				
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	TRS STATE MATCH						
100	BENEFITS						
	TOTAL		10.0				

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS		10.0				
TRS						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY		3-mos.				

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

See Page 2.

Paul B. Arnoldt

IV. DATE 3/12/79 PREPARED BY Paul B. Arnoldt, Director

AGENCY Division of Retirement & Benefits

PHONE 465-4460

Original: Legislative Finance

cc: Budget and Management
Prime Sponsor (First Legislator Named)
Office of the Governor (Keith Specking)

33-001 (Rev. 12/78)

1. This bill would not affect existing retirees, including early retirees.

2. The present value of the unfunded liability is $4,361,943. The unfunded liability is the cost to provide a "25 year and out" service retirement to existing employees as opposed to future new employees only. The unfunded liability is amortized over 25 years.

3. The consulting actuary for the PERS has determined that only 1% of all employees would receive a benefit as a result of the "25 year and out" provision of this bill, even though all employees will be contributing towards this benefit.

4. Personal services - one temporary position - Retirement and Benefits Specialist I (range 13) for three (3) months to prepare for and conduct the election.

FY 80 monthly salary	$1,519 X 3 =	$4,557
Plus benefits @ 10.13%	=	462
		$5,019

5. Printing and mailing of ballots = $5,000

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITO
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M May 4, 1979

SUBJECT: CS for House Bill No. 29 am S (An Act relating to the public employees' and teachers' retirement systems; and providing for an effective date)

TO: Senator Bill Ray

FROM: James A. McKenzie, Legislative Counsel

I note that the House failed to concur in sec. 3 of CSHB 29 am S. In the event the Senate fails to recede from this section of its amendment and a Free Conference Committee is appointed, you may wish to consider using the language in the attached amendment instead of the language passed by the Senate. It is not clear from the Senate language whether service as a peace officer for a political subdivision before 1961 is to be credited or whether a person who has that type of service (but lacks three years of service with the state) will be credited with service before 1961 to the state or territory but not to a political subdivision. The attached amendment makes it clear that service as a peace officer to a political subdivision or to the state or territory before 1961 will be credited. I assume that it is not intended to allow this type of employee to claim service before 1961 with the state or territory or one of its political subdivisions which was not rendered as a peace officer. The Senate language refers to the Peace Officers retirement system. The State of Alaska has no Peace Officers retirement system. It has a public employees' retirement system with provision for early retirement of peace officers. The attached amendment uses this vocabulary. Finally, the Senate language refers to correctional officers. This is unnecessary given the following definition of "peace officer," which applies throughout AS 39.35:

> (27) "peace officer" or "fireman" means an employee occupying a position as a peace officer, chief of police, correctional officer, correctional superintendent, qualified employee of the Department of Fish and Game, fireman or fire chief;

Please let me know if you have any questions about this matter.

JAMcK:nem

Attachment

A M E N D M E N T

Offered in the SENATE

TO: CSHB 29 am S

Page 3, line 2 - Page 4, line 3:

Delete all material and insert the following:

"* Sec. 3. AS 39.35.360 is amended by adding a new subsection to read:

(g) An employee is entitled to credited service for employment as a peace officer rendered before January 1, 1961 to the state or former Territory of Alaska or to a political subdivision of the state or former Territory of Alaska if the employee

(1) rendered employment to a political subdivision of the state after January 1, 1961 and before July 1, 1979; and

(2) is vested under this chapter and enrolled as a peace officer under this chapter on July 1, 1980."

HB
34

(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

1-24-79

Date: 2-8-79

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 34

"An Act relating to the preparation and distribution of a taxpayers' survey of the budget."

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)

[X] replace with CS for HB 34 [ ] same title [ ] new title

and recommends CSHB 34 DO PASS

[X] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

G. M. Co

John B Sullin

D. P.

Terry Gardiner

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Terry Martin-Dave pass

Ky Butcher "

G. M. Co

CHAIRMAN

H 60 (Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 34
Title Preparation & Distribution of a Taxpayers' Survey of the Budget
Requested by Representative Brian Rogers Date 2-6-79

II. FISCAL DETAIL
Agency Affected Revenue
Program Category Affected General Government
Budget Request Unit(s) Affected Administrative Services

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		16.3	17.1	17.9	18.9	19.8
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		16.3	17.1	17.9	18.9	19.8

FUNDING (Thousands of Dollars)

GENERAL FUND		16.3	17.1	17.9	18.9	19.8
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

See the attached analysis.

IV. DATE 2-6-79 PREPARED BY P. A. Wall
AGENCY Revenue
PHONE 465-2313

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

The Bill requires that six additional pages of information be included with each set of tax forms. These six pages will be printed front and back on three sheets of paper of the same specification as the rest of the set of tax forms and will contain:

1. The expenditures, by program category, in the State budget for the current fiscal year.

2. The sources of funding for the State budget for the current fiscal year.

3. A questionnaire designed by the Legislative Finance Division that requests the taxpayer's opinion on the current levels of expenditures and program priorities.

Assumptions are that the questionnaire will be returned directly to the Legislative Finance Division for processing and that no scanning will be conducted to find questionnaires returned with tax forms.

Forms - The expenditures in the State budget, by program category and sources of funding contained on four pages, plus a two-page questionnaire = six pages 8 1/2" x 11" (three pages printed on both sides):

. Typesetting & Layout, six pages @ $33 per page =	$ 198
. Printing, Binding & Shipping (three pages printed front and back added to our 34-page tax booklet times 250,000 booklets =	16,100
	$16,298

No postage increase is anticipated above our present tax booklet boxholder distribution as three front and back pages will keep the weight within the present rate.

NOTE: Over 50% of the tax returns filed with Revenue each year are prepared by practioners. Difficulty is expected in gaining taxpayer awareness of the additional budget and questionnaire data contained in the set of tax forms for those who utilize practioner services. Over 15% of the tax returns filed with Revenue have an extended filing date of June 15 as we allow an extension filed with the IRS to apply to filing Alaska Individual Tax returns. We would expect a delay in utilizing the questionnaire for those filing for extensions with the IRS.

Introduced: 1/24/79
Referred: State Affairs and Finance

IN THE HOUSE BY ROGERS

HOUSE BILL NO.34

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the preparation and distribution of a taxpayers' survey of the budget."

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

* Section 1. AS 43.20.160 is amended by adding a new subsection to read:

(e) The department shall include with each set of tax forms provided to an individual taxpayer, a summary of (1) the proposed expenditures, by program category, for ~~the next fiscal~~ current year, as set out in the governor's budget, and (2) the sources of funding for the expenditures in each program category. There shall be included with the summary a questionnaire, ~~capable of being processed by a computer~~ keypunched by day of leg div, that requests the taxpayer's opinion on the ~~proposed~~ current levels of expenditures and program priorities. A taxpayer is not required to respond to the questionnaire. The taxpayer may not be required to identify himself in the questionnaire. The questionnaire may include a request that the taxpayer specify the election district in which he resides. The questionnaire shall be sent to each taxpayer not later than January 31 of each year, and is returnable, directly to the legislative finance division for processing.

* Sec. 2. AS 24.20.231 is amended by adding a new paragraph to read:

(7) process those budget questionnaires received before March 15 of each year under AS 43.20.160(e) and report the results to the legislature.

February 8, 1979

House State Affairs Committee Chairman's Report

CS HB 34

The original version of HB 34 was considerably broader than the CS recommended by the State Affairs Committee. Among the elements of the original bill which have been dropped with the adoption of the CS was the provision of a survey among taxpayers through which citizens could indicate areas in which they desired reduced or expanded expenditures in the state budget. Although the survey is no longer specifically mandated, it should be noted that such a survey is not prohibited and if in the process of putting together a summary of the budget the Legislative Finance Division desires to include a return questionaire (through which citizens can express their reactions to expenditures or for that matter even their reaction to the budget summary) the division is free to do so. It was the feeling of the State Affairs Committee that by making this provision nonmandatory it would be possible for the Legislative Finance Division to include a survey once or twice and, depending on public reaction, either continue or discontinue the survey as the public reaction warrents.

Representative Mike Miller

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill 34
Title Preparation & Distribution of a Taxpayer's Survey of the Budget
Requested by House State Affairs & Finance Committee Date 1/26/79

II. FISCAL DETAIL
Agency Affected Revenue
Program Category Affected General Government
BRU, Program, or Subprogram(s) Affected Administrative Services
(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES		12.9	14.0	15.0	16.1	17.3
200 TRAVEL						
300 CONTRACTUAL		137.2	144.0	151.2	158.9	166.8
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	Ø	150.1	158.0	166.2	175.0	184.1

FUNDING (Thousands of Dollars)

GENERAL FUND	Ø	150.1	158.0	166.2	175.0	184.1
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY		2/12mm	2/12mm	2/12mm	2/12mm	2/12mm

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

Note: Most costly alternative shown above. Attached analysis provides an alternative.

IV. DATE 1/29/79 PREPARED BY P. A. Wall
AGENCY Revenue
PHONE 465-2313

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

33-001 (Rev. 12/78)

The Bill requires additional pages of information be included with each set of tax forms:

1. Governor's proposed expenditures, by program category, for the next fiscal year budget, in summary form.

2. Scurces of funding the proposed expenditures, by program category.

3. A questionnaire designed with computer processing in mind which requests taxpayer's opinions on the proposed levels of expenditures and program categories.

NOTE: A Timing Concern. Tax form proofs must be in the printer's hands by November 1 to insure production of the tax forms and delivery to taxpayers the latter part of December. Summary information on the Governor's proposed budget is normally not available until early January.

Most Costly - Assumes the Complete Governor's Proposed Budget Summary:

Forms - Governor's proposed budget summary reduced to 36 pages, plus a two-page questionnaire = 38 pages 8 1/2" x 11" (19 pages printed both sides):

Typesetting & Layout @ $33 per page	$ 1,254
Printing, Binding & Shipping Added to Our 34-Page Tax Booklet	49,500

Postage - Cost added to our present boxholder distribution; 167,635 booklets with postage increase from 8.4 to .53 cents or 44.6 cents $ 74,765

Cost added to our present first class mail, 30,000 booklets with postage increase from .41 t0 .80 cents or 39 cents. 11,700

$ 86,465

Personnel - Assumption is that many taxpayers will return the questionnaire with their tax forms. Two temporary scanner positions of six months each will be required to handle the effect of looking through all tax returns to find the questionnaires and send them to the Legislature:

Two Range 7 @ $1,045 per month times six months each times .1031 benefits	12,929
Most Costly Total	$150,148

Least Costly - Assumes a Highly Condensed Governor's Proposed Budget Summary:

Forms - Governor's proposed budget summary reduced to four pages, plus a two-page questionnaire = six pages 8 1/2" x 11" (3 pages both sides):

Typesetting & Layout @ $33 per Page	$ 198
Printing, Binding & Shipping Added	

Postage - No postage increase for the boxholder distribution or first class mail.

Personnel - Assumption is that many taxpayers will return the questionnaire with their tax forms. Two temporary scanner positions of six months each will be required to handle the effect of looking through all tax returns to find the questionnaires and send them to the Legislature.

Two Range 7 @ $1,045 per month times six months each times .1031 benefits	12,929
Least Costly Total	$ 29,219

HB 34 Substitute #1

1) change title: ". . . relating to the preparation and distribution of budget information for taxpayers."

2) amend lines 11-13 to read:

. . . a summary of not more than six pages showing (1) the expenditures, by program category, for the latest available fiscal year and (2) the sources of funding for the expenditures.

3) eliminate lines 14 to end.

4) Addition: This act shall expire June 30, 1982.

SUBSTITUTE #2

~~1) amend~~ #s 2 and 4 above. title remains the same.

2) ~~amend~~ lines 14 to ~~end~~ 17 to read:

A questionnaire shall be included in the summary pages requesting the taxpayer's opinion on the proposed levels of expenditures and priorities. The questionnaire shall be capable of being processed by computer.

(Question??-who designs the summary/questionnaire)

designed by OMB, approved by Leg. Budget and Audit Committee

lines 17 to end remain the same

3) ~~At~~ line 27:

~~Questionnaires received after March 15 shall be processed and the results reported by September 15.~~

Change:

7) process those budget questionnaires and report the results to the legislature.

TAXPAYER'S SURVEY OF THE BUDGET

REVENUES

Taxes	255.1	24.8%
State Resources	80.2	7.8
Licenses & Permits	20.1	1.9
Miscellaneous	8.2	.8
Petroleum	701.8	64.7
TOTAL	1065.4	

OPERATING BUDGET BY PROGRAM CATEGORY	Governor's Rec. FY80 Budget	% of total budget	Your Preferred %
University of Alaska	163,113.8	12.4	
Elementary & Secondary Education	355,246.3	27.0	
Education, Information & Cultural Services	8,080.1	.6	
Adult & Postsecondary Education	19,245.2	1.4	
Social & Economic Assistance for the Aged	38,993.4	2.9	
Social & Economic Assistance for the General Pop.	55,490.5	4.2	
Social Services Administration & Support	3,161.3	.2	
Employment Stabilization	43,817.0	3.3	
Public Health	61,207.4	4.6	
Health Information, Planning & Research	3,600.8	.3	
Mental Health	24,909.1	1.9	
Fisheries Resource Conservation	31,366.2	2.4	
Game Resource Conservation	6,253.6	.5	
Fish & Game Administration and Support	5,883.6	.4	
Fish & Wildlife Protection	8,400.0	.6	
Environmental Conservation	12,141.8	.9	
Management of Mineral & Energy Resources	5,452.8	.4	
Management of Land & Water Resources	14,706.9	1.1	
Pipeline Surveillance	4,065.9	.3	
Parks & Recreation	4,921.1	.4	
Natural Resources Management & Support	6,124.0	.5	
Consumer Protection	10,697.7	.8	
Worker Protection	5,929.5	.4	
Life & Property Protection	17,304.4	1.3	
Criminal Justice Support Functions	5,815.6	.4	
Crime Identification and Apprehension	26,274.7	2.0	
Due Process	32,849.2	2.5	
Offender Confinement, Reformation & Supervision	28,822.9	2.2	
Economic Development	9,400.9	.7	
Community Development	49,114.6	3.7	
Transportation Administration and Support	11,704.5	.9	
Highway and Aviation - Maintenance and Operations	91,437.5	6.9	
Design and Construction	1,947.9	.1	
Marine Transportation	44,101.4	3.4	
Executive Operations	6,317.4	.5	
Legislative & Elective Operations	14,289.4	1.1	
Centralized Adminstration Services	30,057.6	2.3	
Legal Services	6,655.1	.5	
Telecommunications	5,005.0	.4	
Revenue Collection & Management	9,524.5	.7	
Labor Services	2,029.4	.1	
Building & Equipment Services	30,027.7	2.3	

HB
55

(7)

COMMITTEE REPORT

HOUSE

FURTHER:

1-24-79 Date: _____

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 55

"An Act relating to an employee suggestion award system; 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

Rep Stiratto
Terry Gardner
Bill Day

MEMBERS HAVING
OTHER RECOMMENDATIONS:

do not pass - Terry Martin

_____
CHAIRMAN

H 60 (Rev. 12/78)

THIS [✓] BILL [ ] RESOLUTION [ ] CITATION

has been prepared by the staff of the Legislative Affairs Agency in response to the request and at the direction of the sponsoring member or committee. The staff has attempted to place the document in proper legal and clerical form, subject to any special limitations or instructions of the requestor.

If we may be of further assistance in this matter, please contact the Director of Legal Services or the Director of Research Services, as appropriate.

Delivered to requestor 2-6-79

LA-L 40

No award shall be made

A. in excess of $5,000 without the approval of the Governor and the Legislature;

B. to an employee who offers a suggestion which is considered within the scope of his job responsibilities or for which he has control over implementing;

C. until the suggestion is implemented and reduced expenditures or increased effectiveness is assured;

D. without the release by the employee, his heir, representative, or assigns of all rights to claims of any nature.

add sunset June 30, 1982 expires

ALASKA LEGISLATURE

FISCAL NOTE

I. REQUEST House Bill No. 55
Bill/Resolution No. Department Log # 050
Title An Act Relating to an Employee Suggestion Award System
Requested by Governor Date

II. FISCAL DETAIL
Agency Affected Administration
Program Category Affected General Government
Budget Request Unit(s) Affected Commissioner's Office

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES		40.3	43.5	47.0	50.8	54.8
200 TRAVEL		12.0	12.6	13.2	13.9	14.6
300 CONTRACTUAL		5.0	5.3	5.5	5.8	6.1
400 COMMODITIES		.8	.8	.9	.9	1.0
500 EQUIPMENT		2.3	2.4	2.5	2.7	2.8
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		45.0	47.3	49.6	52.1	54.7
TOTAL		105.3	111.9	118.7	126.2	134.0

FUNDING (Thousands of Dollars)

GENERAL FUND		105.3	111.9	118.7	126.2	134.0
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		1.0	1.0	1.0	1.0	1.0
PART TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

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

This program, which would be administered by a Director (Range 20), would result in projected first year benefits of $150,000. This estimate is based on assumptions developed by the Division of Internal Audit and is substantially less than the 1/10 of 1% total budget which other governmental agencies have realized. Awards would be based on 10% of the annual hard dollar benefits of up to $5,000 per person, and all employees except certain "managerial" positions would be eligible. Experience from private industry and other governmental agencies indicates that benefits increase each year of operation.

Net savings are estimated as follows:

Projected first year benefits		$150,000
Less:	Program Cost	(60,100)
	Awards (10% of benefits)	(15,000)
Net savings		$111,600

Costs for years beyond FY 80 have been calculated to include 8% inflation for personal services and 5% for all other line items.

IV. DATE 1/16/79 PREPARED BY
AGENCY
PHONE

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) (Governor Hammond, Attention Carla)
Commissioner Allen
33-001 (Rev. 10/78)
Kellus Sewell

No award shall be made

A. in excess of $5,000 without the approval of the Governor and the Legislature;

B. to an employee who offers a suggestion which is considered within the scope of his job responsibilities or for which he has control over implementing;

C. until the suggestion is implemented and reduced expenditures or increased effectiveness is assured;

D. without the release by the employee, his heir, representative, or assigns of all rights to claims of any nature.

FISCAL NOTE

I. REQUEST House Bill No. 55
Bill/Resolution No. Department Id: # 030
Title An Act Relating to an Employee Suggestion Award System
Requested by Governor Date

II. FISCAL DETAIL
Agency Affected Administration
Program Category Affected General Government
Budget Request Unit(s) Affected Commissioner's Office

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES		40.3	43.5	47.0	50.8	54.8
200 TRAVEL		12.0	12.6	13.2	13.9	14.6
300 CONTRACTUAL		5.0	5.3	5.5	5.8	6.1
400 COMMODITIES		.8	.8	.9	.9	1.0
500 EQUIPMENT		2.3	2.4	2.5	2.7	2.8
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		45.0	47.3	49.6	52.1	51.7
TOTAL		105.3	111.9	118.7	126.2	131.0

FUNDING (Thousands of Dollars)

GENERAL FUND		105.3	111.9	118.7	126.2	131.0
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		1.0	1.0	1.0	1.0	1.0
PART TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

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

This program, which would be administered by a Director (Range 20), would result in projected first year benefits of $150,000. This estimate is based on assumptions developed by the Division of Internal Audit and is substantially less than the 1/10 of 1% total budget which other governmental agencies have realized. Awards would be based on 10% of the annual hard dollar benefits of up to $5,000 per person, and all employees except certain "managerial" positions would be eligible. Experience from private industry and other governmental agencies indicates that benefits increase each year of operation.

Net savings are estimated as follows:

Projected first year benefits		$150,000
Less:	Program Cost	(60,100)
	Awards (10% of benefits)	(45,000)
Net savings		$44,900

Costs for years beyond FY 80 have been calculated to include 8% inflation for personal services and 5% for all other line items.

IV. DATE 1/16/79 PREPARED BY [illegible]
AGENCY [illegible]
PHONE [illegible]

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) (Governor Hammond, Attention Carla)
Commissioner Allen
33-001 (Rev. 10/78)
Kellus Sewell

No award shall be made

A. in excess of $5,000 without the approval of the Governor and the Legislature;

B. to an employee who offers a suggestion which is considered within the scope of his job responsibilities or for which he has control over implementing;

C. until the suggestion is implemented and reduced expenditures or increased effectiveness is assured;

D. without the release by the employee, his heir, representative, or assigns of all rights to claims of any nature.

IDEAS FOR LEGISLATION

The Department of Better Ways

by THOMAS L. LOY
for The Courant

Ben Marino, who administers the suggestion award program for state employes, and secretary Virginia Callahan.

Operating out of a little basement room in the State Office Building in Hartford is a man who has given away more than a hundred thousand dollars of the state's money during the past seven years—in a successful effort to save many times that amount.

He is Ben Marino, administrator of the State Employes Suggestion Awards Program. Marino also is president of the New England Chapter of the National Association of Suggestion Systems, which promotes kibitzing in both the public and private sectors of the American economy.

Marino loves his work. He enjoys it most when someone comes up with an idea which justifies asking the Governor to present a Suggestion-Award check. These have run as high as $5,000 the maximum allowed — as in the recent case of Barbara Hickey.

Ms. Hickey was working as a supervisor in the Accident Security Section of the Motor Vehicles Department. She was about to retire after 35 years of state service. Before doing so, she passed along to her superiors a thought she had been mulling for some time: to streamline and computerize the processing of uninsured accident cases by combining the data from six forms into one.

Ms. Hickey's idea was referred to the MVD Suggestion Awards Committee, one of 150 such groups through which Marino works. They decided her plan would save Connecticut taxpayers no less than $34,000 per year.

"Our rule of thumb," Marino notes, "is to award the suggester at least 25 per cent of the estimated first-year's savings. At the end of the year, we conduct a review. Sometimes additional awards are justified."

The Connecticut State Police have come up with some lucrative suggestions. Example: Electronics Technician Ed Baines received $1,160 for designing a coupler which allows the use of one antenna for two car radios — Police Band and Citizen Band. Estimated annual saving: $4,500.

And $1,400 went jointly to Litchfield Resident Trooper John L. McLeod and Sgt. Francis H. Conroy for an idea developed following the amalgamation of two state courts. They salvaged 60 cartons of summons complaint forms which were about to be thrown away because the obsolete words "Circuit Court" appeared upon them. "Actually," Conroy said, "you can summon somebody on a piece of tissue paper if you want to."

Workers in the Department of Transportation also have come up with some impressive ideas:

Prior to 1975, snow had to be shoveled by hand from narrow bridges—because plows could be damaged by scraping against the parapets. Then Highway Foreman August Martin suggested that each side of the plow blade be covered with rubber. His award: $125.

The same amount went to Raymond E. Barnes of the department's testing lab at Rocky Hill. He devised apparatus to determine why traffic lights have malfunctioned, thus eliminating the need to return them to the manfacutrers for the same information.

One of the most adroit proposals was that of State Tax Examiner Robert H. Slattery. He noted that Connecticut was failing to put the bite on "unaccountable depletion of inventories of alcoholic beverages wholesalers." In plain words: booze given away for purposes of promotion. Slattery estimated the loss of tax revenue from this potential source at $20,000 per year. Through legislative enactment, that now is being collected. And Slattery has pocketed $5,000 as his share.

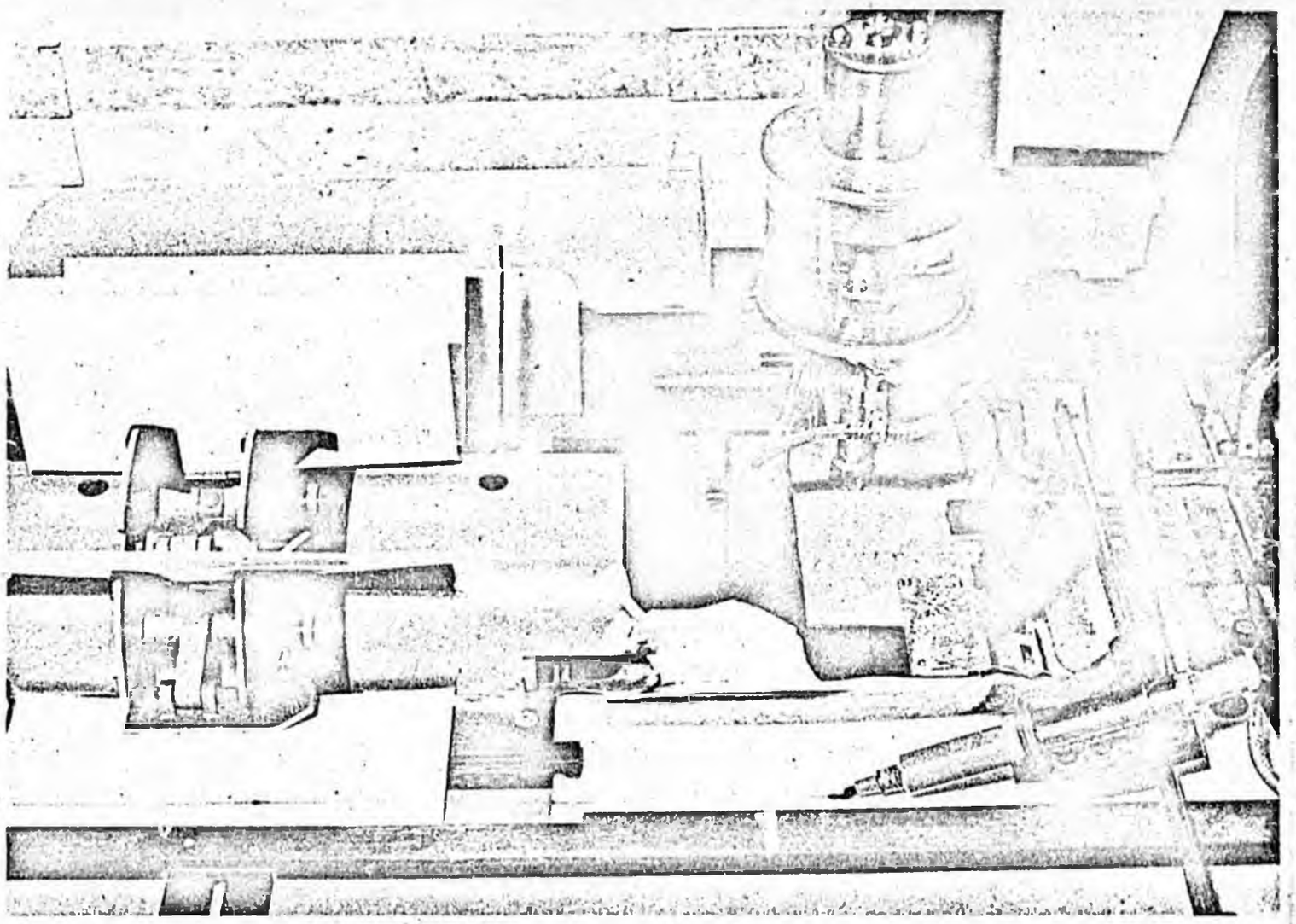
In the Department of Social Services Duplicating Supervisor Richard Magnin was bugged by the problem of how to handle letters returned after the Post Office could not deliver them. Since numerous mailings were involved, Dick and his staff had to open and examine each thrown back missive before it could be rerouted to the office of its source. Finally he bought some magic markers and attached them to a device which puts streaks of distinctive color on each outgoing envelope. His award: $445.

Richard Simmons, a correctional officer at the state prison in Somers, was unhappy to find that M-1 carbines frequently malfunctioned because of loose assemblies and fouled sights. Tower men, he discovered, had been battling boredom between escape attempts by taking guns apart and putting them back together. Simmons came up with the idea that each rifle should be enclosed in a case, secured by a zipper that could be opened only through breaking a fine wire. His compensation: $80.

At Mattatuck Community College, as elsewhere, a lot of keys were getting lost. Accounting clerk Michele Macray calculated that $75.25 had been spent on duplicates over a six-month period. In addition there was the cost of 27 trips to a Waterbury hardware store—15 minutes each way. Ms. Macray's idea was that the college should buy a key-cutting machine. That thought was gratefully accepted, and she received $50 of the first year's savings.

Jennie Howley is a switchboard operator at a very busy office in Wethersfield. She used to answer he phone by saying "Commission on Special Revenue." Many a caller, not knowing what that meant, got confused and hung up. So Jennie proposed coming right out in the open

(Continued on Page 14)



Richard Magnini, a duplications supervisor in the state Social Services Department, wanted to avoid the trouble of opening each one of the hundreds of letters returned each day to the department. So he suggested color coding them before they left the department's various office. His invention saves time and earned him $445.

and saying, "Connecticut State Lottery." That has proved much more efficient, and she has received $50 for the clarification.

The State Employes Suggestion Awards program dates back to 1954. Since then more than 9,000 ideas have been put forward. Marino was hired in 1971. Prior to that year, the prizes were given out by a board of citizens who were unpaid—except for "travel and necessary expenses." During Marino's seven years, awards totaling $122,500 have been made —producing annual savings which have been figured out to $794,000.

Suggestion awards go also to state employees who come up with ideas which may cost Connecticut money rather than saving it—but which have the merit of improving state service. Examples:

Steno II Evelyn Sweet of the Department of Commerce suggested posting a guidance chart in the State Office Building—to keep citizens from wandering around and around before getting where they want to go.

Ambrose Reynolds of the Department of Consumer Protection suggested a van to carry wise-buying information throughout Connecticut.

Ann Dusenberg of the Southbury Training School recommended placing clamps in vehicles transporting wheelchair patients—to prevent slidings and injuries.

Raymond Madigan of the Board of Education and Services for the Blind urged the use of Braille for floor numbers on the push bottons inside and outside state elevators.

Elizabeth Peterson of the Hartford Regional Center came up with an ingenious way to help non-ambulatory kids learn to walk: a jump suit suspended from a pulley running on an overhead track. Mrs. Peterson received a special award as "Suggester of the Year" in 1975.

Down through the years, Marino has taken pains to keep Suggestion-Awards ideas flowing in. He began in 1971 by speaking at meetings of the Connecticut State Employees Association. His reminders have appeared on the dashboards of state cars. His boxlike posters have hung down from the ceilings of hundreds of state offices and workshops. "How much is your suggestion worth?" they asked. One wag went about taping pennies to those gimmicks. Marino merely smiled and kept plugging away.

Now he is off on a new kick: a special award of a trip to Hawaii for two given to whoever turns out to be Connecticut's ten thousandth suggester. That award should come sometime in the next 12 months.

HB
84

(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

January 26, 1979 Date: 16 Feb. 79

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 84

"An Act relating to the refund of the unused balance of personal leave upon termination from state employment."

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

[X] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

Chairman's Report State Affairs

HB 84

During the consideration of this legislation, the Department of Administration indicated that its interpretation of the phrase "or in installments over a period of time" would not mean that an employee has the option of mandating the amounts or installment schedule for the payment of personal leave over a period of time. It would mean instead that, at the option of the employee, the lump sum payment would be waived and instead the employee would receive monthly payments equivalent to his normal pay schedule. The consensus of the committee was that this interpretation would be recognized as consistent with legislative intent regarding this proposed statute.

Rep. Mike Miller, Chairman

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 84

Title Refund of Unused Personal Leave Upon Termination

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected All Agencies

Program Category Affected _____

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 79	FY 80	FY 81	FY 82	FY 83	FY 84
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

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This bill can be implemented at no measurable cost to the State. This, however, is based on the assumption that "installments over a period of time" means the compensation that the employee would have received if he had remained in service for the normal pay period covered by each installment.

IV. DATE February 14, 1979 PREPARED BY William C. Mullin

AGENCY Department of Administration

PHONE 465-2240

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

33-001 (Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

REQUEST
Bill/Resolution No. House Bill No. 84
Title Refund of Unused Personal Leave Upon Termination
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected All Agencies
Program Category Affected _____
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 79	FY 80	FY 81	FY 82	FY 83	FY 84
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

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This bill can be implemented at no measurable cost to the State. This, however, is based on the assumption that "installments over a period of time" means the compensation that the employee would have received if he had remained in service for the normal pay period covered by each installment.

IV. DATE February 14, 1979 PREPARED BY William C. Mullin
AGENCY Department of Administration
PHONE 465-2240

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

33-001 (Rev. 12/78)

HB

135

(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

February 6, 1979

Date: Feb 79

Mr. Speaker:

The Committee on State Affairs has had HB 135

"An Act making a special appropriation to the Department of Transportation and Public Facilities for an Naknek River crossing study; eff. 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)

[X] replace with CS for [X] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Terry Martens

Ray Peterson IF Amended

CHAIRMAN

H 60 (Rev. 12/78)

Chairman's Report State Affairs

CSHB 135

The intent of the State Affairs Committee in amending Sec. 1 was to broaden the scope of the crossing study to include options other than just a bridge as the original bill specified. It was the feeling of the committee that a bridge might be feasible, but that the cost of such a project would be very high for the few people in the area. However, this would not negate the need for crossing the Maknek River from South Naknek to North Naknek. The committee intent was that all feasible methods of crossing the river be considered.

Jack Fuller

Rep. Jack Fuller, Vice Chairman

Funding Information
General Fund $200,000
Other Funds -0-
$200,000

Introduced: 2/6/79
Referred: State Affairs and Finance

IN THE HOUSE

BY ANDERSON

HOUSE BILL NO. 135

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

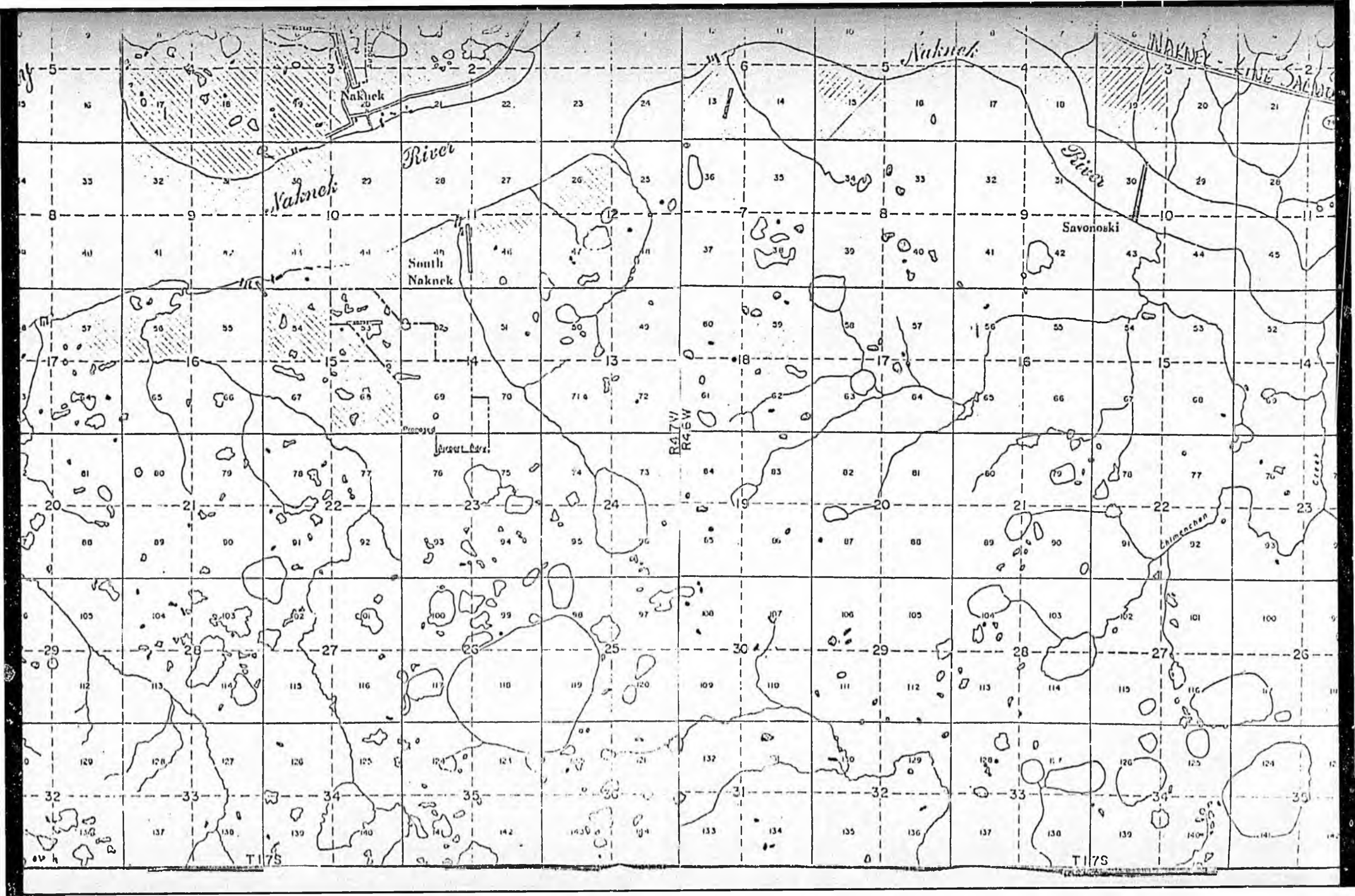
For an Act entitled: "An Act making a special appropriation to the Department of Transportation and Public Facilities for a Naknek River crossing study; and providing for an effective date."

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

* Section 1. The sum of $200,000 is appropriated from the general fund to the Department of Transportation and Public Facilities to conduct a [study of the feasibility of a bridge across] intermodal feasibility study of crossing the Naknek River from South Naknek to North Naknek.

* Sec. 2. The unobligated and unexpended portion of this appropriation lapses into the general fund on June 30, 1980.

* Sec. 3. This Act takes effect July 1, 1979.


Naknek
River
Naknek
South
Naknek
Naknek
River
Savonoski
R47W
R46W
T17S
T17S

Steven Angasan
Village Administrator
Box 302
South Naknek, Alaska 99670

Honorable Nels A. Anderson Jr.
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Nels:

As you know, one of the biggest issues in the Bristol Bay Borough area is a Naknek River Bridge, connecting South Naknek with Naknek/ King Salmon.

Several weeks ago the South Naknek Village Council sent out a resolution to various officials calling for a bridge. I hope you received your copy.

Please inform me as to what the villagers of South Naknek and the area can do to enhance their chances of ever seeing a bridge. It sure would be appreciated, and since you've probably heard every arguement possible that doesn't support a bridge, I figured you could help very much.

Congratulations on your victory!

Respectfully,
Steven Angasan
Steven Angasan

STUART H. BOWDOIN
BOROUGH MANAGER

TELEPHONE
(907) 268-4224

Bristol Bay Borough

BOX 189 • NAKNEK, ALASKA 99633

March 17, 1977

Representative Nels Anderson, Jr.
Pouch V
Juneau, Alaska 99811

Dear Representative Anderson;

The Bristol Bay Borough requests your assistance in the form of legislation supporting a very important project.

As you are well aware, there is a serious transportation problem within the Borough- that of separation of South Naknek from the remainder of the Borough. The lack of a land transportation system to South Naknek creates both economic problems and many personal concerns regarding safety. Of highest concern at this time is the twice daily flights necessary to bring 31 South Naknek students across the Naknek river to attend classes.

The Borough wishes therefore to construct a bridge across the Naknek River at Savonoski Crossing- approximately six miles from the river mouth. This bridge would meet a variety of needs; the more important ones being; the capability of moving school children to the Naknek facility in a manner of increased safety; allow ready access to and from the six canneries located in South Naknek; increased the economic viability of South Naknek and the Borough; allow residents of South Naknek more immediate access to goods and services; and enable the Borough to more readily meet the various needs of the people.

The Bristol Bay Borough requests your introduction and support of legislation calling for an appropriation of $6,000,000 to be utilized in construction of a bridge accross the Naknek River at Savaonoski Crossing.

Enclosed, please find a general location map of the project.

Thank you for your time and efforts in behalf of the Bristol Bay Borough.

Sincerely,

A. G. Erickson
Administrative Assistant

Enclosures:

STUART H. BOWDOIN
BOROUGH MANAGER

TELEPHONE
(907) 268-4224

Bristol Bay Borough

BOX 189 • NAKNEK, ALASKA 99633

February 24, 1977

Representative Martin Severson
Pouch V
Juneau, Alaska 99811

Dear Martin:

It is apparent that the only way we will be able to get a bridge across the Naknek River is by legislative action.

It would be greatly appreciated if you will introduce legislation appropriating funds for this purpose.

For your guidance, use and consideration I took the liberty of drafting the requested legislation. A copy is attached.

Thanking you in advance for your time and consideration in this important matter.

Sincerely,

Stuart H. Bowdoin
Borough Manager

SHB:bmg

Enclosure

RESOLUTION NO. 77-2

OF THE GOVERNING BODY OF THE

SOUTH NAKNEK VILLAGE COUNCIL

OF THE VILLAGE OF SOUTH NAKNEK.

WHEREAS, there is no bridge crossing the Naknek River connecting South Naknek to Naknek/ King Salmon.

WHEREAS, the lack of this bridge does create a hardship on local residents.

WHEREAS, the lack of a permanent crossing does restrict proper economic and human development of the area.

WHEREAS, the STATE OF ALASKA has surplus bridges.

WHEREAS, there are suitable locations along the Naknek River for a bridge.

WHEREAS, school children, who presently fly accross the Naknek River to go to school, would have safety enhanced with a bridge.

NOW, THEREFORE BE IT RESOLVED, that the South Naknek Village Council does request the State of Alaska to take immediate action and construct a bridge across the Naknek River.

BE IT FURTHER RESOLVED that copies of this resolution be sent to:

Governor Jay S. Hammond
State Senator George H. Hohman
State Representative, District 16
Commissioner of Highways Hesden D. Scongal

CERTIFICATION

I, the undersigned, Ron Zimin (President) of the Village Council of South Naknek, do hereby certify that the South Naknek Village Council is composed of 5(five) members , of whom 5 (Five) were present at a regular meeting held this 1st day of February, 1977; and that the foregoing resolution was adopted by the affirmative vote of 5 (Five) members

Ron Zimin
President
South Naknek Village Council

ATTEST:

Marlene M. Berns
Secretary/ Treasurer

STATE of ALASKA

GOVERNOR'S OFFICE

TO: Jessie Dodson
Special Assistant
Office of the Governor

DATE : January 25, 1977

FILE NO: 09-2505

FROM: H. D. Scougal
Commissioner
Department of Highways

SUBJECT: S-0576(3) (64899)
Knik River Bridge

Following is a synopsis of the request of Bristol Bay Borough to have the Knik River Bridge transferred to Naknek and I trust that this will put this proposed project to bed forever.

1. Crossing suggested is upstream on the Naknek River near Savonoski.

2. The new bridge, 24' wide, 1,850 lineal feet, which is required at this crossing, would cost at least $6 million.

Whether or not it would be economically feasible to move this bridge is a large question in my mind for the very reason that it has probably experienced extreme metal fatigue as it was shaken up pretty badly by the 1964 earthquake. Repairs were made at that time and additional temporary repairs were completed in 1972. A new bridge was designed and constructed parallel to the alignment of the old bridge and the old river bridge was to be removed and the ownership of the bridge to be transferred to the utilities utilizing the bridge for their facilities. This is a commitment that we are now honoring at this time. There are four utilities with facilities placed on the bridge: (1) Alaska Power Administration with 110 KVA transmission line, (2) RCA Alaska Communications, Inc., with a 16 pair open wire facility, (3) the Matanuska Electric Association, Inc., with a single 7.2 KV facility, and (4) the Matanuska Telephone Association, Inc., with a 6/22 cable facility. These utilities were in place and operating prior to July 1, 1960. As a result of the new Knik River Bridge construction the approach to the bridge was modified, which required the Matanuska Electric Telephone Association to relocate and adjust some of its utilities. This relocation and adjustment is not a subject of this memorandum.

So, rather than waste anybody's time any further, there has not been instituted, nor do we recommend at this time, the State of Alaska paying for the removal and realignment of these utilities for the movement of this bridge, for the dismantling and relocation of the Knik River Bridge to a location near Naknek, or any other location for that matter. It has been pointed out by stress analyses that reconstruction of this bridge at another location would only result in probably an H10 loading factor as opposed as a design criteria today of an H20. I trust that this resolves the question. If you so desire, I will be more than happy to direct this letter to the Bristol Bay Borough.

HDS/mth

February 7, 1977

Mr. Stuart H. Bowdoin
Manager
Bristol Bay Borough
P. O. Box 189
Naknek, Alaska 99633

Dear Stu:

The following information is for your use, and I would appreciate you relaying it to the members of the Bristol Bay Borough Assembly.

The crossing of the Naknek River at Savinoski would require a bridge 24 feet wide of 1,650 lineal feet, and would cost at least $6.0 million. The possibility of moving the Kinik River bridge to this site has not been investigated in regards to its economic feasability. It is not available, and additionally there is a great concern that this bridge experienced extreme metal fatigue during the 1964 earthquake. Repairs were made at that time and additional temporary repairs were completed in 1972. However, a new bridge was designed and constructed parallel to the alignment of the old bridge. The old river bridge was to be removed and the ownership of the bridge to be transformed to the utilities utilizing the bridge for their facilities. This commitment we are now honoring at this time. There are four utilities with facilities placed on the bridge; (1) Alaska Power Administration with 110 KVA transmission lines, (2) RCA Alaska Communications Inc. with a 16 pair open wire facility, (3) Matanuska Electric Association Inc. with a single 7.2 KV facility, and (4) Matanuska Telephone Association Inc. with a 6/22 cable facility. These utilities were in place and operating prior to July 1, 1960. As a result of the new Kinik River bridge construction, the approach to the bridge was modified, which required the Matanuska Electric Telephone Association to relocate and adjust some of its utilities.

At this time, it does not seem to be recommended that the State of Alaska pay for the removal and realignment of these utilities for the movement of this bridge, so that it may be dismantled and relocated at a different location. It has been pointed out by stress analyses that reconstruction of this bridge in another location would only result in a probable H-10 loading factor as opposed to today's design criteria of an HH-20.

I hope that this answers all of your questions regarding the placement of this particular bridge in your area. It appears the only possibility for a bridge across the Haknek River at Sevinoski would be the construction of a new bridge.

Sincerely,

Jessie Dodson
Special Assistant
to the Governor

cc: The Honorable Martin Severseh

JD:leg

DRAFT

IN THE HOUSE

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Highways, for the construction of a bridge across the Naknek River at Savonoski; and providing for an effective date."

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

* Section 1. The sum of $6,000,000 is appropriated from the general fund to the Department of Highways for construction of a bridge across the Naknek River at Savonoski.

* Section 2. This Act takes effect immediately in accordance with AS 01.10.070(c).

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

OFFICE OF THE COMMISSIONER POUCH Z JUNEAU 99811
TELEX 45 332

March 2, 1978

The Honorable George Hohman
Alaska State Senator
Alaska State Legislature
Juneau, Alaska 99811

Dear Senator Hohman:

This is in response to your request for information on the status of a proposed crossing of the Naknek River between Naknek and South Naknek.

At this time we have insufficient information on which to base an estimate of cost for such a facility. A structure reasonably close to the two communities would likely be around 4,000 feet in length. By the same token, a location further upstream would entail construction of possibly 15 miles of roadway to connect to a shorter bridge. Previous cost estimates have ranged from about $11,000,000 to as much as $22,000,000, depending on the scope of project.

In order to arrive at a more precise figure, it might be in order to suggest funding for a reconnaissance study to determine possible locations and costs. Such a study could possibly be conducted for about $200,000, although I would like to explore the matter further before naming a specific figure.

Please let me know your wishes in this matter.

Sincerely,

Donald Harris
Commissioner

cc: Deputy Commissioner Scougal

Dear Martin'

Greetings from the hometown again. We are having snow this morning and if it keeps up we could have a blizzard.

I read where Swanson has introduced HB 28, concerning the parents of students who are on corespondence paying the district X number of dollars.
The thinking behind this is to force pupils into the public school. Now many parents are taking them out because the schools are too bad and it would be a real infringement upon liberty to force them with this financial squeeze. Let the schools shape up and people will not be taking their kids out of them. The other concern I have concerning this is thatit is only a little step from the Swanson bill to saying that people that put their children in Private scools will have to pay the district so much money. In our school district it would be well over $3000.00 if I understand it right.

I am asking you to oppose this with all your might Martin, as I see it as a real infingement on liberty. The schools need to be accountable to the public and this is one good way to make them, when they loose enrolment they loose money. When they provide a good school they will have no problem with these people leaving and teaching their kids correspondance.

I hope all goes well with you down their.

We had a school board meeting in South Naknek the other day and the subject of Bridge came up again. Martin I don't know what it would cost but can you get us a real study on this. The state spends money for a lot less feasable projects than this I know. For-instance the highway out of Cordova to 50 mile has cost many many millions and it goes no where and even if and when it is finished it only goes to Cordova which is a community of 1500 people that has a ferry and good port and excellent air service. As I see it the bridge to South Naknek and conecting points in the future is a far wiser investment. Please do what you can. You well know all the problems it would solve for the Borough and School Board. If there is anything that needs to be done on this end please let me know and I will do my best to take care of it. I know you are busy but while your there please give this a good go.

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. H.B. 135
Title Naknek River Crossing Study
Requested by Anderson Date 2/6/79

II. FISCAL DETAIL
Agency Affected DOT/PF
Program Category Affected Design & Construction
Budget Request Unit(s) Affected Highway Design and Construction

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL				200,000		
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND				200,000		
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Project would be by consultant contract. Although this bill specifies a study of the feasibility of a bridge from South Naknek to North Naknek, the study should evaluate all viable alternates by studying various routes, addressing environmental considerations, defining navigational and traffic requirements, determining right-of-way needs involving Native land selections and other takings, locating suitable materials sources, estimating costs for the various alternates and determining a means of funding the project.

IV. DATE 2/13/79 PREPARED BY Larry Heller (FO)
AGENCY DOT/PF Anchorage D & C
PHONE 344-2121 Ext 231

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

33-001 (Rev. 10/76)

Rep. Mike Miller, Chairman

HB 135

Alaska State Legislature

House of Representatives

Office of the Speaker

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

February 16, 1979

MEMORANDUM

TO: Committee Members, House State Affairs

FROM: Representative Nels A. Anderson, Jr.

SUBJECT: Cost of flying students from South Naknek to North Naknek for school HB 135

In talking with Stuart Bowdoin, the Bristol Bay Borough Manager, and the Secretary for the Superintendent of the Borough School District the cost of the contract for transporting these students is $180.00 a day or $32,400.00 a school year.

SOUTH NAKNEK VILLAGE COUNCIL
Post Office Box 6
South Naknek, Alaska 99670

Nels A. Anderson
Representative
Pouch V
Juneau, Alaska 99811

Dear Nels:

I am writing regarding a bridge crossing the Naknek River, which would unite the Bristol Bay Borough. As you know South Naknek, Naknek and King Salmon presently make up the Bristol Bay Borough, but South Naknek is separated from the Borough by the Naknek River.

The separation has created hardships on the residents of South Naknek, and the village as a whole. As you know fishing is the main source of income in the immediate area due to the lack of employment. With a bridge residents in South Naknek would be able to seek employment on the North side. Presently the only way to cross is by plane or boat during the summer and fall. The travel expenses presently makes employment on the North side for a local infeasible.

The village economy is restricted, with a bridge more money would flow within the village. Due to the lack of a bridge, the local businesses must fly their goods into town, creating a further hardship on local consumers with the higher prices.

A bridge would encourage more small businesses locally, as now there is a limited market. Many would like to start businesses, but would not make enough to worth while with the current market.

Then there is the daily flying of the school children from South Naknek to Naknek. As you are a resident of an area that utilizes air transportation you are aware of the risks involved with flying. Granted busing children is also hazardous, but the risks would be greatly reduced I'm sure.

The state I understand picks up the tab on the flying contract, for how many years? These moneys could be put towards a bridge. Jay, in a letter, said that a Highway Department estimate would require a bridge 1850 feet long, crossing at Savonosky and would cost at least $6.0 million. Six million last year, but delaying it will just raise the price of the project.

Having served on the Bristol Bay Borough Assembly, I realize there was not enough input on the subject from the Borough. I don't understand why they on the North side would oppose unifying the borough as it would be benificial for long range planning and development for the Borough.

I understand that this is the time of the year that legislation is proposed and submitted. What would you need to get legislation submitted to have monies set aside for a bridge ? Our main concerns are the ecomonic welfare of the village, saier transportation of the school children, and also the future.

We are sending copies of this letter to Ose and Osterback in an attempt to gain support on this matter.

Sincerely,

Ron Zimin
President
SOUTH NAKNEK VILLAGE COUNCIL

cc: files
members

RZ:ds

rec'd 3/14/73

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. H.B. 135

Title Naknek River Crossing Study

Requested by Anderson Date 2/6/79

II. FISCAL DETAIL

Agency Affected DOT/PF

Program Category Affected Design & Construction

Budget Request Unit(s) Affected Highway Design and Construction

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL				200,000		
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND				200,000		
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Project would be by consultant contract. Although this bill specifies a study of the feasibility of a bridge from South Naknek to North Naknek, the study should evaluate all viable alternates by studying various routes, addressing environmental considerations defining navigational and traffic requirements, determining right-of-way needs involving Native land selections and other takings, locating suitable materials sources, estimating costs for the various alternates and determining a means of funding the project.

IV. DATE 2/13/79 PREPARED BY [illegible] (FC)

AGENCY DOT/PF Highway D+C

PHONE 344-1121 Ext 231

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

33-001 (Rev. 10/76)

HB
139

(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

February 6, 1979 Date: 2-6-79

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 139

"An Act making a special appropriation to the Department of Transportation and Public Facilities for an access road at Naknek; eff. date."

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

[X] 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

_____

_____

Terry Martin

_____

_____

_____

_____

_____

_____

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____

_____

_____

_____

_____

_____

_____

_____

CHAIRMAN

H 60 (Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. H.B. 139

Title Beach Road at Naknek

Requested by Anderson Date

II. FISCAL DETAIL

Agency Affected DOT/PF

Program Category Affected Design & Construction

Budget Request Unit(s) Affected Highway D & C

EXPENDITURES (Thousands of Dollars)

		FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Funds appropriated in this bill are insufficient to provide a maintainable road at this location.

Recent analysis indicatess $300,000 would be necessary for this project.

F.O.

IV. DATE 2/13/79

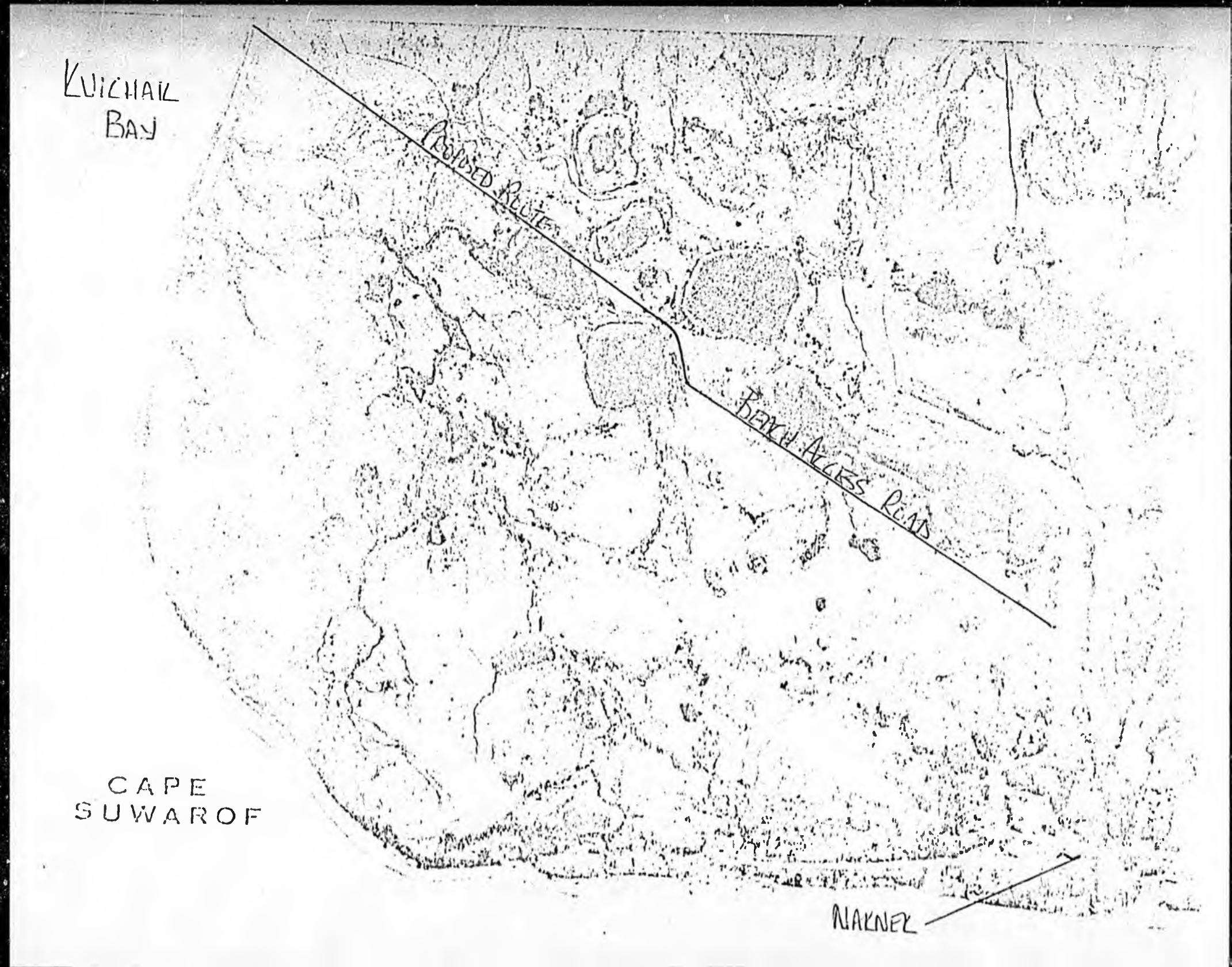
PREPARED BY Harry Keller

AGENCY DOT/PF D & C

PHONE 364-2121 Ext. 231

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

33-001 (Rev. 10/76)


KUICHAK BAY
PROPOSED ROUTE
BEACH ACCESS ROAD
CAPE SUWAROF
NAKNEK

ugh

ide.

PHONE
168.4224

BEACH ACCESS

STUART H. BOWDOIN
BOROUGH MANAGER

TELEPHONE
(907) 268-4224

Bristol Bay Borough

BOX 189 • NAKNEK, ALASKA 99633

February 22, 1977

Representative Martin Severson
Pouch V
Juneau, Alaska 99811

Dear Martin:

Reference our conversation this date regarding the need for funds for the completion of the Beach Access Road to Monsen Creek.

This road when completed will have considerable economic impact upon the community.

1. Beach set net fishermen will be able to deliver their catch directly to the cannery without having to wait for low tide. This will result in fresher fish being delivered to the cannery and help eliminate spoilage.

2. It will open up a large land area for development, such as home building, etc.

3. The New England Fish Company will be able to have 24 hour per day access to their cannery located at Peterson Point. Currently they can only get from Naknek to Peterson Point only during the periods of low tide.

Sincerely,

Stuart H. Bowdoin
Borough Manager

SHB:bmg

BEACH ACCESS

STUART H. BOWDOIN
BOROUGH MANAGER

TELEPHONE
(907) 268-4224

Bristol Bay Borough

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February 22, 1977

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Pouch V
Juneau, Alaska 99811

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3. The New England Fish Company will be able to have 24 hour per day access to their cannery located at Peterson Point. Currently they can only get from Naknek to Peterson Point only during the periods of low tide.

Sincerely,

Stuart H. Bowdoin
Borough Manager

SHB:bmg

STUART H. BOWDOIN
BOROUGH MANAGER

TELEPHONE
(907) 268-4224

Bristol Bay Borough

BOX 189 • NAKNEK, ALASKA 99633

March 17, 1977

Representative Nels Anderson, Jr.
Pouch V
Juneau, Alaska 99811

Dear Representative Anderson;

I am contacting you in behalf of the Bristol Bay Borough to solicite your asssitance.

For the past few years the Borough has actively pursued the development of an access road between Naknek and the site of New England Fish Company at Pederson Point. The major problem besetting this project has been the lack of necessary funding.

The completion of this beach access road would do much to aid the economic viability of our area. Some of the benefits that would be afforded are as follows:

1. An increased and more direct access to the many set net sites located on Kvichak Bay. Beach fisherman will be able to deliver their catch more readily; therefore; eliminating the potential of spoilage.

2. The New England Fish Company will have unlimited access to the Pederson Point facility. Currently, access is available only at low tide.

3. It will open a large land area for development, such as residential expansion, etc.

To adequately meet the requirements of this project, the Bristol Bay Borough requests your assistance in introducing funding legislation. The allocation required is $190,000; based on current construction and material costs.

Enclosed, please find pertinent maps of the area in question.

Thank you for your time and efforts in our behalf.

Sincerely,

A. G. Erickson
Administrative Assistant

Enclosures:

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. H.B. 139

Title Beach Road at Naknek

Requested by Anderson Date

II. FISCAL DETAIL

Agency Affected DOT/PF

Program Category Affected Design & Construction

Budget Request Unit(s) Affected Highway D & C

EXPENDITURES (Thousands of Dollars)

		FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Funds appropriated in this bill are insufficient to provide a maintainable road at this location.

Recent analysis indicatess $300,000 would be necessary for this project.

IV. DATE 2/13/79 PREPARED BY Harry Keller

AGENCY DOT/PF D & C

PHONE 364-2121 Ext. 231

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

33-001 (Rev. 10/76)

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. H.B. 139

Title Beach Road at Naknek

Requested by Anderson Date

II. FISCAL DETAIL

Agency Affected DOT/PF

Program Category Affected Design & Construction

Budget Request Unit(s) Affected Highway D & C

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Funds appropriated in this bill are insufficient to provide a maintainable road at this location.

Recent analysis indicatess $300,000 would be necessary for this project.

F.O.

IV. DATE 2/13/79 PREPARED BY Harry Keller

AGENCY DOT/PF D & C

PHONE 364-2121 Ext. 231

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33.001 (Rev. 10/76)

SOUTH NAKNEK VILLAGE COUNCIL
Post Office Box 6
South Naknek, Alaska 99670

Nels A. Anderson
Representative
Pouch V
Juneau, Alaska 99811

Dear Nels:

I am writing regarding a bridge crossing the Naknek River, which would unite the Bristol Bay Borough. As you know South Naknek, Naknek and King Salmon presently make up the Bristol Bay Borough, but South Naknek is separated from the Borough by the Naknek River.

The separation has created hardships on the residents of South Naknek, and the village as a whole. As you know fishing is the main source of income in the immediate area due to the lack of employment. With a bridge residents in South Naknek would be able to seek employment on the North side. Presently the only way to cross is by plane or boat during the summer and fall. The travel expenses presently makes employment on the North side for a local infeasible.

The village economy is restricted, with a bridge more money would flow within the village. Due to the lack of a bridge, the local businesses must fly their goods into town, creating a further hardship on local consumers with the higher prices.

A bridge would encourage more small businesses locally, as now there is a limited market. Many would like to start businesses, but would not make enough to Worth while with the current market.

Then there is the daily flying of the school children from South Naknek to Naknek. As you are a resident of an area that utilizes air transportation you are aware of the risks involved with flying. Granted busing children is also hazardous, but the risks would be greatly reduced I'm sure.

The state I understand picks up the tab on the flying contract, for how many years? These moneys could be put towards a bridge. Jay, in a letter, said that a Highway Department estimate would require a bridge 1850 feet long, crossing at Savonosky and would cost at least $6.0 million. Six million last year, but delaying it will just raise the price of the project.

Having served on the Bristol Bay Borough Assembly, I realize there was not enough input on the subject from the Borough. I don't understand why they on the North side would oppose unifying the borough as it would be beneficial for long range planning and development for the Borough.

BEACH ACCESS

STUART H. BOWDOIN
BOROUGH MANAGER

TELEPHONE
(907) 268-4224

Bristol Bay Borough

BOX 189 • NAKNEK, ALASKA 99633

February 22, 1977

Representative Martin Severson
Pouch V
Juneau, Alaska 99811

Dear Martin:

Reference our conversation this date regarding the need for funds for the completion of the Beach Access Road to Monsen Creek.

This road when completed will have considerable economic impact upon the community.

1. Beach set net fishermen will be able to deliver their catch directly to the cannery without having to wait for low tide. This will result in fresher fish being delivered to the cannery and help eliminate spoilage.

2. It will open up a large land area for development, such as home building, etc.

3. The New England Fish Company will be able to have 24 hour per day access to their cannery located at Peterson Point. Currently they can only get from Naknek to Peterson Point only during the periods of low tide.

Sincerely,

Stuart H. Bowdoin
Borough Manager

SHB:bmg

HB
154

(7)

COMMITTEE REPORT

HOUSE

February 8, 1979

FURTHER: FINANCE

Date: 1-29-80

Mr. Speake.:

The Committee on STATE AFFAIRS has had HB 154

"An Act relating to creditable service under the teachers' retirement system for territorial employment; eff. date."

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

[X] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

STATE OF ALASKA

Inter-Department Route Slip

TO:
MAIL STATION NUMBER 3100

DEPARTMENT Gov State Leg

ATTENTION Hawaii State Delegation

☐ 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:
MAIL STATION NUMBER 0208

DEPARTMENT Adm / Admissions

BY K Sewell DATE 2-16

02-002 (REV.10/73)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill 154

Title Inclusion of Certain Territorial Employees in the TRS

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement and Benefits

Program Category Affected Retirement and Benefits (TRS)

BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-02

(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	TRS STATE MATCH		23.1	23.1	23.1	23.1	23.1
100	BENEFITS		5.3	5.3	5.3	5.3	5.3
	TOTAL		28.4	28.4	28.4	28.4	28.4

FUNDING (Thousands of Dollars)

GENERAL FUND		28.4	28.4	28.4	28.4	28.4
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS						
TRS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

1. AS 14.25.220(5) already allows service as a teacher in a public school within the territory to be counted as membership service (TRS).
2. AS 39.35.360(a) already allows service as an employee of the territory to be counted as credited service (PERS).
3. HB 154 would allow non-teaching service to be credited in the TRS.
4. It is estimated, based upon information provided last year (SB 377), that 12-15 employees would qualify for benefits.
5. Estimate FY 80 covered TRS payroll to be $231,000,000.
6. Increase in combined TRS State Match and employer contribution rate would be .02%.
7. The total present day value of the benefits provided under this bill amounts to $414,356, or an average of $27,624 per teacher. These benefits will be funded with level payments of $28,400 per year for the next 30 years, resulting in a total cash outlay by the State of $852,000.
8. Cost breakout as attached.

IV. DATE 2/14/79 PREPARED BY Paul B. Arnoldt, Director

AGENCY Division of Retirement & Benefits

PHONE 465-4460

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named) Representative Duncan

Office of the Governor (Keith Specking)

33-001 (Rev. 12/78)

ATTACHMENT

Bill/Resolution No. HB 154

ASSUMPTIONS:

1. Estimated FY80 Payroll (Total System) = $231,000,000
2. State Contribution Rate to Fund Bill = .01%
3. State TRS Matching Rate to Fund Bill = .01%
4. School District Rate to Fund Bill = .01%

COST ANALYSIS:

	Employer	Payroll		Rate	Cost	Appropriation
1.	Department of Education	$ 6,000,000	X	.01%	$ 600	To Their Budget
2.	University of Alaska	$ 47,000,000	X	.01%	$ 4,700	To Their Budget
					$ 5,300	
3.	State TRS Matching	$231,000,000	X	.01%	$23,100	To TRS Match
4.	State TRS Regular Budget:					
	Personal Services				$ -0-	To Personal Service
	Travel				$ -0-	To Travel
	Contractual				$ -0-	To Contractual
	Commodities				$ -0-	To Commodities
	Equipment				$ -0-	To Equipment
	COST TO STATE IN FY80				$28,400	
5.	All School Districts	$178,000,000	X	.01%	$17,800	
	TOTAL COST IN FY80				$46,200	

REMARKS:

1/23/80

Kristine -

In line with our telephone conversation on H.B. 154, here is a copy of the State Board of Education minutes.

If additional information is required contact Senator Kay, Rep. Duncan or me.

Thank you,

Betty Sue Young
Phone # 2914

APPROVED MINUTES

OF

STATE BOARD OF EDUCATION

SIXTY-FIFTH REGULAR SESSION
February 21-23, 1979
JUNEAU, ALASKA

MARSHALL L. LIND
Commissioner of Education

THELMA LANGDON, PRESIDENT
State Board of Education

TABLE OF CONTENTS

Roll Call ---------- 1, 2

Corrections to Minutes of December Meeting ---------- 3

Comments and Concerns ---------- 4, 5, 6

Appointment of PL-815 and PL-874 Representative for District 1 --- 6

Binding Arbitration ---------- 6

Approval of Personal Leave for Nathaniel Cole ---------- 6

Personnel ---------- 6

Appointment of Deputy Commissioner ---------- 6

Regulations:

- 4 AAC 12 - Certification of Teachers - Hearing Results ------ 7
- 4 AAC 57 - Grants in Aid for Libraries ---------- 7
- 4 AAC 39 - Diplomas Under Special Conditions ---------- 7, 8
- 4 AAC 42.030 - Private and Denominational Schools ---------- 10, 11
- 4 AAC 06.111 - Alaska School Activities Association Bylaws -- 11

John Vania's Appeal of Alaska School Activities Association Decision ---------- 8

Legislation ---------- 9, 11

Small Secondary School Report ---------- 10

Professional Teaching Practices Commission Report ---------- 10

Need for Curriculum for Health Education - Dr. Fraser ---------- 10

Nome/Beltz Complex ---------- 11, 12

Department of Education Review Committee Report ---------- 12

Report on Recent Proposed Amendments to Federal Adult Education Regulations ---------- 13

LEGISLATION

Commissioner Lind commented on the letter received from Representative Russ Meekins Chairman, House Finance Committee, inviting the department's response to a 15% reduction below the level of the FY-79 adjusted budget. He noted that Bill Thomson would be asking for the Board's recommendation for the department to respond to this letter later in the meeting.

Steve Hole reviewed various bills before the House and Senate, and explained the effect of each bill. Dr. Cole commented on HB-98, which would prohibit surveys or questionnaires in public schools which make inquiries into private family affairs not otherwise matters of public record or observation without parent or guardian permission, and responded to questions of the Board.

Following extensive discussion on the effect of each bill, the Board took the following action:

MOTION

Beverly Horn moved and June Nelson seconded the motion that the State Board of Education go on record as opposing HB-145, "An Act establishing a tuition credit under the Alaska net income tax; and providing for an effective date," and any related bills. Jack Townshend abstained from voting. MOTION CARRIED.

MOTION

Vince Casey moved and Beverly Horn seconded the motion to support HB-151, "An Act relating to unemployment compensation for nonprofessional school employees; and providing for an effective date." Jack Townshend abstained from voting. MOTION CARRIED.

MOTION

Vince Casey moved and June Nelson seconded the motion to support HB-154, "An Act relating to creditable service under Teachers Retirement System for Territorial employment; and providing for an effective date." MOTION CARRIED UNANIMOUSLY.

MOTION

Jan Hohman moved and June Nelson seconded the motion to support HB-204, "An Act relating to community schools; and providing for an effective date." Jack Townshend abstained from voting. MOTION CARRIED.

MOTION

Vince Casey moved and Beverly Horn seconded the motion to support HB-211, "An Act relating to public elementary and secondary education; and providing for an effective date," with the provision that those students presently enrolled in centralized Correspondence Study be allowed to complete their school program in Correspondence Study if they so desire. Jack Townshend abstained from voting. MOTION CARRIED.

MOTION

Beverly Horn moved and August Anderson seconded the motion to support SB-222, "An Act making a supplemental appropriation to the Department of Education, Pupil Transportation Component; and providing for an effective date." MOTION CARRIED UNANIMOUSLY.

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF ADMINISTRATION

DIVISION OF RETIREMENT & BENEFITS

POUCH CR
JUNEAU, ALASKA 99811

March 28, 1979

The Honorable Ray Metcalfe
Representative
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Metcalfe:

As you requested during my testimony on HB 154, the attached letter from Bob Richardson, actuary for the TRS and ~~PERS~~, identifies the various contribution rates that would be necessary today to compensate for the loss of earnings to the Teachers' Retirement System for contributions that were not made due to retroactive legislation.

I apologize for the delay in getting this information to you. Your calculations when HB 154 was being heard are very close to those developed by our actuary.

Sincerely,

Paul B. Arnoldt
Director

PBA/jb
Attachment

cc: Representative Miller
Representative Fuller
Representative Gardiner
Representative Eliason
Representative Parker
Representative Martin

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF ADMINISTRATION

DIVISION OF RETIREMENT & BENEFITS

POUCH CR
JUNEAU, ALASKA 99811

March 7, 1979

The Honorable Mike Miller
Representaitve
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Miller:

In follow-up to my testimony on House Bill 154, I would like to provide the following information on Ms. Betty V. Young who, as I understand, prompted this legislation and would qualify for additional benefits if HB 154 became law.

If Ms. Young were placed on retirement 4/01/79, at age 60 years and 5 months, her annual benefit based upon 27.0 years credited service would be $18,326.82; $20,159.52 if she remained in Alaska and drew the Alaska cost of living allowance (COLA).

If she were given credit for her 2 years and 4 months service with the Department of Taxation (covered under HB 154), the increased service would entitle her to an additional annual benefit of $1,696.93; $1,866.61 if she remained in Alaska and drew the Alaska COLA.

Ms. Young would not have to make retroactive contributions for that service as current statutes preclude contributions for service prior to Janauary 30, 1955 (AS 14.25.061).

Based upon the 1971 Group annuity mortality tables Ms. Young's life expectancy is an additional 23.25 years. Thus, the additional benefit that would be provided under HB 154 would amount to $39,453.62; $43,398.68 if she remained in Alaska. During Ms. Young's life expectancy, this additional benefit combined with her original benefit amounts to $465,552.19; $512,107.41 if she remains in Alaska.

Ms. Young has contributed $22,075.44 to the Teachers' Retirement System.

Sincerely,

Paul B. Arnoldt
Director

PBA/jb
cc: All House State Affairs
Committee Members

02-84LH

NOTE: Please Include Your Social Security Number In All Correspondence & Requests

Representative Duncan

February 16, 1979

Legislative Board of Retirement Benefits analysis and recommendations on:

House Bill No. 154:

The board endorses the attached fiscal note as its fiscal analysis of HB 154.

A majority of the members of the board recommend that HB 154 do not pass; one member has no recommendation and one member was absent.

SUMMARY OF HOUSE BILL NO. 154

Retirement system affected: TRS

Allows a member of TRS with 15 years membership service to obtain up to five years creditable service for employment rendered to the Territory of Alaska before January 3, 1959. Requires the member to make a retroactive contribution for any period of territorial employment following June 30, 1955.

Takes effect immediately.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill 154
Title Inclusion of Certain Territorial Employ s in the TRS
Requested by Date

II. FISCAL DETAIL
Agency Affected Administration - Division of Retirement and Benefits
Program Category Affected Retirement and Benefits (TRS)
BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-02
(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 TRS STATE MATCH		23.1	23.1	23.1	23.1	23.1
100 BENEFITS		5.3	5.3	5.3	5.3	5.3
TOTAL		28.4	28.4	28.4	28.4	28.4

FUNDING (Thousands of Dollars)

GENERAL FUND		28.4	28.4	28.4	28.4	28.4
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS						
TRS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

1. AS 14.25.220(5) already allows service as a teacher in a public school within the territory to be counted as membership service (TRS).
   AS 39.35.360(a) already allows service as an employee of the territory to be counted as credited service (PERS).
2. HB 154 would allow non-teaching service to be credited in the TRS.
3. It is estimated, based upon information provided last year (HB 377), that 12-15 employees would qualify for benefits.
4. Estimate FY 80 covered TRS payroll to be $231,000,000.
5. Increase in combined TRS State Match and employer contribution rate would be .02%.
6. The total present day value of the benefits provided under this bill amounts to $414,356, or an average of $27,624 per teacher. These benefits will be funded with level payments of $28,400 per year for the next 30 years, resulting in a total cash outlay by the State of $852,000.
7. Cost breakout as attached.

Paul B. Arnoldt

IV. DATE 2/14/79 PREPARED BY Paul B. Arnoldt, Director
AGENCY Division of Retirement & Benefits
PHONE 465-4460

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) Representative Duncan
Office of the Governor (Keith Sperling)

33-001 (Rev. 12/78)

ATTACHMENT

Bill/Resolution No. HB 154

ASSUMPTIONS:

1. Estimated FY80 Payroll (Total System) = $231,000,000
2. State Contribution Rate to Fund Bill = .01%
3. State TRS Matching Rate to Fund Bill = .01%
4. School District Rate to Fund Bill = .01%

COST ANALYSIS:

	Employer	Payroll		Rate	Cost	Appropriation
1.	Department of Education	$ 6,000,000	X	.01%	$ 600	To Their Budget
2.	University of Alaska	$ 47,000,000	X	.01%	$ 4,700	To Their Budget
					$ 5,300	
3.	State TRS Matching	$231,000,000	X	.01%	$23,100	To TRS Match
4.	State TRS Regular Budget:					
	Personal Services				$ -0-	To Personal Service
	Travel				$ -0-	To Travel
	Contractual				$ -0-	To Contractual
	Commodities				$ -0-	To Commodities
	Equipment				$ -0-	To Equipment
	COST TO STATE IN FY80				$28,400	
5.	All School Districts	$178,000,000	X	.01%	$17,800	
	TOTAL COST IN FY80				$46,200	

REMARKS:

WO 6179
Bradley

Original sponsor: Duncan

IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

CS FOR HOUSE BILL NO. 154

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to teachers' retirement; and providing for an effective date."

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

* Section 1. AS 14.25 is amended by adding a new section to read:

Sec. 14.25.105. CREDIT FOR SERVICE AS AN EMPLOYEE OF THE TERRITORY OF ALASKA. (a) A teacher who completes 15 years of membership service under this chapter may elect to receive creditable service for employment rendered to the Territory of Alaska before January , 1959, regardless of the office, department, division or agency of the territory in which he was employed. Creditable service allowed under this section may not exceed five years.

(b) A teacher may not be credited with service under this section if credit for service as an employee of the Territory of Alaska was granted for the same period under the public employees' retirement system (AS 39.35).

(c) A teacher who elects to receive creditable service under this section for service to the Territory of Alaska shall make a retroactive contribution under this system for the period of territorial employment following June 30, 1955.

* Sec. 2. AS 14.25.115(a) is amended to read:

(a) A teacher in membership service on or after July 1, 1977 who is appointed to retirement on or after July 1, 1978 may elect to apply his unused sick leave credit in computing the total number of years of creditable service under AS 14.25.120(c)(1) and (4). Unused sick leave

which was credited to a teacher at the time he terminated employment with one employer is available to him for service credit under this section even though the sick leave may not have been transferred to him after he began employment with a subsequent employer. To obtain service credit for unused sick leave, a teacher must apply to the administrator no later than one year after appointment to retirement. Unused sick leave shall be credited on a day-for-day basis in accordance with the table for service after July 1, 1969 contained in AS 14.25.220(16). No teacher contributions may be required for credited unused sick leave.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-070(c).

HB

164

(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

February 9, 1979 Date: 9 Feb 79

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 164

"An Act making a special appropriation to the Department of Education for the Sheldon museum and Cultural Center; eff. 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Ray Peterson Do Pass

Debra Mantyla Do Pass

CHAIRMAN

H 60 (Rev. 12/78)

HB164

HAINES BOROUGH

P.O. BOX H
HAINES, ALASKA 99827

January 26, 1979

Representative Jim Duncan
Pouch V, State Capitol
Juneau, Alaska 99811

RE: Sheldon Museum Construction Project, Haines, Alaska

Dear Jim:

The Haines Borough is still seeking a Legislative appropriation for the balance of the construction funds needed to cover the alternates which were not possible under the $218,000.00 EDA Grant that was received last year toward the completion of the construction of the Sheldon Museum and Cultural Center. Mrs. Elisabeth Hakkinen, curator of the Museum, reports that in a conversation with your office last week it was suggested that an updated budget be prepared and sent to you, and to the others representing our area in the current legislature. This has been prepared, covering the alternates as well as some other important items which have come to our attention that were not covered in the basic bid for the work just completed by Teigland Construction. Of course, inflation has raised the prices approximately 10%. A specific budget of our needs is attached.

As you know, an appropriation of $92,100.00 was approved by the Legislature last year, then eliminated by veto. Since that time, the Haines Borough has provided $15,000.00 toward the necessary carpentry, taping and painting. This $15,000.00 Municipal appropriation allowed beneficial occupancy of the building and use of the building. Most of the carpentry has been done, the taping is complete in the main areas, and much of the interior painting has been done. The building has received a coat of oil-based stain to protect the plywood exterior until the urgently needed siding and stone veneer are in place.

A summary is enclosed, updated to show 1978's contributions made to the Museum project. Of the total of $382,079.47, you will notice that $15,000.00 came from the State of Alaska as a Bicentennial grant, that four separate federal grants have been involved, that the City of Haines and the Haines Borough have contributed, and that numerous private donations have been received.

As you see, last year's approved request for $92,100.00 less the Borough's contribution of $15,000.00 plus 10% for inflation falls very close to the figure of $87,200.00 which we are now requesting. The slight additional amount is for Project Administration, which we thought might be different from that required last year.

The Steve Sheldon collection has been housed in the Haines area for many years in numerous make-do places. Haines Women's Club, which instigated the project, and the Chilkat Valley Historical Society have been working toward a proper museum facility for several years, and have finally come very close to achieving a first-rate building in a prime location overlooking the boat harbor, on Main Street, on historic Presbyterian Mission Property. This sturcture, with its good design, and excellent location will be a major tourist attraction for Haines and will be the pivotal improvement on Main Street which can stimulate local plans to upgrade the downtown area.

We have high hopes that you can assist our community in finalizing this very important project. It is so near to completion that it would be tragic to see it left unfinished on bot' the interior and exterior as is the current situation. The community of Haines in becoming very committed to stimulating the tourist industry in the light of the present economic low of the area. This facility is a major objective toward that goal.

We would very much appreciate anything you can do to help us with this funding, or any part of it.

Sincerely yours,

Martin A. Tengs
Chairman
Haines Borough

Elisabeth Hakkinen
Curator, Sheldon Museum and
Cultural Center

Enclosures

xc: Mike Miller: George H. Hohman:
Bill Ray: Rep. Dankworth:
John C. Sackett; Rep. Bennett:
Bill Sumner: Glenn Hackney

FINANCIAL STATEMENT: CHILKAT VALLEY HISTORICAL SOCIETY, 1/1/78-12/31/78
including The Sheldon Museum and Cultural Center

	C.V.H.S.	Museum	Totals
CASH ON HAND 1/1/78	8,190.52	581.99	8,772.51
INCOME			
Gifts and grants	14,136.56	603.00	
Membership dues	250.00		
Activities related to exemption	500.00		
Sale of assets (chimney, etc.)	1,606.38		
Other (refunds, billing error)	346.22		
Museum admission fees		900.90	
Sales in museum gift shop		936.42	
Other--refunds		15.00	
TOTAL INCOME	16,839.16	2,455.32	+19,294.48
Income plus cash on hand			28,066.99
EXPENDITURES			
Grants, for purposes received	10,127.13	171.00	
Utilities	1,574.92	244.62	
Office: postage, filing fees, employee taxes	213.58		
Building construction	8,749.01		
Other: Patrons' placque; donation to class visiting Tut Exhibit	367.06		
Equipment including ref. books		303.53	
Licenses and dues		96.00	
Items purchased for resale		273.61	
Transferred to C.V.H.S. account for bldg.		500.00	
Memorials transferred to C.V.H.S. for bldg.			
TOTAL EXPENDITURES	21,031.70	2,625.71	-23,657.41
		Balance	4,409.48
CASH ON HAND			
1st Natl. Bank of Anchorage, Res.	3,927.94	407.35	
Petty Cash		4.15	
TOTAL ON HAND 12/31/78	3,927.94	411.50	4,409.48

Rethe[illegible]. Young, Treasurer

January 26, 1979

Elizabeth S. Hakkinen, Curator

N.B. Haines Borough allocated $15,000.00 toward the construction of the Sheldon Museum. It was administered through the borough office so does not appear in the above accounts, but the work has been done and paid for.

SHELDON MUSEUM AND CULTURAL CENTER, HAINES, ALASKA
Budget needed for completion 1/23/79

EXTERIOR

Cedar siding, as shown on plans	$16,000.00
Stone veneer, as shown on plans	30,000.00
Soffits insulated and sealed	1,500.00
Landscaping, contouring and sidewalks	9,000.00

INTERIOR

All levels and stairs: carpet, baseboards and vinyl in restrooms	18,000.00
Electrical: intrusion alarms and lower level light fixtures	5,000.00
Upper level storeroom: complete floor, install sheetrock, door and steps	3,400.00
Security apartment: 2 additional windows	800.00
Basement: utility room sink	300.00
Utility room: insulate and finish east wall	200.00
	$85,700.00
Project Administration	1,500.00
TOTAL BUDGET	$87,200.00

GA

THE SHELDON MUSEUM AND CULTURAL CENTER

Chilkat Valley Historical Society
Haines, Alaska

Abbe Museum Building

1975

	Gifts		Grants - Government			
	In kind	Cash	Federal	State	Local	Memberships
Presbyterian Church - Land (Mrs.)	10 000 00					
Designing & Legal advice (Betts)	500 00					
Soil Studies (Smith, Montgomery)	202 50					
Electricity (Gahan Assoc.)	1920 74					
Goodhue Chest		130 00				
Hayward Memorial		40 00				
Abbe Memorial		32 00				
Mount Desert Women's Club (Davis)		346 97				
Jean Kennedy		35 00				
Bar Harbor Women's Club		1000 00				
Jean Sargent		10 00				
Mount Desert Club		200 00				
Maine Chamber of Commerce		50 00				
Anonymous Gifts		230 00				
Isabel Miller		4 00				
Hattie King		200 00				
Women's Bowling		50 00				
Acadia Dr. Memorial		500 00				
Marjorie Matthews		50 00				
Lobster-a-thon		1534 50				
Memberships						919 00
	11723 24	7550 47				919 00

GRAND, 1975 - 20192 71

	1977		Gifts		Grants - Governmental Units			
			In Kind	Cash	Federal	State	Local	
1		Port Chilkoot Co. (Gravel)	20000					
2		Boyer Maynard (Concrete Pads)	21000					
3		D. D. Grey (Flourescein)	5000					
4		Erwin Hertz (Hertz Electric)	20000					
5		Norman Blank	2402					
6		Larry Lawson	26400					
7		R. Delta (20 hrs. legal work)	100000					
8		Fred Sloan (10 hrs. Engineering work)	40000					
9		Chester Howard (50 hrs. Elec. inspector)	180000					
10		Chilkat Press (Stationery & Flyers)	20000					
11		J. Hutchinson (Pd Laborer)	11500					
12		Haines Presbyterian Church (Cook Exp)	20000					
13		ARBA thru Dept of Ed Juk			1700000			
14		Trance Art		100000				
15		Memberships						
16		Haines Women's Club (Pie Booth)		4840				
17		Kashoris Memorial		3000				
18		Joseph L Bryant, Ludlow, Vt.		1000				
19		Like-a-kton		5395				
20		Jubilee (contrib by Trans)		1825				
21		Bob Paivit		2000				
22		Salvage Redeemers & Bottles		5550				
23			466300	28238	1700000			
24		Pending - ED. Grant # 07-51-0087			21800000			
25		N. End for Historic PM-29746-77-1181 (for historic planning purp.)			1000000			
26		Received 1978						
27		Grand, 1977		2491080				
28				2280000	- Pending 1977, Received			
01/1/78								
Community: 58		Life Members @ $50, 45 annual Mem. @ $5		25291080				
30		Family Memberships @ $12						

MADE IN U.S.A.

	In Kind	Cash	Federal	State	Local	M
Gaddis Memorial		55 00				
Misc. Gifts		182 00				
Tolley Kirg Memorials		472 00				
Clinton Hatton Memorial		225 62				
Pierre Braley		100 00				
1st Natl Bk & Trust Co		1000 00				
Dickerson Regan		50 00				
Mary King, C. Hatton, R. Gaddis		105 00				
Bell & Carol Waldo		200 00				
John Ruder Memorial		135 00				
Joan Comerford		100 00				
Hiketalon		302 00				
William McCaffrey		50 00				
Elizabeth Hutchinson		254 00				
Karl & Doris Ward		200 00				
R & V Meacker		175 00				
Retha Young		100 00				
1st National Black Hawk Co		1000 00				
M & J Comerford		1000 00				
F. Bloyd		200 00				
Jean Low		100 00				
Carl Bitly, Lee & Judy Hemmick		5000 00				
Jean Bell		1000 00				
Elizabeth & Emma Stewart		1000 00				
Cornelius Woody		1000 00				
Fan & Odessa Hemmick		2000 00				
Ernest Young Mem		1000 00				
Pat Schaake Mem		1000 00				
	Chicago	5135 62				

Sheldon Museum Building

1976

	Gifts		Grants-governmental units			
	In Kind	Cash	Federal	State	Local	Memberships
Alaska Indian Arts (Labor)	238 00					
Equip. Rental - Lutak	3703 60					
Telephone - L.D. - Hakkinen	62 22					
Robert Sundstrom	165 00					
Norman Blank	96 00					
Hil Smith	96 00					
Ted Grebe	84 00					
Dick Dolta	18 00					
Ski-a-thon - March	118 00					
Hike-a-thon - July	230 00					
Haines AWS Camp # 5	248 50					
Haines Women's Club	61 77					
City of Haines					5000 00	
Bicentennial grant (State)			15000 00			
Bicentennial grant (State)				15000 00		
Sales Lucas Museum		831 68				
Memberships (yearly many Life Memberships)						2378 00
Haines Hardware		100 00				
R.D.A. (thru City of Haines)					20000 00	
The Commission Skeleton (Arch.)		1500 00				
Julie + Elizabeth Hakkinen		4000 00				
	5702 09	19931 68	15000 00	15000 00	25000 00	2378 00

1976 GRAND - 83,011.77

Sheldon Museum + Cultural Center

G 15-6

			Gifts		Grants - governmental units			
			In Kind	Cash	Federal	State	Local	
1	1975 —	20,192.71	11 723 24	7550 47				
2	1976 —	83,011.76	5702 09	19931 68	15000 00	15000 00	25000 00	
3	1977 —	24,910.80	4663 00	28238 80	17000 00			
4	1978 — Fed. —	228,000.00			228000 00			
5	— Local —	25,964.20	1500 00	9214 20			1500 00	
6		382,079.47	23,588 33	39520 15	260000 00	15000 00	40000 00	
7								
8								
9								
10	All pages Grand Total thru 12/31/78 — $382,079.47							
11								
12								
13								
14								
15								
16								
17								
18								
19								
20								
21								
22								
23								
24								
25								
26								
27								

	1978		Gifts		Grants - governmental units		
	Pkg 2		In kind	Cash	Federal	State	Local
1		Abbie Strong & Laura Hotch		5	135 00		
2		Mildred Sparks			12 00		
3		Carlton Smith			30 00		
4		R & B Kastle			25 00		
5		Elizabeth Thomas			100 00		
6		Helen Sicker			15 00		
7		Jan & Roy Smith			20 00		
8		SE Alaska Pie Boro Women's Club			100 00		
9		Bill & Flora Smith			700 00		
10		Regina Vicinus Geiger Memorial			500 00		
11		R & W Cukerman			100 00		
12		Stan & Pat Jones			162 20		
13		Haines Women's Club			500 00		
14		Judy Berry			1600 00		
15		Jean Fox Memorial			25 00		
16		Raffle tickets			180 00		
17		Membership dues			1 00		
18		Haines Borough					15000 00
19		(admin. thru Borough					
20		Office for building fund)					
21							
22		Painting by Reg. Painters	1500 00				
23			1500 00	9214 20			
24							
25							
26		GRAND 1978		25,964.20			Loan. Continued
27							
28							
29							
30							

MADE IN U.S.A.

HB
174

STATE OF ALASKA

Inter-Department Route Slip

TO:
MAIL STATION NUMBER 3100

DEPARTMENT Capitol Room # 123A

ATTENTION Rep Mike Miller

☐ 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:
MAIL STATION NUMBER 0200

DEPARTMENT Admin

BY M Edwards DATE 4/12

02-002 (REV. 10/73)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS for House Bill 174 am

Title Participation of Elected Officials and Former Elected Officials in the PERS

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement and Benefits

Program Category Affected Retirement and Benefits (PERS)

BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-01

(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	TRS STATE MATCH						
100	BENEFITS		13.5	13.5	13.5	13.5	13.5
	TOTAL		13.5	.3.5	13.5	13.5	13.5

FUNDING (Thousands of Dollars)

GENERAL FUND		11.1	11.1	11.1	11.1	11.1
FEDERAL FUNDS		0.6	0.6	0.6	0.6	0.6
VETERAN'S FUND						
FISH & GAME FUND		0.1	0.1	0.1	0.1	0.1
HIGHWAY FUND		0.2	0.2	0.2	0.2	0.2
AIRPORT FUND		0.4	0.4	0.4	0.4	0.4
CAPITAL FUND		1.1	1.1	1.1	1.1	1.1
PERS						
TRS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

1. Of the identified sixty (60) former elected State officials who did not participate in the PERS, it is estimated that twenty (20) will elect participation under this bill.

2. Estimate FY 80 covered State payroll to be $241,000,000.

3. Increase in State employer contribution rate would be .0056% of covered payroll.

Paul B. Arnoldt

IV. DATE 4/9/79 PREPARED BY Paul B. Arnoldt, Director

AGENCY Division of Retirement & Benefits

PHONE 465-4460

Original Legislative Finance

cc: Budget and Management
Prime Sponsor (First Legislator Named)
Office of the Governor (Keith Specking)

33-001 (Rev. 12/78)

(7)

COMMITTEE REPORT

HOUSE

FURTHER:

March 6, 1979

Date: 3-13-79

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 174

"An Act relating to the participation of elected officials and former elected officials in the public employees' retirement system."

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

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB174 [ ] same title [ ] new title

and recommends CRA CSHB174 DO PASS

[ ] AND attaches a "Letter of Intent" [X] New Fiscal Note

[ ] reports it back without recommendation

[X] referred to the F&A Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS For House Bill 174

Title Participation of Elected Officials and Former Elected Officials in the PERS

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement and Benefits

Program Category Affected Retirement and Benefits (PERS)

BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-01

(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 79	FY 80	FY 81	FY 02	FY 83	FY 84
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	TRS STATE MATCH						
100	BENEFITS		13.5	13.5	13.5	13.5	13.5
	TOTAL		13.5	13.5	13.5	13.5	13.5

FUNDING (Thousands of Dollars)

GENERAL FUND		11.1	11.1	11.1	11.1	11.1
FEDERAL FUNDS		0.6	0.6	0.6	0.6	0.6
VETERAN'S FUND						
FISH & GAME FUND		0.1	0.1	0.1	0.1	0.1
HIGHWAY FUND		0.2	0.2	0.2	0.2	0.2
AIRPORT FUND		0.4	0.4	0.4	0.4	0.4
CAPITAL FUND		1.1	1.1	1.1	1.1	1.1
PERS						
TRS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

1. Of the identified sixty (60) former elected State officials who did not participate in the PERS, it is estimated that twenty (20) will elect participation under this bill.

2. Estimate FY 80 covered State payroll to be $241,000,000.

3. Increase in State employer contribution rate would be .0056% of covered payroll.

Paul B Arnoldt

IV. DATE 3/12/79 PREPARED BY Paul B. Arnoldt, Director

AGENCY Division of Retirement & Benefits

PHONE 465-4460

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
Office of the Governor (Keith Specking)

33-001 (Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS For House Bill 1/4
Title Participation of Elected Officials and Former Elected Officials in the PERS
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Administration - Division of Retirement and Benefits
Program Category Affected Retirement and Benefits (PERS)
BRU, Program, or Subprogram(s) Affected 02-9a-0-01-01-01
(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	TRS STATE MATCH						
100	BENEFITS		13.5	13.5	13.5	13.5	13.5
	TOTAL		13.5	13.5	13.5	13.5	13.5

FUNDING (Thousands of Dollars)

GENERAL FUND		11.1	11.1	11.1	11.1	11.1
FEDERAL FUNDS		0.6	0.6	0.6	0.6	0.6
VETERAN'S FUND						
FISH & GAME FUND		0.1	0.1	0.1	0.1	0.1
HIGHWAY FUND		0.2	0.2	0.2	0.2	0.2
AIRPORT FUND		0.4	0.4	0.4	0.4	0.4
CAPITAL FUND		1.1	1.1	1.1	1.1	1.1
PERS						
TRS						

POSITIONS NONE

FULL TIME							
PART TIME							
TEMPORARY							

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

1. Of the identified sixty (60) former elected State officials who did not participate in the PERS, it is estimated that twenty (20) will elect participation under this bill.

2. Estimate FY 80 covered State payroll to be $241,000,000.

3. Increase in State employer contribution rate would be .0056% of covered payroll.

IV. DATE 3/12/79 PREPARED BY Paul B. Arnoldt, Director
AGENCY Division of Retirement & Benefits
PHONE 465-4460

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
Office of the Governor (Keith Spalding)

33-001 (Rev. 12/78)

STATE OF ALASKA

Inter-Department Route Slip

TO:
MAIL STATION NUMBER 3100

DEPARTMENT Alaska State Legislature

ATTENTION House State Affairs Committee

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

Remarks:

FROM:
MAIL STATION NUMBER 0208

DEPARTMENT Admin/Admin. Services

BY Kellus Sewell DATE 3/5

02-002 (REV.10/73)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill 174

Title Participation of Elected Officials and Former Elected Officials in the PERS

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement and Benefits

Program Category Affected Retirement and Benefits (PERS)

BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-01

(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	TRS STATE MATCH						
100	BENEFITS		53.5	58.9	64.8	71.3	78.4
	TOTAL		53.5	58.9	64.8	71.3	78.4

FUNDING (Thousands of Dollars)

GENERAL FUND		43.8	48.2	53.1	58.4	64.1
FEDERAL FUNDS		2.5	2.7	3.0	3.3	3.6
VETERAN'S FUND		0.1	0.1	0.1	0.1	0.2
FISH & GAME FUND		0.3	0.4	0.4	0.4	0.5
HIGHWAY FUND		0.7	0.8	0.8	0.9	1.0
AIRPORT FUND		1.6	1.7	1.9	2.1	2.3
CAPITAL FUND		4.5	5.0	5.5	6.1	6.7
PERS						
TRS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

1. Of the identified 60 former elected State officials who did not participate in the PERS, it is estimated that 20 will elect participation under this bill. Proportionate similar elections are anticipated for future "former elected" State officials.

2. Estimate FY 80 covered State payroll to be $241,000,000.

3. Estimate future State payrolls will increase at 10% annually.

4. Increase in State employer contribution rate would be .0222% of covered payroll.

Paul B. Arnoldt

IV. DATE 3/02/79 PREPARED BY Paul B. Arnoldt, Director

AGENCY Division of Retirement & Benefits

PHONE 465-4460

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
Office of the Governor (Keith Specking)

33-001 (Rev. 12/78)
House State Affairs Committee

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M February 2, 1979

SUBJECT: Participation of elected officials and former elected officials in PERS
(Work Order No. 6001)

TO: Representative Mike Miller

FROM: James A. McKenzie, Legislative Counsel

Enclosed is a bill which (1) removes the time limit on elected officials' joining PERS, (2) requires elected officials to pay interest on retroactive contributions to PERS, (3) allows former elected officials to join PERS retroactively upon payment of retroactive contributions and interest, and (4) allows elected officials to terminate coverage of future service under PERS. The bill does not apply to people already receiving retirement benefits under PERS.

Enclosure

JAMcK:nem

February 11, 1980

Legislative Board of Retirement Benefits analysis and recommendations on:

CS House Bill No. 174 am:

The board endorses the attached fiscal note as its fiscal analysis of CSHB 174 am.

A majority of the members of the board recommend that CSHB 174 am Do Pass; two members have no recommendation.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS for House Bill 174 am
Title: Participation of Elected Officials and Former Elected Officials in the PERS
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Administration - Division of Retirement and Benefits
Program Category Affected Retirement and Benefits (2000)
B.R.U, Program, or Subprogram(s) Affected 02-95-8-01-01-01
(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	TRS STATE MATCH						
100	BENEFITS		13.5	13.5	13.5	13.5	13.5
	TOTAL		13.5	13.5	13.5	13.5	13.5

FUNDING (Thousands of Dollars)

GENERAL FUND			11.1	11.1	11.1	11.1	11.1
FEDERAL FUNDS			0.6	0.6	0.6	0.6	0.6
VETERAN'S FUND							
FISH & GAME FUND			0.1	0.1	0.1	0.1	0.1
HIGHWAY FUND			0.2	0.2	0.2	0.2	0.2
AIRPORT FUND			0.4	0.4	0.4	0.4	0.4
CAPITAL FUND			1.1	1.1	1.1	1.1	1.1
PERS							
TRS							

POSITIONS NONE

FULL TIME							
PART TIME							
TEMPORARY							

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

1. Of the identified sixty (60) former elected State officials who did not participate in the PERS, it is estimated that twenty (20) will elect participation under this bill.

2. Estimate FY 80 covered State payroll to be $241,000,000.

3. Increase in State employer contribution rate would be .0056% of covered payroll.

Paul B. Arnold

IV. DATE 4/9/79 PREPARED BY Paul B. Arnold, Director
AGENCY Division of Retirement & Benefits
PHONE 465-4460

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
Office of the Governor (Keith Specking)

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF ADMINISTRATION

DIVISION OF RETIREMENT & BENEFITS

POUCH CR
JUNEAU, ALASKA 99811

465-4460

April 17, 1980

The Honorable Mike Miller
House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Miller:

You have asked that we provide the estimated costs associated with Representative Eliason's proposed amendment to CSHB 174.

Your office has indicated that the greater share of the costs of this amendment should be borne by the political subdivisions currently participating in the PERS. If this is the case, I would suggest that the current employer, at the time of the employees' claim for service credit, should assume the costs of providing benefits on earlier service.

The amendment to CSHB 174, as written, obligates the state to the entire past service cost. This cost is .4% of the total PERS payroll ($487,000,000) or an annual cost of $1,948,000 for active and retired employees.

If you split the costs between the state and political subdivision proportionate to the number of claims you will receive from current participants of each, the ratio is 3 to 1 with the political subdivisions assuming the greater share. Under this method of funding the political subdivision pays .6522% of payroll ($224,000,000) or $1,460,928. The state costs are .1852% of state payroll ($263,000,000) or $487,072. These costs include both active and retired employees.

Should you choose to draft language that will permit a split of costs between the state and political subdivisions as indicated above, an amendment should most appropriately be made to AS 39.35.590. This section covers the designation of eligible employees under the political subdivisions. Suggested language for an amendment to this section is enclosed. (A change to this section will also necessitate administrative amendments to the existing participation agreements between those

employers and PERS). Additionally, AS 39.35.360, which covers employment with the State, will require an amendment to permit the claim of prior political subdivision employment by an employee who serves three years with the state after January 1, 1961. Drafted language for AS 39.35.360 is also enclosed.

Sincerely,

Paul B. Arnoldt
Director

PBA/ch
Attachment
0279A

AMENDMENT

TO: CSHB 174

AS 39.35.360(a) is repealed and re-enacted to read:

(a) An employee who completes three years of credited service with the state after January 1, 1961, for which the employee makes contributions required by this chapter is entitled to credited service (1) before January 1, 1961, as an employee of the state and former Territory of Alaska or of a participating political subdivision; (2) after January 1, 1961, as a peace officer or correctional officer of a participating political subdivision of the state provided the employee is vested and is an active peace officer in the system as of July 1, 1980; or (3) as (A) a commissioned officer of the United States Public Health Service; (B) an employee of the United States District court and the United States Commissioner's court serving the Territory and State of Alaska succeeded to by the Alaska court system; (C) a United States marshal, United States deputy marshal, Civil Aeronautics Administration security guard or United States Corps of Engineers security guard; (D) an employee of the Alaska Jail System of the United States Department of Justice; (E) a Civil Aeronautics Administration heavy equipment operator; (F) an employee of the United States Fish and Wildlife Service; (G) an employee of the Alaska Road Commission or Bureau of Public Roads; (H) an employee of the Alaska Communications System. The retirement benefits payable to an

employee under this section shall be reduced by the amount of the retirement pension benefits paid to him by the United States government for the same period of service. An employee is not eligible for credited service under this section if the employee is eligible to receive credit for the same service under AS 39.35.590.

AS 39.35.590 is amended by adding a new subsection to read:

(b) For purposes of this section "past service" shall mean (1) designated service performed as an employee for a participating employer prior to the effective date of participation in the system by that employer; or (2) designated service performed as an employee prior to January 1, 1961, for any other participating employer.

HB
203

(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

February 14, 1979 Date: 2 2 Feb. 79

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 203

"An Act establishing the Alaska Senior Reserve Officers' Training Corps Scholarship Program; eff. date."

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

[X] 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

W. M. C.C.
Tony Martin
J. W. Sanders
Jan Sadler

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Ray Metcalfe Jr Rep

W. M. C.C.
CHAIRMAN

H 60 (Rev. 12/78)

HB 203

February 13, 1979

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, I am transmitting a bill establishing the Alaska Senior ROTC scholarship program. This program would provide a scholarship, covering tuition, fees, and books, to selected members of the Alaska National Guard or Alaska Naval Militia who are enrolled as full-time students at the University of Alaska and participating in the University Senior ROTC program. It would ensure that the projected officer needs of the Alaska National Guard and the Alaska Naval Militia are met.

Sincerely,

5/95H

Jay S. Hammond
Governor

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HOUSE BILL NO. 202
Title An Act establishing the Alaska Senior ROTC Scholarship program/ effective date
Requested by Department of Military Affairs Date 13 February 1979

II. FISCAL DETAIL
Agency Affected Department of Military Affairs
Program Category Affected Public Protection
BRU, Program, or Subprogram(s) Affected Alaska National Guard
(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	4,500	4,500	9,000	9,000	13,500	13,500
TOTAL	4,500	4,500	9,000	9,000	13,500	13,500

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
Costs computed at $450/Student/Semester at the University of Alaska to cover a scholarship equal to resident tuition, fees and books.

FY 80 - 5 individuals estimated enrollment
FY 81 - 5 individuals estimated enrollment
FY 82 - 10 individuals estimated enrollment
FY 83 - 10 individuals estimated enrollment (maximum anticipated)
FY 84 - 15 individuals estimated enrollment (maximum anticipated)
FY 85 - 15 individuals estimated enrollment (maximum anticipated)

IV. DATE 13 February 1979 PREPARED BY COL. John V. Hoyt
AGENCY Department of Military Affairs
PHONE 465-4600

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

33-001 (Rev. 12/78)

HB 203

FACT SHEET

ALASKA NATIONAL GUARD ROTC SCHOLORSHIP PROGRAM

PROPOSAL IS DESIGNED TO:

1. Assist in the procurement of officer personnel in the Alaska National Guard.

2. Assist in the enrollment of Senior ROTC students at the University of Alaska through offering a unique ROTC-Guard scholorship program.

PROPOSAL PROVIDES

1. To the student: a) A four year scholorship covering tuition fees and books (estimated at $440/student/semester) which requires joint membership in the Alaska National Guard and Senior ROTC program;

b) A commission in the Alaska National Guard upon graduation with 4 years seniority for pay;

c) Unit drill and Annual Training pay as a part of their active Guard membership in their Freshman and Sophomore years (about $700-$1,000/year) and the standard $100 per month ROTC stipend in their Junior and Senior year (Guard pay and ROTC pay are not duplicative)

2. To the Guard: a) A unit member counted on the unit strength rolls for all four years although the last two years they will not participate in unit training.

b) On-job-trained small unit leaders in the student's Freshman and Sophomore years.

c) Potential experienced junior officer personnel for the local Alaska National Guard units.

3. To the ROTC: a) An additional attraction to enhance Senior ROTC participation through association with the Alaska National Guard in a unit membership experience while providing extra educational assistance and income through the scholorship program and unit drill pay.

4. To the State: a) Trained Alaska leaders who are residents of Alaska entering into leadership positions in the State's own militia force as well as the civilian business and professional world.

COMMITMENTS: Students are required to --

1. Join the Alaska National Guard prior to or at high school graduation with a total service obligation of six years from date of entry.

2. Attend basic training in the summer months between high school graduation and the commincement of college.

3. Remain an active ROTC member throughout the four years of college and then graduate from Senior ROTC.

HB
207

(7)

COMMITTEE REPORT

HOUSE

FURTHER:

February 14, 1979 Date: 3-2-79

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 207

"An Act relating to transportation of employees."

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

[X] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

DIV. OF ... VED
DIREC. ... 1974

C.H.
A.G.

RECEIVED
COMMISSIONER OF ADMINISTRATION
AUG 19 1974
JUNEAU, ALASKA

February 22, 1974

Richard W. Freer
Deputy Commissioner
Department of Administration
Pouch C
Juneau, Alaska 99801

Dear Mr. Freer:

You have asked if the state is governed by the proposed regulations developed by the Department of Labor on the provisions of AS 23.10.375-400, Transportation of Employees. It is a uniform and well established rule that in statutory construction, the government, as sovereign, is not bound by the restrictive terms of statutes unless expressly mentioned. Alaska Rural Rehabilitation Corp v. Ubert, 10 Alaska Reports 505, 517 (1945) and cases cited therein.

Examples of Alaska Statutes in which the state is included are AS 23.30.265(12) which relates to workman's compensation, and AS 18.60.030(6) which relates to occupational safety and health standards.

Therefore, it is the opinion of the department that the state is not governed by the proposed regulations developed by the Department of Labor on the provisions of AS 23.10.375-400, Transportation of Employees.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By
James E. Douglas
Assistant Attorney General

JED:jdg

PUBLIC EMPLOYEES
LOCAL 71 AFL-CIO
HEADQUARTERS
3400 SPENARD ROAD, SUITE 10, ANCHORAGE, ALASKA 99503
BUSINESS MANAGER-SECRETARY TREASURER
AL J. BAFFONE, SR.

Representative Mike Miller
Chairman House State Affairs
Committee
Alaska State Legislature
Pouch V, Station 3100
Juneau, Alaska 99811

February 22, 1979

RE: House Bill 207.

Dear Honorable Sir:

Public Employees' Local 71 AFL-CIO, wishes to express to you and the Committee our position on the above referenced Bill.

We believe the present law is sufficient, and any changes are not necessary.

Our concern is in the paragraph page 2 lines 5 and 6. We have experienced that the Executive always tries to work out an agreement with the individual employee regardless of what is in the contract or regardless of who is the exclusive representative of the employee.

Also, this kind of an issue should be handled in the normal collective bargaining process at the bargaining table.

We request that this Bill not pass out of Committee.

If you have any questions feel free to contact me.

Sincerely,

Ken Spray
Vice President
Business Representative
Local 71 AFL-CIO

KS:ksm

cc: Jim Younger

JUNEAU
KEN SPRAY
BUSINESS REPRESENTATIVE
114 SO. FRANKLIN ST., ROOM 103
(907) 586-6993

ANCHORAGE
JENNIE DAY PETERSON
JIM YOUNGER
BUSINESS REPRESENTATIVES
(907) 276-7211

FAIRBANKS
DON VALESKO
BUSINESS REPRESENTATIVE
208 WENDELL, ROOM 205
(907) 452-5024

hb 207

February 13, 1979

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, I am transmitting a bill relating to transportation of employees.

The bill would amend AS 23.10.380 which deals with an employer's obligation to make certain provisions for the return transportation of employees to whom the employer provided (i.e., furnished or paid for or advanced funds to pay for) transportation from the place of hire to the place of work. The Department of Law recently interpreted AS 23.10.380 as requiring only that an employer provide the same kind of assistance for the return trip as he provided on the initial trip (e.g., if the employer advanced or loaned funds to the employee to pay for the trip to the job, the employer must also advance or loan the employee the necessary funds to return to the point of hire.)

The Department of Labor believes that the statute as it currently reads does not provide adequate protection for employees who may be enticed to travel long distances to Alaska to work for little more than the minimum wage in the mistaken belief that, if the job does not work out, they will not have to bear the expense of returning to their homes. Apparently many employees from the Lower 48, especially in the fish processing industry, have been stranded or "dumped" in Alaska upon termination of their employment without adequate funds to pay for the return trip.

To address this problem the bill would require that, in any situation that the employer provides any assistance to the employee in getting to the place of work, the employer must actually furnish or pay for the employee's return transportation. The obligation is placed squarely

on the employer to see to it that the employee gets home and is not left stranded in Alaska.

Additionally, the bill would make clear what return transportation or costs of return transportation must be borne by the employer. Under the bill, these would include, in addition to the costs of transporting just the employee, the costs of moving household goods and the costs of transporting members of the employee's family, if the employer assisted the employee in transporting them to the place of work, unless the employer and employee have agreed, in writing, at the time of hire that the employer would not be responsible for either or both of these elements.

Finally, the bill would also clarify that an employee who is entitled to return transportation by the employer is also entitled to receive subsistence for up to 10 days while waiting for available transportation. The subsistence could be either room and board or compensation in an amount equal to state per diem rates for the area in which the employee worked.

Sincerely,

5/05/11

Jay S. Hammond
Governor

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. J-77-137-79 HOUSE BILL NO. 207
Title "An Act Relating to Transportation of Employees"
Requested by Office of the Governor Date February 7, 1979

II. FISCAL DETAIL
Agency Affected Labor
Program Category Affected Public Protection
BRU, Program, or Subprogram(s) Affected Ware and Hour Administration
(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
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-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

No Fiscal Impact. Purpose and effect of this bill is to clarify the act and broaden its coverage.

IV. DATE 2/7/79 PREPARED BY [signature]
AGENCY Labor
PHONE 465-2720

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

33-001 (Rev. 12/78)

Alaska State Legislature

House of Representatives

Committee on State Affairs

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Friday
March 2, 1979

HB 160 Providing Ferry service to the Alaska Peninsula and the Aleutians

Persons contacted: Representative Al Osterback
Acting Commissioner Burton

HB 161 Special appropriation to the Department of DOTPF for ferry construction

Persons contacted: Representative Al Osterback
Acting Commissioner Burton

HB 207 Transportation of Employees

Persons contacted: Kellus Sewell, Administration
Judy DuBois, Labor
Ken Spray

HB 267 Motorist informational signs

Persons contacted: Acting Commissioner Burton
Dean Ehrich, A.V.A.

Resource Development Council for Alaska, Inc.

444 West 7th Avenue, Anchorage, Alaska 99501
Box 518, Anchorage, Alaska 99510 - 907/278-8616

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Paula P. Easley

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Tony Dandy
Charles P. Herbert
Richard Hoch
Dr. Glenn Rutledge
Dale Tobey

May 30, 1980

TO: ALL MEMBERS OF THE ALASKA LEGISLATURE

SUBJECT: NORTH SLOPE HAUL ROAD, (Federal Aid Primary Route 65)

The Resource Development Council has long supported open and free use of the North Slope Road as being in the best interests of the majority of Alaska's citizens and the economy. There is, of course, no pending legislation that would accomplish this.

Two pieces of legislation address various aspects of operating and maintaining the highway which we support in lieu of unrestricted use. They are HCSCSSB 332 and CSHB 552.

Our Council strongly opposes SCSHB 207 which would prevent the road's opening during the summer until 1983.

We appreciate your taking our views into consideration as you resolve this important issue.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL
for Alaska, Inc.

Tom Fink
President

HB
213

(7)

COMMITTEE REPORT

HOUSE

FURTHER:

February 14, 1979

Date: 2-1-79

Mr. Speaker:

The Committee on State Affairs has had HB 213

"An Act relating to the Alaska Police Standards Council; eff. date."

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

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[X] AND attaches a "Letter of Intent" [X] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

W Miller
Nicholson
Don Dalton
Ray Metcalfe
Jack Martin

MEMBERS HAVING
OTHER RECOMMENDATIONS:

W Miller
CHAIRMAN

H 60 (Rev. 12/78)

JAY S. HAMMOND, GOVERNOR

ALASKA POLICE STANDARDS COUNCIL

POUCH AS
JUNEAU, ALASKA 99811
PHONE: (907) 465-4378

February 16, 1979

Representative Mike Miller
Chairman, State Affairs Committee
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Miller:

I am writing to urge rapid passage of HB 213, "An Act relating to the Alaska Police Standards Council," which was introduced in the House February 14, 1979 and referred to the State Affairs Committee.

Although the bill is generally "housekeeping" in nature, it is extremely important to correct previous ambiguities in the Police Standards Act and bring the present statutes up-to-date, based on past experience.

The addition of two members to the Council, at a cost of $3,600 for travel and per diem, will provide continuity and coordination between all major suppliers of police officer training and post-secondary criminal justice education within Alaska.

Both the Alaska Chiefs of Police Association and the Public Safety Committee of the Alaska Municipal League, with whom this legislation has been discussed in detail, have indicated their full support for its successful passage.

If I can be of assistance or provide any additional information, I will be glad to do so.

Sincerely,

James H. Barkley
Chairman
Alaska Police Standards Council

JHB/mas

February 13, 1979

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, I am transmitting a bill relating to the Alaska Police Standards Council.

In making several housekeeping amendments, the bill defines "chief administrative officer" of a police department; narrowly defines "police officer" so as to differentiate a police officer from a peace officer;" and authorizes the council to hire an administrator and staff as necessary to implement its statutory duties. The bill also adds, as members to the council, the special agent in charge of the Federal Bureau of Investigation in Alaska or his designee, and the Director of the Criminal Justice Center of the University of Alaska or his designee, at an estimated cost of $3,600 per year. In addition, the bill requires chiefs of police who have operational duties in addition to administrative duties to meet minimum training standards required of police officers in Alaska. Further, the bill precludes exclusion from the provisions of the Police Standards Act of any municipality with a police training program unless that program meets the standards required by the Police Standards Act.

Sincerely,

Jay S. Hammond
Governor

NINETIETH LEGISLATURE

-13-

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HOUSE BILL NO. 213
Title An Act Relating to the Police Standards Council
Requested by Governor Date 2-13-79

II. FISCAL DETAIL
Agency Affected Office of the Governor
Program Category Affected Administration of Justice
Budget Request Unit(s) Affected Alaska Police Standards Council

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL	0	3.6	3.8	4.0	4.2	4.4
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND		3.6	3.8	4.0	4.2	4.4
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Will provide travel and per diem expenses for two additional members for the Alaska Police Standards Council to attend four in-state Council meetings per year. Yearly increment provides for 6% inflation rate.

IV. DATE 2-13-79 PREPARED BY James E. Mayer
AGENCY Alaska Police Standards Council
PHONE 465-4378

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

33-001 (Rev. 10/78)

HB213

Alaska State Legislature

House of Representatives

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

STATE AFFAIRS COMMITTEE LETTER OF INTENT

HB 213

The State Affairs Committee heard testimony on HB 213 ("An Act relating to the Alaska Police Standards Council; and providing for an effective date") March 1 and although the committee was unanimous in its recommendation that the bill pass and that the Alaska Police Standards Council be expanded, there was not unanimity in the view that additional state dollars need be spent to fund the bill. The feeling of the committee (on a 4 to 2 vote) was that the representative on the council from the FBI and the representative from the Criminal Justice Center should be able to fund their own travel from federal or other funds already under their control. Therefore, the committee voted that the fiscal note on this legislation should be zero and that no additional funding be provided.

Mike Miller, Chairman

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill 213
Title An Act relating to the Police Standards Council
Requested by State Affairs Date March 1, 1979

II. FISCAL DETAIL
Agency Affected Office of the Governor
Program Category Affected Administration of Justice
BRU, Program, or Subprogram(s) Affected Alaska Police Standards Council
(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The recommendation of the State Affairs Committee was that the F.B.I. and the Criminal Justice Center should provide their own funds for per diem and travel.

IV. DATE 3-1-79 PREPARED BY [signature]
AGENCY State Affairs Committee
PHONE 465-4964

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

33-001 (Rev. 12/78)

HB
230

(7)

COMMITTEE REPORT

HOUSE

FURTHER: JUDICIARY

February 15, 1979 Date: 3-19-79

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 230

"An Act relating to initiatives and referenda."

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

[X] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Do Not Pass

" "

Do Not Pass

CHAIRMAN

H 60 (Rev. 12/78)

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M March 13, 1979

SUBJECT: HB 230 Relating to initiatives & referenda.

TO: Mike Miller, Chairman
House State Affairs Committee

FROM: Billy G. Berrier, Director
Division of Legal Services

This act repeals AS 15.45.110 and AS 15.45.340 which requires that petitions be circulated throughout the state only by a sponsor and only in person. The effect of these two repeals would be to allow the petitions for an initiative or referendum to be circulated in whatever method the sponsor decided to use with a probable limitation that the method could not be clearly unreasonable.

It also repeals secs. 15.45.130 and 360 which are the sections containing the certification of the sponsor, that he has complied with the circulation requirement and that it be circulated only by a sponsor and only in person. In addition, the certification requirements are that the signatures were made in the sponsor's actual presence and that to the best of his knowledge the signatures were genuine.

BGB:nem

Cited in Boucher v. Engstrom, Sup. Ct. Op. No. 1097 (File No. 2232), 528 P.2d 456 (1974).

Sec. 15.45.080. Bases of denial of certification. The governor shall deny certification if he determines, in w... proposed bill to be initiated is not in the required form, (2) ... is not substantially in the required form, or (3) there is a ... number of qualified sponsors. (§ 9.08 ch 83 SLA 1960)

Cited in Boucher v. Engstrom, Sup. Ct. Op. No. 1097 (File No. 2232), 528 P.2d 456 (1974).

Sec. 15.45.090. Preparation of petition. If the application ... the lieutenant governor shall prescribe the form of and prepare ... containing (1) a copy of the proposed bill, if the number of words ... in both the formal and substantive provisions of the bill is ... (2) an impartial summary of the subject matter of the bill, (3) ... prescribed in § 100 of this chapter, (4) sufficient space for signatures ... address, and (5) other specifications prescribed by the ... governor to assure proper handling and control. Petitions, for ... of circulation, shall be prepared by the lieutenant governor in a ... reasonably calculated to allow full circulation throughout the ... lieutenant governor shall number each petition and shall keep a ... of the petition delivered to each sponsor. Upon request of the ... the lieutenant governor shall report the number of persons who ... in the preceding general election. (§ 9.09 ch 83 SLA 1960)

Sec. 15.45.100. Statement of warning. Each petition shall ... statement of warning that a person who signs a name other than ... on the petition, or who knowingly signs his name more than once ... same proposition at one election, or who signs the petition knowing ... is not a qualified voter, upon conviction is punishable by a fine ... more than $1,000 or by imprisonment for not more than one year, ... both. (§ 9.10 ch 83 SLA 1960)

Sec. 15.45.110. Circulation by sponsor. The petitions may ... circulated throughout the state only by a sponsor and only in ... (§ 9.11 ch 83 SLA 1960)

... is a sponsor, (2) the person is the ... the signatures were made in his ... of his knowledge, the signatures are ... they purport to be. In determining ... the lieutenant governor shall not ... properly certified. (§ 9.13 ch 83 SLA ...

... of petition. The sponsors must file ... one year from the time the sponsors re... lieutenant governor that the petitions were re... the petition must be signed by qualified ... 20 per cent of those who voted in the pre... resident in at least two-thirds of the ... If the petition is not filed within the one year ... section, the petition has no force or effect. ... 1 ch 128 SLA 1971)

... Engstrom, Sup. Ct. ... 528 P.2d 456 ...

... **Review of petition.** Within not more than 60 ... the petition was filed, the lieutenant governor shall re... and shall notify the initiative committee whether the ... improperly filed, and at which election the pro... shall be placed on the ballot. (§ 9.15 ch 83 SLA 1960)

... **Bases for determining the petition was im...** The lieutenant governor shall notify the committee ... was improperly filed if he determines (1) that the ... number of qualified subscribers, or (2) that the su... resident in at least two-thirds of the election distric... 9.16 ch 83 SLA 1960)

... **Submission of supplementary petition.** Up... that the filing of the petition was improper, the ... may amend and correct the petition by circulating ... mentary petition within 30 days of the date that n... 9.17 ch 83 SLA 1960)

committee may designate additional sponsors by giving written notice to the lieutenant governor of the names and addresses of those so designated. (§ 9.06 ch 83 SLA 1960)

Sec. 15.45.070. Review of application for certification. The lieutenant governor shall review the application and shall either certify it or notify the initiative committee of the grounds for denial. (§ 9.07 ch 83 SLA 1960)

Cited in Boucher v. Engstrom, Sup. Ct. Op. No. 1097 (File No. 2232), 528 P.2d 456 (1974)

Sec. 15.45.080. Bases of denial of certification. The lieutenant governor shall deny certification if he determines, in writing, that (1) the proposed bill to be initiated is not in the required form, (2) the application is not substantially in the required form, or (3) there is an insufficient number of qualified sponsors. (§ 9.08 ch 83 SLA 1960)

Cited in Boucher v. Engstrom, Sup. Ct. Op. No. 1097 (File No. 2232), 528 P.2d 456 (1974).

Sec. 15.45.090. Preparation of petition. If the application is certified, the lieutenant governor shall prescribe the form of and prepare petitions containing (1) a copy of the proposed bill, if the number of words included in both the formal and substantive provisions of the bill is 500 or less, (2) an impartial summary of the subject matter of the bill, (3) the warning prescribed in § 100 of this chapter, (4) sufficient space for signature and address, and (5) other specifications prescribed by the lieutenant governor to assure proper handling and control. Petitions, for purposes of circulation, shall be prepared by the lieutenant governor in a number reasonably calculated to allow full circulation throughout the state. The lieutenant governor shall number each petition and shall keep a record of the petition delivered to each sponsor. Upon request of the committee, the lieutenant governor shall report the number of persons who voted in the preceding general election. (§ 9.09 ch 83 SLA 1960)

Sec. 15.45.100. Statement of warning. Each petition shall include a statement of warning that a person who signs a name other than his own on the petition, or who knowingly signs his name more than once for the same proposition at one election, or who signs the petition knowing he is not a qualified voter, upon conviction is punishable by a fine of not more than $1,000 or by imprisonment for not more than one year, or by both. (§ 9.10 ch 83 SLA 1960)

Sec. 15.45.110. Circulation by sponsor. The petitions may be

Sec. 15.45.120. Manner of signing and withdrawing name from petition. Any qualified voter may subscribe to the petition by signing his name and address. A person who has signed the initiative petition may withdraw his name only by giving written notice to the lieutenant governor before the date the petition is filed. (§ 9.12 ch 83 SLA 1960)

Sec. 15.45.130. Certification of sponsor. Before being filed, each petition shall be certified by an affidavit by the sponsor who personally circulated the petition. The affidavit shall state in substance that (1) the person signing the affidavit is a sponsor, (2) the person is the only circulator of that petition, (3) the signatures were made in his actual presence, and (4) to the best of his knowledge, the signatures are those of the persons whose names they purport to be. In determining the sufficiency of the petition, the lieutenant governor shall not count subscriptions on petitions not properly certified. (§ 9.13 ch 83 SLA 1960)

Sec. 15.45.140. Filing of petition. The sponsors must file the initiative petition within one year from the time the sponsors received notice from the lieutenant governor that the petitions were ready for delivery to them, and the petition must be signed by qualified voters equal in number to 10 per cent of those who voted in the preceding general election and resident in at least two-thirds of the election districts of the state. If the petition is not filed within the one year period provided for in this section, the petition has no force or effect. (§ 9.14 ch 83 SLA 1960; am § 1 ch 128 SLA 1971)

Cited in Boucher v. Engstrom, Sup. Ct. Op. No. 1097 (File No. 2232), 528 P.2d 456 (1974).

Sec. 15.45.150. Review of petition. Within not more than 60 days of the date the petition was filed, the lieutenant governor shall review the petition and shall notify the initiative committee whether the petition was properly or improperly filed, and at which election the proposition shall be placed on the ballot. (§ 9.15 ch 83 SLA 1960)

Sec. 15.45.160. Bases for determining the petition was improperly filed. The lieutenant governor shall notify the committee that the petition was improperly filed if he determines (1) that there is an insufficient number of qualified subscribers, or (2) that the subscribers were not resident in at least two-thirds of the election districts of the state. (§ 9.16 ch 83 SLA 1960)

Sec. 15.45.170. Submission of supplementary petition. Upon receipt of notice that the filing of the petition was improper, the initiative committee may amend and correct the petition by circulating and filing a supplementary petition within 30 days of the date that notice was

Sec. 15.45.250. Provision and scope of use of referendum. The people may approve or reject acts of the legislature by referendum. However, no referendum may be applied to dedication of revenues, to appropriation, to local or special legislation, or to laws necessary for the immediate preservation of the public peace, health, or safety. (§ 9.31 ch 83 SLA 1960)

Am. Jur. reference. — 28 Am. Jur., Initiative, Referendum and Recall, § 1 et seq.

Sec. 15.45.260. Filing application. A referendum is proposed by filing an application with the lieutenant governor. A deposit of $100 must accompany the application. This deposit will be retained if a petition is not properly filed. If a petition is properly filed, the deposit shall be refunded. (§ 9.32 ch 83 SLA 1960; am § 23 ch 125 SLA 1962)

Sec. 15.45.270. Form of application. The application shall include (1) the act to be referred, (2) a statement that the sponsors are qualified voters who signed the application with the proposed bill attached, (3) the designation of a referendum committee of three sponsors who shall represent all sponsors and subscribers in matters relating to the referendum, and (4) the signatures and addresses of not less than 100 qualified voters. (§ 9.33 ch 83 SLA 1960)

Section implements constitutional provision. — The state legislature has interpreted and implemented Alaska Constitution, art. XI, § 2, passing this section requiring the application for a referendum petition to include the act to be referred. 1963 Op. Att'y Gen., No. 17.

The application for referendum petition relating to borough legislation was not in proper form, and it was necessary for the proponents of the measure to prepare an application containing the text of ch. 52, SLA 1963, and secure the necessary number of signatures to this application before they could validly prepare a petition for circulation under § 3, art. XI, of the Alaska Constitution. 1963 Op. Att'y Gen., No. 17.

Sec. 15.45.280. Manner of notice. Notice to the referendum committee on any matter pertaining to the application and petition may be served on any member of the committee in person or by mail addressed to a committee member as indicated on the application. (§ 9.34 ch 83 SLA 1960)

Sec. 15.45.290. Designation of sponsors. The qualified voters who subscribe to the application are designated as sponsors. The referendum committee may designate additional sponsors by giving notice to the lieutenant governor of the names and addresses of those so designated. (§ 9.35 ch 83 SLA 1960)

Sec. 15.45.300. Time of review of application for certification. Within seven calendar days after the date the application is received, the lieutenant governor shall canvass the application and shall either certify it or notify the referendum committee of the grounds for denial. (§ 9.36 ch 83 SLA 1960)

Sec. 15.45.310. Bases of denial of certification. The lieutenant governor shall deny certification if he determines (1) that the application is not substantially in the required form, or (2) that there is an insufficient number of qualified sponsors, or (3) that more than 90 days have expired since the adjournment of the legislative session at which the act being referred was passed. (§ 9.37 ch 83 SLA 1960)

Sec. 15.45.320. Preparation of petition. If the application is certified, the lieutenant governor shall, within seven calendar days after the date of certification, prescribe the form of, and prepare, a petition containing (1) a copy of the act to be referred, if the number of words included in both the formal and substantive provisions of the bill is 500 or less, (2) an impartial summary of the subject matter of the act, (3) the warning prescribed in § 330 of this chapter, (4) sufficient space for signatures and addresses, and (5) other specifications prescribed by the lieutenant governor to assure proper handling and control. Petitions, for purposes of circulation, shall be prepared by the lieutenant governor in a number reasonably calculated to allow full circulation throughout the state. The lieutenant governor shall number each petition and shall keep a record of the petitions delivered to each sponsor. Upon request of the referendum committee, the lieutenant governor shall specify the number of persons who voted in the preceding general election. (§ 9.38 ch 83 SLA 1960)

Sec. 15.45.330. Statement of warning. Each petition shall include a statement of warning that a person who signs a name other than his own to the petition, or knowingly signs his name more than once for the same proposition at one election or who signs the petition knowing he is not a qualified voter, upon conviction, is punishable by a fine of not more than $1,000 or by imprisonment for not more than one year, or by both. (§ 9.39 ch 83 SLA 1960)

Sec. 15.45.340. Circulation by sponsor. The petitions may be circulated throughout the state only by a sponsor and only in person. (§ 9.40 ch 83 SLA 1960)

Sec. 15.45.350. Manner of signing and withdrawing name from petition. Any qualified voter may subscribe to the petition by signing his name and address. A person who has signed the referendum petition may withdraw his name only by giving written notice to the lieutenant governor before the date the petition is filed. (§ 9.41 ch 83 SLA 1960)

Sec. 15.45.360. Certification of sponsor. Before being filed, each petition shall be certified by an affidavit by the sponsor who circulated the petition. The affidavit shall state in substance that (1) the person signing the affidavit is a sponsor, (2) the person is the only circulator of

the petition, (3) the signatures were made in his actual presence, and (4) to the best of his knowledge, the signatures are the signatures of persons whose names they purport to be. In determining the sufficiency of the petition, the lieutenant governor shall not count subscriptions on petitions not properly certified. (§ 9.42 ch 83 SLA 1960)

Sec. 15.45.370. Filing of petition. The sponsors may file the petition only within 90 days after the adjournment of the legislative session at which the act was passed and only if signed by qualified voters equal in number to 10 per cent of those who voted in the preceding general election and resident in at least two-thirds of the election districts of the state. (§ 9.43 ch 83 SLA 1960)

Sec. 15.45.380. Review of petition. Within not more than 60 days of the date the petition was filed, the lieutenant governor shall review the petition and shall notify the committee whether the petition was properly or was improperly filed and at which election the proposition shall be placed on the ballot. (§ 9.44 ch 83 SLA 1960)

Sec. 15.45.390. Bases for determining the petition was improperly filed. The lieutenant governor shall notify the committee that the petition was improperly filed if he determines that (1) there is an insufficient number of qualified subscribers, or (2) the subscribers were not resident in at least two-thirds of the election districts of the state, or (3) the petition was not filed within 90 days after the adjournment of the legislative session at which the act was passed. (§ 9.45 ch 83 SLA 1960)

Sec. 15.45.400. Submission of supplementary petition. Upon receipt of notice that the filing of the petition was improper, the committee may amend and correct the petition by circulating and filing a supplementary petition within 10 days of the date that notice was given if 90 days have not expired after the adjournment of the legislative session at which the act was passed. (§ 9.46 ch 83 SLA 1960)

Sec. 15.45.410. Preparation of ballot title and proposition. The lieutenant governor, with the assistance of the attorney general, shall prepare a ballot title and proposition if he determines that the petition is properly filed. The ballot title shall, in not more than six words, indicate the general subject area of the act. The proposition shall, in not more than 100 words, give a true and impartial summary of the act being referred. (§ 9.47 ch 83 SLA 1960)

Sec. 15.45.420. Placing proposition on ballot. The lieutenant governor shall place the ballot title and proposition on the election ballot for the first statewide general, special, or primary election held more than 180 days after adjournment of the legislative session at which the act was passed. (§ 9.48 ch 83 SLA 1960; am § 36 ch 69 SLA 1970)

Legislative committee report. — For report on ch. 69, SLA 1970 (HB 564), see 1970 House Journal Supplement No. 2, p. 7

Sec. 15.45.430. Display of act being referred. The lieutenant governor shall provide each election board with 10 copies of the act being referred, and the election board shall display three copies of the act in a conspicuous place in the room where the election is held. (§ 9.49 ch 83 SLA 1960)

Sec. 15.45.440. Rejection of act. If a majority of the votes cast on the referendum proposition favor the rejection of the act referred, the act is rejected, and the lieutenant governor shall so certify. The act rejected by referendum is void 30 days after certification. (§ 9.50 ch 83 SLA 1960)

Section adopts language of Constitution. — This section adopted almost verbatim the language of Alaska Constitution, art. XI, § 6, for establishing the time when an act rejected by referendum shall become void. Walters v. Cease, Sup. Ct. Op. No. 182 (File No. 447), 388 P.2d 263 (1964).

Sec. 15.45.450. Insufficiency of application or petition. No referendum submitted to the voters shall be held void because of the insufficiency of the application or petition by which the submission was procured. (§ 9.51 ch 83 SLA 1960)

Sec. 15.45.460. Judicial review. Any person aggrieved by any determination made by the lieutenant governor may bring an action to have the determination reviewed within 30 days of the date on which notice of the determination was given by any appropriate remedy in the superior court. (§ 9.52 ch 83 SLA 1960)

Article 3. Recall.

Section	
470. Provision and scope for use of recall	
480. Filing application	
490. Time of filing application	
500. Form of application	
510. Grounds for recall	
520. Manner of notice	
530. Notice of the number of voters	
540. Review of application	
550. Bases of denial of certification	
560. Preparation of petition	
570. Statement of warning	
580. Circulation by sponsor	
590. Manner of signing and withdrawing name from petition	
600. Certification of sponsor	
610. Filing of petition	
620. Review of petition	
630. Bases for determining the petition was improperly filed	
640. Submission of supplementary petition	
650. Calling special election	
660. Preparation of ballot	
670. Conduct of special election	
680. Display of bases for and against recall	
690. Certification of election results	
700. Filling vacancy	
710. Insufficiency of grounds, application, or petition	
720. Judicial review	

Introduced: 2/15/79
Referred: State Affairs and Judiciary

B RANDOLPH, BARNES, BEIRNE, BETTISWORTH, F ER, HALFORD, HAYES, HURLBERT, MARTIN, METCALFE, MOSS, MUNSON AND PHILLIPS

IN THE HOUSE

HOUSE BILL NO. 230

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to initiatives and referenda."

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

* Section 1. AS 15.45.110, 15.45.130, 15.45.340, and 15.45.360 are repealed.

10% of those who voted in preceding genl. elec
↘ in each of 2/3 of the election districts

letter of ~~intent to~~ AG requesting opinion on how
broad interpretation of
judiciary committee
your way
and
other bill coming

HB

240

#1

(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

March 6, 1979 Date: 3-7-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had SSHB 240

"An Act creating the Alaska General Stock Ownership Corporation; eff. 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)

[X] replace with CS for SSHB 240 [ ] same title [ ] new title

and ~~recommends~~ [illegible]

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Terry Gardiner - Not Pass
Jon Wrede
Rep. M Pratt - Do Not Pass

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[illegible]
Tony Knowles - No Rec
[illegible]

CHAIRMAN

H 60 (Rev. 12/78)

Kelsoism, GSOC, and AGSOC

Prepared for
The House Finance Committee
ALASKA STATE LEGISLATURE

by

Robert E. Smith
Professor of Economics
and
Business Administration
University of Oregon

April 5, 1980

Table of Contents

		Page
I.	Executive Summary	i-v
II.	Introduction	1
III.	The Kelso Framework	1
	A. Mixed Capitalism and its Fatal Flaw	3
	1. Maldistribution of Wealth	3
	2. Maldistribution of Income	4
	B. The Kelso Program of Reform	7
	C. Is the Kelso Program Workable?	11
	D. Is There Really a Basic Maldistribution of Income?	13
	E. Does Capital Diffusion Make Sense Outside the Kelso Framework?	16
IV.	The General Stock Ownership Corporation	17
V.	AGSOC: Some Administrative and Organizational Features	21
	A. The Guarantee Issue	21
	1. Borrowing Without Creditor Protection	22
	2. Borrowing With a Guaranteed Loan	22
	3. Borrowing With a Loan Guarantee Fund	23
	B. The Investment Decision-making Process	25
	1. Role of the Seller of the Asset	25
	2. Role of Creditors	26
	3. Role of AGSOC's Management	26
	4. Role of the Board of Directors	26
	5. Role of the Legislature	27
	6. Is an AGSOC-type Investment Possible?	28
	a. Asset with a Finite Life	29
	b. Asset with a Perpetual Life	30
	C. The Holding v. Operating Company Issue	31
VI.	Appendix	34

Executive Summary

This report is divided into three parts: the Kelso framework; the GSOC; and the AGSOC.

The Kelso Framework. Central to the analysis of capitalism by Kelso and his associates is the alleged existence of a massive maldistribution of income: capital accounts for 90 percent of the economy's output but gets only 30 percent of that as income while labor produces only 10 percent and gets 70 percent. There is also said to be a maldistribution of wealth; 10 percent of the households own all of the capital assets. They argue that these two maldistributions are inherently contradictory and, unless corrected, Mixed Capitalism (i.e., the type of capitalism that exists in the U.S. today) will collapse into State Capitalism (i.e., the type of capitalism that exists in Russia today).

To prevent these developments, Kelso and his associates advocate a capitalist revolution--the creation of Universal Capitalism by the adoption of a gigantic capital diffusion program that would make new capitalists of the 90 percent of households that now own no capital. This revolution would require that corporations no longer retain earnings for purposes of internal financing, thereby compelling them to pass profits through to stockholders as dividends; would eliminate collective bargaining by unions; and would abandon the full employment and welfare transfer policies of the federal government. The magnitude of these changes would be huge; these changes, designed

to reduce the alleged maldistribution of income, would require that wages decrease by 85 percent and that the returns to capital increase by 600 percent. Similarly, the rate at which the economy would have to grow in order to effect this transfer would also be very large, given historic comparisons; they would have to be "several" times four percent.

We suggest that, even if this analysis by Kelso and his associates were correct, it is doubtful that such a program of action is feasible. If the economy were to expand to the extent and as rapidly as projected, we would expect inflation to be a major problem and that the levels of concentration and centralization in the economy would increase significantly from their present levels. More important, however, is the high probability that present economic/physical constraints on resources, especially energy, would not allow the necessary rapid rates of growth. The scope and speed of the proposed reform are beyond current economic/physical resource capabilities.

More determinative of the relevance of the Kelso framework, however, is the fact that the alleged massive distribution of income does not exist. Kelso and his associates provide no quantitative support for the existence of the 90-10/30-70 breakdown. It appears to be the result primarily of casual observation. Their version of such an income maldistribution has no known support among professional economists. It is argued below that, in alleging the existence of such a maldistribution, Kelso and his associates made a basic theoretical error. They overlooked the fact that entry and the competitive market dis-

tribute the results of particular productivity improvements, whether made by capital or labor, primarily to consumers in the form of lower prices rather than to capitalists and labor in the form of persistently higher profits or wages. Given this historic process, there is no justification for allocating exclusively to capital a persistent and high rate of return for having initiated a productivity improvement.

Although a capital diffusion plan is central to the analysis of capitalism made by Kelso and his associates, the invalidity of that analysis does not necessarily make capital diffusion also invalid. Such programs should be considered on their own terms and rated up or down on the basis of their own merits. This is true of both GSOC and AGSOC.

GSOC. The most important feature of the federal law that created the opportunity for states to create GSOCs was the refusal by Congress to grant two very significant tax exemptions that were initially sought. The failure to obtain these exemptions had three effects. First, the probability of a negative cash flow during the first years of a GSOC was increased. Second, this adverse effect on cash flow will increase the probable need and duration to finance losses during the early years of a GSOC. And, third, the possibility is increased that during these initial years a GSOC will not be able to pay dividends to its stockholders but will pass through to them a tax liability. During these years, the stockholders would be net losers.

AGSOC. We analyzed three administrative and organizational

features of AGSOC, as currently proposed: the guarantee issue, the issue of the investment decision-making process, and the holding v. operating company issue.

In connection with the guarantee issue, we concluded that a loan guarantee fund would undoubtedly be required by private creditors of an AGSOC. The key to long term legislative control over an AGSOC lies in the enabling and appropriation acts with respect to successive loan guarantee funds. But the significance of the fund goes further: it can affect the nature of the investment decision-making process.

Five parties will be involved in the investment decision-making process: the seller of the asset, creditors, AGSOC management, AGSOC's Board of Directors, and the Legislature. Given the elective nature of both the Board and the Legislature, it is hard to escape the conclusion that the investment decision-making process will be subject to appreciable political influence. This means that Alaska will have to rely heavily on creditors to sift the good risks from the bad risks. In projects of the magnitude presently contemplated, it is doubtful wisdom for debtors to depend so heavily on creditors. Such dependence will, at best, come at a price.

The general principle with respect to investment is that, if markets work efficiently and if the buyer functions only as a non-speculative and non-operating investor, the price paid (i.e., the amount borrowed) plus interest paid on the debt will just equal the income generated by the asset over its life. This principle applies to assets with either a finite or perpetual life.

Given the above principle, how can a buyer borrow, invest, pay back the loan, and still make money? A buyer can, for example, make money if he has better information than the seller, is a better negotiator than the seller, is both more risk prone and lucky, or is able to increase the annual income generated by the asset. Income can be increased (1) if the buyer were to become an operator as well as an investor and if he is more efficient as an operator than the seller or (2) if the buyer got a tax break not previously available to the seller. This analysis suggests that, failing to get their desired tax breaks, AGSOC proponents will begin to promote AGSOC as an operating company rather than as a holding company. AGSOC as an operating company, however, would break the Kelso conception as to the nature of investment in capital diffusion programs. The expected result of such a change in function would be to increase significantly both the risk characteristics and the degree of uncertainty associated with the AGSOC. There would undoubtedly be an adverse effect both on the ability to secure 100 percent debt financing and on the probability of a reasonable pay-out period.

Kelsoism, GSOC, and AGSOC

Introduction

The proposed Alaska General Stock Ownership Corporation (hereafter AGSOC) came to Alaska in three steps. The first step was the writings of Louis D. Kelso and his associates[1] in which they set forth a program of capital diffusion. The second step was the inclusion by Congress in the Revenue Act of 1978 of the General Stock Ownership Corporation (hereafter GSOC) provisions in which Senator Gravel played a major role. The final step was the introduction in the Alaskan Legislature of a bill proposing to create an AGSOC.

The present report follows this development. The first section is an economic analysis of the writings of Kelso and his associates. The second section discusses major characteristics of a GSOC with special reference to tax considerations. The third section analyzes important issues raised by the AGSOC proposal itself. The preceding executive summary will function as a conclusion.

The Kelso Framework

Kelso and his associates identified four types of capitalism. Primitive Capitalism was the "form of capitalism which existed in Great Britain during the nineteenth century and which persisted

[1] These abbreviations will be used to identify the following three books. CM will identify The Capitalist Manifesto by Louis O. Kelso and Mortimer J. Adler (Random House, New York) 1958; TFT for Two Factor Theory: The Economic of Reality by Louis O. Kelso and Patricia Hetter (Vintage Books, New York) 1967; and PA for A Piece of the Action by Stuart M. Speiser (Van Nostrand Reinhold Company, New York) 1977.

in a waning state until the end of the First World War" (CM, p. 104). State Capitalism is the "form of capitalism that exists in Soviet Russia today" (CM, p. 105). Mixed Capitalism is the "form of capitalism which exists in the United States and Great Britain today and which has been developing since the end of the First World War and the rise of labor unions to power with the help of the countervailing power of government" (CM, p. 105). Finally, Universal Capitalism or Capitalism "with a capital 'C'" is the "form of capitalism which will exist, probably in the United States first, after the capitalist revolution has brought into being the first justly organized capitalist economy" (CM, p. 107). Universal Capitalism is advocated by Kelso and his associates.

In brief, Kelso argues that Mixed Capitalism is doomed because of internal contradictions and will be replaced by State Capitalism unless the transition is made to Universal Capitalism. Universal Capitalism will be the product of installing capital diffusion policies--accompanied by other key changes in corporate conduct, labor unions, and government economic policies--on a sufficiently grand scale to give all citizens a second income that is derived from their ownership of capital and not from their labor. This section will briefly sketch out his argument with emphasis on the key role of his capital diffusion program. The General Stock Ownership Corporation (hereafter GSOC) and the Alaska General Stock Ownership Corporation (hereafter AGSOC) are directly derived from this capital diffusion program although, as will be duly noted, they differ importantly from the diffusion

institutions described in the writings of Kelso and his associates. As they see it, the game is big and the stakes are obviously high.

Mixed Capitalism and its Fatal Flaw. It is the position of Kelso and his associates that Mixed Capitalism contains a fatal flaw or internal inconsistency that, unless eliminated, will cause the collapse of Mixed Capitalism into State Capitalism. This fatal flaw consists of a massive maldistribution of wealth and of income.[2]

Maldistribution of wealth. According to Kelso and his associates "2.3% of America's households own about 80% of the economy's productive capital, and an additional 5 to 8% own the rest" (TFT, p. 40). In short, 7 to 10% of U.S. households own all productive assets. This massive maldistribution is said to be the result of the two conventional methods by which new productive capital is financed (TFT, p. 40, p. 79). The first method is the internal corporate financing of new investments by the use of retained corporate earnings. The second method is the insistence by creditors that debtors provide collateral that consists of existing capital owned by the debtors. The use of these two conventional financial processes assures that those who get more will be those who already have. In short, the rich get richer. Increasing centralization of capital is the result.

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[2] To this reader, Kelso and his associates use the concepts of wealth and income in an ambiguous manner. In that which follows, wealth is used as a stock concept and income as a flow concept. For an example of the ambiguity, see CM, p. 129.

This maldistribution is said to cause a shortage of purchasing power; "a few families have purchasing power in excess of their consumption needs, and the great majority have needs in excess of their purchasing power" (TFT, p. 40). According to Kelso and his associates, it is this excessive concentration in the ownership of capital and the resulting shortage of purchasing power "that is the basic cause of the economic dislocations or periodic 'depressions' in an industrial economy based on private property in capital and labor" (CM, p. 151). This condition is aggravated by the maldistribution of income.

The Maldistribution of Income. According to Kelso and associates, over "70 percent of the wealth produced (read "income") is distributed to labor, but over 90 percent of that wealth (again read "income") is produced, not by labor, but by capital instruments" (CM, p. 129). In other words it is alleged that, while capital accounts for 90 percent of output, the owners get only 30 percent of that income. Labor, on the other hand, produces only 10 percent but gets 70 percent of the output. In Mixed Capitalism, labor exploits capital! The massive maldistribution of income claimed by Kelso and his associates is advantageous to labor and disadvantageous to capital. No wonder that Milton Friedman, bel Laureate in Economics, said of this theory: "It's Marx stood on its head" (PA, p. 124).[3]

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[3] More generally, Professor Friedman characterized the "two factor theory" of Kelso and his associates as "a crackpot theory" (PA, p. 124).

This alleged maldistribution of income (we shall assume for the time being that such a maldistribution of income exists. I personally do not believe that this type of a maldistribution of income exists.) is said to be the result of a conflict between a capitalistic mode of production and a laboristic mode of distribution (CM, p. 129). The capitalistic mode of production refers to the increasing use of capital and associated labor-saving improvements in technology to produce an ever increasing supply of goods while decreasing the demand for labor. The laboristic mode of distribution distributes the national income through wages paid in the process of employment. "The laboristic distribution which organized labor, with the help of government, has managed to effect has been achieved by the exercise of political and economic power, not by bargaining" (CM, p. 125). This laboristic mode has been supplemented by a "needistic" distribution based on welfare programs that transfer income from one group to another

The simultaneous use of capitalistic and laboristic modes increases the supply of goods to be distributed, thereby increasing the pressure on the distribution system, while decreasing the demand for labor, thereby decreasing employment and further eroding the basis of distribution. A gap is said to develop between society's ability to produce goods and its ability to distribute goods. As a consequence the government comes under increasing pressure to increase employment or to develop welfare-like transfer systems in order to generate sufficient purchasing power to move all that can be produced. The result has been

the expeditous adoption of a full employment policy and the development of a welfare system based on income transfers from the rich to the needy. These "laboristic" and "needistic" programs are at the heart of the policies of Mixed Capitalism.

The full employment policy, drafted as a partial solution to the conflict between the capitalistic mode of production and the laboristic mode of distribution, requires that the economy be continually stimulated. This stimulation leads to persistent inflation which, according to Kelso, is Mixed Capitalism's "insoluble problem" (CM, p. 129). "Inflation is a natural and necessary process in an economy that is capitalist in its mode of production and laboristic in its form of distribution" (CM, p. 129).

In addition, Kelso sees a potential conflict between the maldistribution of wealth and income: the "effective and highly concentrated ownership of capital in about 5 percent of the households of our economy is incompatible with the production of some 90 percent of the wealth (read income) by capital instruments" (CM, p. 136). As capital continues to produce more, the increasing concentration of capital decreases the ability of capital ownership to serve as a basis for distributing income, thereby creating increasing pressures to use labor and employment as the basis for distribution. Kelso and Adler reached this pessimistic conclusion:

> If mixed capitalism cannot check the inflationary process of the last thirty years, if it cannot resolve the conflict between its policy of full employment and the technological advances that lie ahead, if by the very nature of the elements in the mixture the laboristic

> aspect of the distribution tends to expand and the capitalistic aspect to contract..., then, perhaps, mixed capitalism...contains the seeds of its own destruction. (CM, p. 129)

The Kelso Program of Reform. The principal goal of the reform program of Kelso and his associates is to create Universal Capitalism whose essential characteristic is to make effective capitalists of those 90 percent of the households who own no capital. This transformation will provide the basis for a distribution system that is based predominately on capital ownership rather than on labor. This capitalistic mode of distribution will be able to absorb the output of the capitalistic mode of production. The gap that breeds inflation will allegedly be closed. And, according to the theory, this capitalist revoluation will correct the fatal maldistribution both of wealth and of income.

More particularly, the capitalist revolution consists of four steps. First, corporations will no longer be able to finance expansion internally from retained earnings; profits are to be paid to stockholders as dividends. This change will prevent further concentration of wealth and facilitate the creation of the New Capitalists by accelerating the repayment of funds borrowed to finance the purchase of their equity positions. Second, markets must be freed from the collective or "coercive" (TFT, p. 76) bargaining imposed by unions that has distorted the distribution of income to the advantage of labor. Collective bargaining

> introduces into the economy a governmental enfranchisement of unions to levy taxes upon employers, stockholders, and upon the economy as a whole. It sanctions a form of monopoly

> and conspiracy made effective by organized force which dwarfs any industrial monopoly ever contrived. It eliminates from the major area of the economy the use of objective, impartial, and free competition as a just determinant of economic values. (CM, p. 187)

A measure of the extent of the distortion Kelso and Adler attribute to labor unions is indicated by this passage.

> If a competitive evaluation of the contribution of labor were then to set wages at a level which labor could justly claim as a return for its services, labor's standard of living might dwindle to bare subsistence or even fall below it. (CM, p. 61)

Under Kelso's program unions would indeed be transformed; they would cease being an organization that exploited capitalists and become an institution whose function would be to protect the small and medium sized capitalists from all challenges. Under Universal Capitalism,

> ...the labor union will obviously not be needed as an instrument of power to effect a laboristic distribution of wealth (read income)....But to say that the union will not be needed to perform this function in a justly organized economy, with diffused ownership of capital and a capitalistic distribution of wealth (read income), is not to say that there will be no socially useful service for it to undertake. Voluntary associations of capitalist workers, operating through democratic processes of self-government, may serve their own members and the whole society by functioning as agencies for the economic education of the newly made capitalists, and as instruments for the protection of their property rights. (CM, p. 157)

Kelso recognizes that the reform of corporations and unions would be both necessary and difficult.

> The giant corporations which exist and the giant labor union which has just come into existence represent enormous concentrations of power which have not as yet been made fully responsible for the use they make of their power. The most difficult task that government faces, in effecting the transition from our present mixed capitalism, is to tame and harness

> the power of these creatures of capitalism and, by making them responsible in the discharge of the limited functions they should perform, make them serve (Universal) Capitalism, or at least prevent them from despoiling either. (CM, pp. 156-157)

The third step is to create the class of New Capitalists who presently own no capital. This will be a massive undertaking because sufficient new capital must be created to give those 90 percent of households that own no capital a grubstake that will provide with them an important second income based on capital ownership. Some idea as to the magnitude of the change required can be obtained from the following considerations. Under Mixed Capitalism labor is the source of 70 percent of household income. Under Universal Capitalism and after correction of the maldistribution of income, labor would be the source of only 10 percent of that income--as determined by labor's 10 percent productivity. Capital ownership would have to become the source of that 60 percent difference. In short, during the transition from Mixed Capitalism to Universal Capitalism, wages would have to decrease 85 percent (6/7s) and the return to capital would have to increase 600 percent, assuming no increase in the standard of living.

This mammoth restructuring of both the production and distribution systems would apparently be accomplished by allowing these households to borrow from banks and to purchase stock in a limited set of well established, blue chip corporations; the investments of the New Capitalists are not to be in venture capital. The purchased securities would be held in escrow until they had been paid for by dividends received. The New Capitalists

would then receive their stock. Three programs would expedite this process. First, the corporations could retain no earnings; this would maximize the dividends to accelerate paying off the loan. Second, tax exemptions would further maximize the flow of earnings to repay the loan. Third, a Capital Diffusion Insurance Corporation would be created in order to encourage banks and other institutional creditors to engage in 100 percent financing by protecting them against losses. This last proposal would, in effect, base creditor protection on the collective credit worthiness of non-capitalist households rather than on assets owned by est blished capitalists.

Finally, the U.S. economy would have to grow at a much more rapid rate than it has in the past if the New Capitalists are to acquire a capital base sufficient to make a difference; the New Capitalists are not to be created at any significant expense to existing capitalists. The New Capitalists and their "Second Income" are to be created out of growth. For example, in the United States and Canada a growth rate will be required that is "several times the three and a half to four percent that is currently achieved in the U.S. and in most Western economies." (TFT, p. 9) The situation would be even more striking in less industrialized economies; their productive capacity "may have to be expanded fifteen, twenty or more times in order to build second economies capable of producing general affluence." (TFT, p. 47) It is evident that the arrival of Universal Capitalism will be heavily dependent upon realizing sustained rates of growth significantly greater than the world has as yet experienced in a sustained and general fashion.

Is the Kelso Program Workable? Let us assume for the sake of argument that the diagnosis of Kelso and his associates is correct and that their proposed remedies could solve the problems. Is the plan workable?

To answer this question, two economic features of the plan should be recalled. First, the plan envisions a huge increase in capital formation in order to create the capital base for an adequate second income for 90 percent of U.S. households. Second, in order to realize this great expansion within a reasonable period of time, the economy must grow at an unprecendentedly rapid, sustained rate of growth.

If we assume for the moment that such rates of growth are within our physical capabilities, we must examine the effects of such large and rapid rates of growth on the national economy. At least two consequences can be predicted with reasonable assurance: the program would be inflationary and would lead to an increase in both industrial centralization and concentration.

Kelso and Hetter have argued that his capital diffusion plan would be "deflationary" (TFT, p. 97) on the grounds that the new capital formation would lead to a larger supply of goods. They acknowledge, however, that the debt financing aspect of the program would increase significantly the supply of money. This would, of course, be inflationary unless the supply of goods could be increased simultaneously and commensurately. The increase in the money supply and hence demand would begin immediately with the start of the plan. The increase in the supply of goods would come more slowly and later. Because of

this lag, inflationary pressures would develop. History does not support Kelso's implicit assumption as to the almost spontaneous responses of supply to a sharp and sustained increase in demand. We could expect significant lead times, lags, and bottlenecks. The inflationary potential of the Kelso plan was recognized by a 1976 staff report of the Joint Econmic Committee of the U.S. Congress.[4]

The Kelso program would funnel much of this new capital expansion into established, well-managed firms (TFT, p. 97). This would increase their size relative not only to the economy as a whole but also to other less favored firms with which they compete in relevant markets. The first type of increase we customarily call centralization and the second type concentration. Because of this preference for blue chip firms, we can expect the capital diffusion plan of Kelso to increase both centralization and concentration.

A more important difficulty, however, than the likely inflationary and centralization tendencies of the Kelso program, is the great likelihood that the projected rates of growth are beyond our present economic/physical capabilities. It is increasingly apparent that we are entering a mandatory slow growth period, constrained by energy and raw material supplies. Growth targets have been reduced by both developed and developing countries. What might have been a potentially viable policy in the

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[4] See PA, p. 254-6 for a discussion of that report. The report did support, in general, efforts to diffuse capital ownership.

60's appears no longer to be viable, given the magnitude of the proposed change.

Implementation of the plan would also undoubtedly pose political problems. Two major economic inscitutions, both with political clout, would have to undergo basic changes. Management would lose the flexibility associated with internal financing. The impact on labor unions would be even more far-reaching. Not only are unions accused of exploiting capitalists (albeit apparently of willing capitalists) but the plan would dismantle collective bargaining as we know it. The new unions would function as the protectors of the interests of small capitalists.

Political problems could also be associated with the need for wages to fall some 85 percent during the transition to Universal Capitalism as the income to households from capital ownership rose 600 percent. Upheavals of this magnitude boggle the mind and challenge credibility, especially when the whole conception is based on an alleged massive maldistribution of income that does not exist.

Is There Really a Basic Maldistribution of Income? From the standpoint of a professional economist the most suspect aspect of the analysis by Kelso and his associates is their contention that, although labor gets about 70 percent of the economy's income and capital gets 30 percent, capital should get 90 percent and labor only 10 percent based on their comparative productivities. This contention was rather summarily dismissed by Professor Paul Samuelson, a Nobel Laureate in Economics, in a brief

report that he prepared on Kelso's ideas for the Puerto Rican government.

> Kelsoism is not accepted by modern scientific economics as a valid and fruitful analysis of the distribution of income, but rather it is regarded as an amateurish and cranky fad....Its central tenet (the 90-10/30-70 gap) is contradicted by the findings of economic empirical science: according to statistical study of macro-economic trends, by such distinguished scholars as Professor Simon Kuznets of Harvard (Nobel Laureate in 1971), Senator and Professor Paul H. Douglas (award winner for his Cobb-Douglas statistical measurement of the aggregate production function), MIT Professor Robert M. Solow, and numerous researchers at the National Bureau of Economic Research under the direction of Arthur M. Burns, chairman of the Board of Governors of the Federal Reserve System, economic adviser to Presidents Eisenhower and Nixon, the contribution of labor to the totality of GNP is in the neighborhood of 75 percent, with only 25 percent attributable to land, machinery and other property.
>
> ...this 75-25 percent breakdown is diametrically opposite to the Kelso presuppositions, which are purely speculative and not based on econometric analysis of the observed statistics of nations at different stages of development. (PA, p. 112)

According to Samuelson, the principal determinants of the distribution of income between capital and labor are changes in the relative supplies of labor and capital, changes in technology, trade union pressure, antitrust policies, and welfare transfers.[5] The process, however, is dominated by the first two determinants. The two have combined to stabilize the 75-25 (similar to Kelso's 70-30) distribution of income.

Professor Samuelson's comments do not quite get to Kelso's concern. I do not believe that Kelso's problem is that the 70-30 (or 75-25) breakdown fails to measure what capital and labor get.

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[5] Paul Samuelson, Economics (McGraw-Hill, New York) 1973, 9th edition, pp. 741-748).

His concern is that the distribution should reflect the relative contributions of capital and labor to national output. If capital produces 90 percent, it should get 90 percent. If labor produces only 10 percent, it should get only 10 percent. It is for these reasons that he contends "there is no longer any basis for believing that the available statistics give us an accurate picture of the relative economic productivity of capital and labor" (CM, pp. 260-261).

The real issue is the relative productivities of capital and labor. Kelso and his associates offer no empirical support for this important quantitative aspect of their analysis. It seems to be based on nothing more than casual observation. I believe that Kelso and his associates have made a fundamental theoretical error. The central question is simply stated: How is the productivity dividend to be distributed? Kelso's answer is straightforward: Capital, not labor, is responsible for the increased productivity; therefore, it is only just that capital should get it all. But, in a market system (and recall that Kelso is a strong believer in a market system) there are three claimants to a productivity increase: capital, labor, and the consumer. Kelso overlooks the critical role of the consumer. In a market economy, the initial, high return to capital for innovation is eventually eroded and prices fall a entry of new capacity, attracted by the profits, increases industry supply. New products have such a life cycle. The price experience of small hand-held calculators over the last five years is a good example. In short, the principal beneficiary of increases

in productivity in a market economy is the consumer and not the capitalist. The consumer benefits from the lower prices made possible by technological gains and enforced by a competitive market. It is the consumer, not capital or labor as factors, who is the principal beneficiary of productivity improvements. If the above analysis is accepted, there is no reason to accept Kelso's 90-10 breakdown or, more importantly, his claim of a massive maldistribution of income that is alleged to be a fatal flaw of Mixed Capitalism.

Does Capital Diffusion Make Sense Outside the Kelso Framework?

According to Kelso and his associates, the two fatal flaws of Mixed Capitalism were the maldistributions of wealth and income. Of these two, the maldistribution of income was both the more controversial and the more important. In my opinion, the maldistribution of income as described by Kelso, does not exist. It is not a fact. Is there, however, a maldistribution of wealth? In this instance, the facts are less controversial and reasonable people can disagree as to the desirability of the existing distribution of wealth. For those who would prefer a more even distribution of wealth, a capital diffusion program is one way to achieve it.

In 1976, for example, the Joint Economic Committee of the U.S. Congress stated in its Joint Economic Report:

> To begin to diffuse the ownership of capital and to provide an opportunity for citizens of moderate incomes to become owners of capital rather than relying solely on their labor as a source of income and security, the Committee recommends the adoption of a national policy to foster the goal of broadened ownership. (PA, p. 25?)

In sum, a policy of capital diffusion should be evaluated outside the Kelso framework and its dire predictions of the collapse of Mixed Capitalism. Such a policy should be allowed to stand on its own feet and be voted up or down on its own merits. In this conclusion, I agree with Stuart Speiser, an admirer of Kelso, when he wrote concerning Kelso's two factor theory--the theory that is based on the existence of the massive maldistribution of income--that it is "an irrelevant issue that would be ruled out of the case if Kelso were trying it in court" (PA, p. 95) and "a millstone around Kelso's neck" (PA, p. 122). In addition, Speiser believes that this theory "has absolutely nothing to do with capital diffusion or universal capitalism" (PA, p. 95). I would, however, go one step further and argue that capital diffusion policies should be evaluated on their own terms and not even as a part of that broader program, Universal Capitalism. It is in this limited context that we proceed to an analysis of GSOC and AGSOC.

The General Stock Ownership Corporation

The General Stock Ownership Corporation (hereafter GSOC) plan, as initially conceived, had at its heart two elements: finance by borrowing and significant tax exemptions to facilitate that debt financing. Debt financing was at the ideological core of the Kelso program: individuals were to utilize their collective credit worthiness to finance their increased participation in the capitalist system. This was to be a "boot strap" operation--a painless way for all to become capitalists and ac-

quire a significant second income. Although we shall concentrate in this section on the tax exemptions, it is important to stress that their importance derives from the key role of debt financing.

The GSOC plan, as initially proposed in the U.S. Senate, sought two major tax exemptions. First, the corporation in which a GSOC acquired stock was to be allowed to deduct as an expense dividends paid to GSOC. This would approximately double the revenue to GSOC relative to other stockholders. Second, the bill proposed that GSOC be given tax-exempt debt financing. Not only would GSOC have been able to deduct the interest payments on its debt but it would also be able to deduct its payments against the principle. In other words, the principle debt was not to be paid out of taxable income as it normally is, for example, in a home mortgage; the mortgage payment would itself be tax deductible. This was a critical exemption and would have significantly facilitated debt financing.

In the final bill, Congress gave GSOC neither of these important exemptions. Instead GSOC was allowed to integrate its tax liability with its stockholders; the corporation was allowed to escape double or triple taxation by passing its income tax liability through to the stockholders. This is the same type of tax advantage that is routinely exercised by small business.

The refusal of Congress to grant the previous two major tax exemptions has three consequences with respect to the operation of a GSOC. First, by reducing the after tax income of the GSOC

Congress's refusal increased the probability and duration of a negative cash flow during the first years of the GSOC. Second, this adverse effect on the cash flow will increase the probable need and duration to finance losses during the initial period of a GSOC. In particular, it complicates attempts by a state legislature to guarantee the debt of the GSOC to its creditors either by a guaranteed loan or a loan guarantee fund.

The third consequence of Congress's refusal to grant the tax exemptions initially sought by the GSOC proponents is the taxable income issue. It will be recalled that under the only tax exemption granted--the tax integration exemption--GSOC's taxable income flows through to its stockholders. This tax liability flows through whether the stockholders receive any dividends or not. The source of the problem is twofold. First, although it is not inevitable, it is probable that a GSOC will initially generate a negative cash flow. It, therefore, will be unable to pay dividends because its expenses, including interest and payments against principle, will exceed its revenues. Second, despite the negative cash flow and consequent inability to pay dividends, the GSOC can generate a taxable income which passes through to the stockholders as a tax liability. This is a result of the fact that a payment against principle is included in taxable income because it is not deductible, thereby increasing taxable income, but is excluded from cash flow because it is paid to the creditors, thereby decreasing the cash flow. In sum, in the first years of a GSOC it is very probable that its stockholders will get no dividends but will receive an ad-

ditional tax liability. The cost to particular stockholders will depend on their tax status. In passing, we might note that at a hearing of the Alaskan House Finance Committee on November 2, 1979, Senator Gravel acknowledged the probability that the plan "can wind up having to saddle the people with a tax liability."

In conclusion, the proponents of the original GSOC went to Congress and asked for a silk purse. Instead, Congress gave them a sow's ear. And it is well understood that you cannot make a silk purse out of a sow's ear. Congress, however, could be asked once again for the silk purse--i.e., for the two major tax exemptions--in order to minimize the taxable income problem and to increase the financial viability of the GSOCs. Such action by Congress would create a new set of problems--equity problems associated with transfers from one set of taxpayers to another set.

It is convenient to distinguish between two types of tax subsidies: direct subsidies and indirect subsidies or tax expenditures. A direct subsidy involves taxing A to pay B; it is a direct transfer from A to B. A tax expenditure involves a more complex subsidy. One set of citizens (A) gets a tax break. Government revenue is reduced by this amount; consequently, in order to compensate for the revenue loss, B's taxes must be increased or C's benefits must be reduced. A transfer is involved: A benefits at the expense of B or C. Peter is robbed to pay Paul.

It is correct to note that these "silk purse" exemptions would not make a GSOC a Robin Hood. Robin Hood took from the rich to give to the poor. Such a GSOC would instead take from all (rich and poor) to give to some (rich and poor). Congress recognized that these "silk purse" exemptions were a potential threat to the corporate tax base at the national level. This erosion would increase as the use of GSOCs expanded. This is why Congress rejected these exemptions and will undoubtedly continue to reject them. Consequently, the future viability of GSOCs in general and of AGSOC in particular must be assessed on the basis of the very limited tax exemption given in the 1978 law.

AGSOC: Some Administrative and Organizational Features

We shall consider three important issues raised by the administrative and organizational features of the proposed Alaska GSOC (hereafter AGSOC): the guarantee issue; the issue of the investment decision-making process; and the holding v. operating company issue.[6]

The Guarantee Issue. An AGSOC will be limited to financing its investments by borrowing. There will be no initial payments for stock. There can be no relatively significant retained earnings by which an AGSOC could finance its own expansion. An AGSOC could borrow directly from the State of Alaska or from

[6] Other important issues include the constitutional issue and the issue of stockholder control. These will not be discussed in this report; they have been the subject of other reports.

the private sector. I shall limit this discussion to efforts to borrow from the private sector.

In borrowing from the private sector (e.g., banks and insurance companies), an AGSOC would have three possible options: borrowing with no guarantee or collateral to protect the creditor; borrowing with creditor protection provided by a guaranteed loan; and borrowing with protection provided by a loan guarantee fund.

1. Borrowing Without Creditor Protection. It is very doubtful that this is a realistic option for at least four reasons. First, there is the need for 100 percent debt financing. As a result, there would be no margin for error; the creditor would be fully exposed. The creditors would not even have the minimal protection provided by an equity contribution to the original investment.

Second, the very large sums of money that are involved in proposed investments can be expected to assume that creditors will seek some type of protection. It is one thing to lend $1,000,000. It is quite a different order of magnitude to lend $500,000,000 or $1,000,000,000. Third, the probability of an initial negative cash flow which must be covered by borrowing raises further difficulties when financing must be 100 percent by debt. Losses are not assets that could conceivably protect the creditors.

Finally, Mr. Kelso and his associates have recognized the historical need for creditor protection. In conventional finance, based on the assets of individual debtors, "existing financial

or tangible capital is put at risk to insure against the possibility that newly formed capital either may not pay for itself within a reasonable time, or that if it does so, the wealth it produces may not be used to make that disbursement" (TFT, p. 93). They would substitute for that individual credit worthiness either the collective credit worthiness of all within a given jurisdiction or some insurance scheme. For example, a Capital Diffusion Insurance Corporation (CDIC), modelled after the Federal Housing Authority Insurance Plan, was suggested (CM, p. 241) in order to insure institutional creditors against losses in the realization of any capital diffusion plans. In brief, AGSOC will almost certainly have to offer its creditors some type of a guarantee against losses.

2. Borrowing With a Guaranteed Loan. It is quite certain that the Alaskan Legislature cannot constitutionally guarantee a loan to an AGSOC. Such a guarantee does not involve a capital improvement. The Alaskan Legislature can, however, protect AGSOC's creditors, if it so desires, by the creation of a guarantee loan fund.

3. Borrowing with a Loan Guarantee Fund. The creation of a loan guarantee fund would involve two legislative acts: an enabling act and an appropriation act. The enabling act is necessary to create the loan guarantee fund. Conditions that determine the reach and functions of the fund are in control of the Legislature. This would be an important statute. The appropriation act would provide the money required by the fund. The amount of the appropriation would depend on negotiations between AGSOC and the seller of the assets being acquired (this

determines the amount of money AGSOC would have to borrow and between AGSOC and its creditors. The Legislature would be asked to appropriate the amount of money that AGSOC and its creditors negotiated as sufficient to protect the creditors, given the size of the loan. This could be 50 percent or more. The appropriate money would, in effect, sit there; it could be put to no other use. This use of state money would be at the expense of other uses. There would be no free lunch.

Neither the enabling act nor the appropriation act appear to present any constitutional issue. An adequate "public purpose" can almost certainly be found.

The proposed AGSOC bill includes a start-up loan guarantee fund for which it appropriates $5,000,000. This fund is for the limited purpose of enabling the AGSOC, when created, to be able to borrow enough to cover its organizational, start-up costs. The bill, however, makes no provision for a loan guarantee fund designed to cover investments made by the AGSOC.

It has been stated that the bill does not provide for an investment loan guarantee fund in order to maximize the flexibility and discretion of AGSOC's board of directors. Others have suggested that it might well be a political maneuver--a two stage strategy. Initial silence with respect to the loan guarantee fund should increase the probability of passing the AGSOC bill because the issue of financial consequences would be minimzied. Then, once the AGSOC bill is passed, it would be easier to pass the necessary enabling and appropriation acts on the grounds that, without them, there can be no AGSOC.

The key to long term legislative control over an AGSOC, whether created by a legislative act or by referendum, lies in the enabling and appropriation acts in connection with successive loan guarantee funds. But the significance of the fund goes further: it can affect the nature of the investment decision-making process.

The Investment Decision-making Process. The declared goals of AGSOC's investment decision-making process are that it be professional and free of political considerations. The nature of AGSOC's investment decision-making process raises important issues that might well have an adverse effect upon the realization of these goals. It is apparent that five parties will be involved in this process: the seller of the asset, the creditors, AGSOC's management team, AGSOC's Board of Directors, and the Legislature. The anticipated role of each will be briefly discussed.

1. The Seller of the Asset. The purchase price of the asset will be negotiated by the seller of the asset and AGSOC's management. Because of the nature of the decision-making process, however, participation in one form or another along the way can be expected from the creditors, AGSOC's Board of Directors, and the Legislature. The result of the negotiation between the seller and management will reflect their relative positions with respect to information, risk preferences, and negotiating skills and power. As pointed out in the last part of this section, these differences are key to determining the price and resulting profitability of the transaction.

2. Role of Creditors. Creditors hold a veto power. With 100 percent debt financing, nothing happens without their approval. Their interest in the extent of a loan guarantee fund will depend upon the degree of risk involved in the investment. It is clear that Mr. Kelso and his associates prefer relatively low risk, blue chip type of investments. Speiser, for example, says that "Kelso thinks that venture capital (capital for starting new enterprises) is a game to be played by the very wealthy" (PA, p. 80). The proponents of AGSOC appear to be somewhat ambiguous as to whether AGSOC should be used to promote development and new ventures or should be limited to taking over a part of a major, successful enterprise. Whichever is the case, it is certain that the creditor will relate the risk to the amount of money demanded in the loan guarantee fund.

3. Role of AGSOC's Management. Management is to make the initial investment decision for AGSOC. This will be presumably a professional decision, i.e., based on the intrinsic merits of the case. But their decision must be approved by the Board of Directors. Given the probable political nature of the Board as described in the following section, it is quite certain that management will have to exist and survive in a political environment.

4. Role of the Board of Directors. The role of the Board is critical in the investment decision-making process. The Board's approval is necessary before any project can begin. At this point we can expect political considerations to be injected directly into the process because the Board is quite

explicitly designed to be a political institution. Directors run in a statewide election; the usual proxy system is prohibited. The electorate is broader than the usual electorate because stockholders (and, therefore, voters) will include those younger than the normal voter. In addition, after a phase-in period each Director will serve a limited term of two years. There will be an election every year at which one half of the Board must stand. Given such short terms and annual elections, a Director will always be running for office. In addition, the candidate nominated by the Board can be challenged by nominees put forward by groups of stockholders. Under these circumstances it is hard to escape the conclusion that the Board will be a political institution and that the investment decision-making process will be significantly influenced by political considerations.

It is legitimate to ask what, in this context, is meant by the term "political." Without impugning the motives of anyone, in this context political means that the decision-making process is subject to a perverse incentive system; Directors will be unable to make decisions that are unpopular with this diversely structured electorate whose decisions will almost certainly not be professional in nature.

5. Role of the Legislature. The Legislature becomes involved in the investment decision-making process because of the almost inevitable need for a loan guarantee fund and the consequent need for passage of the enabling and appropriation acts. It is here that the Legislature takes over the investment decision-

making process; its political decision-making process will be able to dominate the investment decision-making process at this point. The Legislature is the final hurdle.

While one enabling act may be able to serve more than one project, it is more than likely that each project will require its own appropriation act. This is likely because each project can be expected to differ as to risks and the identity of creditors and, therefore, as to the magnitude of the loan guarantee fund. By the very nature of the AGSOC arrangements, the Legislature will be involved in the investment decision-making process and will be held accountable at the polls.

In sum, Alaskan participation in the investment decision-making process will be influenced by two political institutions (the Legislature and the Board of Directors) which may or may not be able to work together in harmony with one another[7] and a third group (AGSOC management) which, through ostensibly professional, must function and survive in a political environment. These considerations mean that Alaska would probably have to depend heavily on creditors to sift the good risks from the bad risks. In projects of the magnitude presently contemplated, it is doubtful wisdom for debtors to depend so heavily upon creditors. Such dependence will, at best, come at a price.

6. Is an AGSOC-type Investment Possible? The non-speculative and non-operating investment in an income-producing asset creates

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[7] For example, they differ (1) as to the nature and extent of their electorates, (2) as to the roles of the traditional political parties, and (3) as to the range of issues that they must consider and the consequent focus of their energies.

some interesting questions as to the nature of the profitability of the investment. Two examples will be used to illustrate the nature of the problems involved. The first example involves the purchase of an asset with a limited life; the second is a perpetual asset.

Asset with a Finite Life. Assume an asset with a five year life that produces an annual after-tax income of $100. Further assume that the buyer and seller have the same information, the same risk preference, and are subject to the same discount rate of five percent. Under these conditions, what is the maximum price that the buyer should pay and what is the minimum price that the seller should accept? Both prices should depend upon the calculations by the buyer and seller of the discounted present value of that future flow of income. Based on calculations given in an Appendix to this report, the maximum price of the buyer and the minimum price of the seller are both $432 (rounded off). A deal is possible.

If the buyer bought the asset for $432, how would he fare after five years? The buyer would have received an income of $500 over the life of the asset. Over the five years, however, he would have paid back $432 to his creditor, returning the principle borrowed plus a total interest payment of $68 (rounded off). In short, the buyer would have paid out $500 for the $500 that he received. His cash outflow equals his cash inflow. He started with nothing and wound up with nothing. The general rule is that, if markets work efficiently and if the buyer functions only as a non-speculative investor, the price paid

(i.e., the amount borrowed) plus the interest paid on the debt will just equal the income generated by the asset over its life. This principle also holds in the case of an asset with perpetual life.

Asset with Perpetual Life. Assume an asset with a perpetual life that generates an annual after-tax income of $100. Further assume that the buyer and seller have the same information, the same risk preference, and are subject to the same discount rate of five percent. Under these conditions, the maximum price that the buyer will pay and the minimum price that the seller will accept is $2,000 (÷ .05). Assume that the buyer borrows $2,000 for ten years to buy the perpetual asset. At the end of the ten years, the buyer will own the asset and its future stream of income. He will, however, have received only $1,000 in income while he will have repaid the $2,000 that he borrowed plus ten years of interest. In short, after ten years he will own the perpetual asset but he will have paid out much more than he received during that time. After ten years the asset should begin to pay back his arrears. Theoretically, however, over time, this transaction should also wash, i.e., the cash inflow should equal cash outflow.

If the general principle holds that repayment of principle plus the interest paid equals the income generated by the asset over its life, how can a buyer borrow, invest, pay back, and still make money? It can be done but under a different set of circumstances than those that govern the general principle. A buyer, for example, can make money if he has better information

than the seller, is a better negotiator than the seller, is both more risk prone and lucky, or is able by one way or another to increase the annual income generated by the asset. Income can be increased in the following two ways. If the buyer is an operator as well as an investor and if he is more efficient than the seller, income will increase because of the more efficient operation. Second, income will increase if the buyer gets an income tax break that was not available to the seller. It should also be noted, however, that the buyer can lose if it turns out that the seller had better information, that the buyer encountered bad luck, or that income fell because, for example, the buyer was a less efficient operator.

The above analysis is relevant to the proposed AGSOC program in at least two ways. First, it demonstrates the critical role in the viability of an AGSOC of the two "silk purse" tax exemptions that were initially sought and finally refused. And, second, it suggests that AGSOC proponents will begin to promote AGSOC as an operating company rather than as a holding company. As an operating company, an AGSOC would apparently gain a tax advantage through its tax integration feature and might be able to increase income if it proved to be more efficient as an operator than the seller. But AGSOC as an operating company would break with the Kelso tradition as to the nature of investment in his capital diffusion program.

The Holding v. Operating Company Issue. The federal enabling statute simply empowers a GSOC "to invest in properties." It is assumed that this empowers the GSOC not only to purchase

and hold securities in other corporations (the holding company issue) but also to purchase assets and operate a business in its own name (the operating company issue). As a holding company, the federal law limits a GSOC's holding to 20 percent of the stock of any corporation. As an operating company, however, a GSOC can apparently own 100 percent of the assets of a business operated under its own corporate name.

In the Kelso scheme of things, the 90 percent of households were to be allowed to invest only in a limited group of corporations. This group was more broadly conceived in CM than in the later TFT and PA. In CM individual households were to purchase directly the stock in existing corporations so as to realize a "balance between securities of well-seasoned corporations and those of still somewhat speculative businesses;" investment in the securities of "brand new and completely unseasoned enterprises" as well as those of "unseasoned and speculative" (CM, p. 241) firms was to be denied. Concern over the need to reduce the level of concentration, however, induced Kelso and Adler to suggest that the program "should direct a predominant share of new capital formation into new enterprises owned by new capitalists" (CM, p. 215). In later writings investment recommendations became more cautious.

In TFT Kelso and Hetter wrote of investment only in terms of "well-managed" firms (TFT, p. 61 and P. 97). Speiser in his PA is more descriptive. According to him, Kelso advocated investment only in the "big winners," the "profitable giants" (PA, p. 56), the "major successful businesses" (PA, p. 54), and

and the "largest and most successful" corporations (PA, p. 80). Investment was to be discouraged in "new start-up ventures" (PA, p. 56) and in "venture capital (because that) is a game to be played by the very wealthy" (PA, p. 80).

In sum, investment by households was to be done either directly or through a special mutual fund arrangement in major, well-managed corporations. Investment in speculative or start-up ventures was to be discouraged. In no event and at no place did Kelso and his associates in the three books covered in this report recommend a comprehensive capital diffusion program that would involve creation of and investment by non-capitalists in a special corporation that would both acquire productive assets and manage the operation.

As we noted in the previous section, AGSOC proponents may well come under increasing pressure to transform an AGSOC from a holding company into an operating company. Such a development would certainly break with Kelso's previous reasoned conceptions of the nature of investment by non-capitalist households in the corporate economy. The expected result of this development would be significantly to increase both the risk characteristics and the degree of uncertainty associated with the AGSOC. There would probably be adverse effects on the ability to secure 100 percent debt financing and on the probability of a reasonable pay-out period.

Appendix

The discounted present value of a future income stream is calculated by this formula:

$$\frac{Y_1}{2+i} + \frac{Y_2}{(2+i)^2} + \frac{Y_3}{(2+i)^3} \cdot \quad + \frac{Y_n}{(2+i)^n} \quad \text{where}$$

Y is the annual income for that year, i is the discount rate, and n is number of the years in the asset's life. If we assume Y to be $100, i to be 5 percent, and the life of the asset to be five years, the result of the calculations would be:

$$\frac{\$100}{1.05} + \frac{\$100}{1.1} + \frac{\$100}{1.16} + \frac{\$100}{1.22} + \frac{\$100}{1.28} =$$

$$\$95.24 + \$90.90 + \$86.21 + \$81.97 + \$78.13 = \$432.45$$

The buyer should, therefore, be willing to pay $432 for the asset or less. Using the same calculations, the similarly situated seller would accept no less than $432.

If the buyer borrowed $432 for five years at five percent to buy the asset, his situation at the end of five years would be:

1. He would have received $500 in income over the five year period.
2. He would have paid back the $432 he borrowed plus $68 in interest payments on the declining balance to the creditor--a total of $500.

In short, his cash inflow would equal his cash outflow for the five year period.

STATE OF ALASKA
THE LEGISLATURE

POUCH V STATE CAPITOL
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LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 10, 1980

SUBJECT: Final draft of CS for House Bill 240

TO: Representative Mike Miller

FROM: Tamara Brandt Cook
Legislative Counsel

Enclosed please find the final draft you requested of CSHB 240. I noted that sec. 10.50.295(b) relating to shareholder removal of directors is ambiguous and would suggest that this section be redrafted for the sake of clarity. It now reads:

> "An individual director may be removed if the majority of votes cast for his removal exceeds the number of votes he received at the last preceding election . . ." (Emphasis added)

This is capable of being interpreted to mean that a director may not be removed unless the number of votes over 50 percent of the votes cast (a majority) is greater than the number of votes he received when elected. On the other hand, it could simply mean that only a majority of votes is required if the number exceeds the number of votes which the director initially received.

TBC:jdn

Enclosure

WORKING PAPER ON

DIVIDEND DISPERSAL PROGRAMS

By Governor Jay S. Hammond

There is increasing interest in providing Alaskans with a "piece of the action" through some method of distributing "dividends."

I am encouraged by this for I believe it appropriate that all Alaskans receive some direct benefits from their resource wealth rather than simply receiving whatever more government we politicians think they should have.

-- ALASKA INC.

Some few years ago, I proposed a means by which a portion of income earned from investments of the public's resource wealth would be distributed in direct dividends to all "shareholders". This proposal became known as Alaska, Inc. I introduced a modified form of Alaska, Inc. again this year, as has Senator Sumner.

-- AGSOC

Another means of granting Alaskans a "piece of the action" has been proposed by Senator Gravel. This is known as "Alaskan General Stock Ownership Corporation" or AGSOC. Unlike Alaska, Inc. which disperses a portion of earnings from investments of citizen-owned resource wealth, an AGSOC would permit citizens to own shares of development programs which might relate - but not necessarily exclusively - to the manner in which that resource wealth was transported, refined or manufactured. The necessary capital to acquire ownership in such endeavor could come either from the sale of tax free revenue bonds, private financing or State guaranteed funds.

-- MUTUALLY EXCLUSIVE OR COMPATIBLE?

While the intent of both programs is similar, there are important distinctions. Moreover, while they are by no means mutually exclusive, I am increasingly convinced that insofar as the State's long term best interest is concerned, an AGSOC can best work only if an Alaska, Inc. program is first put into place and, as well, certain amendments are made to both bills now before us.

In order to discuss my reasons for so concluding, it is necessary first to explain how, ideally, I believe an Alaska, Inc. program should work.

-- MECHANICS OF ALASKA, INC

Each Alaskan would receive, annually, one share of 1/2 the earnings of Permanent Fund investments for every year they have resided in "an area where cost of living was recognized by the Federal government as warranting a 25 percent cost of living pay differential for its employees." While nothing is said about residency versus nonresidency, all Alaskans, of course, would qualify. Those with longer tenure would accrue more shares. Shares would not be transferable. However, new Alaskans, upon qualification, would as well receive shares.

Application for annual dividends could be made upon filing an income tax form attesting to ones having resided during most of the previous year in such a high C.O.L. area. Thus, persons who leave the state would no longer qualify after one year.

In a bill I presented to the Legislature this year, House Bill 99, such "dividends" would come only in the form of tax credits. Moreover, no one would qualify for more than one share for each year during which the applicant had paid State income taxes up to a total of five shares. This five-year limitation was proposed since Department of Revenue tax records are held for only five or six years.

While this approach was taken to curry support from those who wanted tax relief as well as for administrative convenience in checking an applicant's eligibility, it raises serious questions.

For example, all citizens, whether they're taxpayers or not, are impacted by Alaska's high cost of living. Moreover, if you truly believe, as I do, that Alaskans collectively own such resource wealth as their royalty oil, how can we justify dispersing income investments of collectively owned Alaskan wealth selectively to only those who make enough money to have to pay taxes? Accordingly, I would prefer that dividends go to all otherwise qualified citizens either in the form of tax credits or as a negative income tax return.

Additionally, since the rationale for dispersing dividends is based on the belief that with all their energy wealth Alaskans should receive at least some direct relief from the exceptionally high price they've had to pay for energy, then there is little rationale to compensate them for but 5 years of such impact. Compensation should be for each year so impacted.

Though determining the number of years for which each applicant is qualified may seem difficult, it is less difficult than obtaining similar data required for proof of eligibility for receipt of the longevity bonus, guide licenses, limited entry permits, or entry into a pioneer home.

To minimize administrative costs and the likelihood of perjury, we could require an affidavit from the applicant with two other "shareholders" as witnesses. If all parties were to lose eligibility should they perjure themselves, it is unlikely many would falsify claims. In those cases where no witnesses will come forward, shares could be confined to the number of years the applicant can provide documentation to prove his case, i.e., tax records, etc.

The conclusion that an Alaska, Inc. type program should be established before an AGSOC proposal was reached primarily because of the potentials of an AGSOC to place the shareholders' interests precisely at odds with State interests. For example, one AGSOC proposal involves partial purchase of the trans-Alaska oil pipeline. Should all shareholders then get dividends based on the profitability of that purchase, it is to the shareholders' benefit to get the highest possible price - i.e. tariff - for transporting oil. However, the State treasury, including the Permanent Fund, gets more money the lower the tariff. Thus, the AGSOC's interest would be precisely opposite those of the State in regard to the level of tariff. On the other hand, in the case of an Alaska, Inc. type distribution of Permanent Fund earnings, the interests of the State and the shareholders would be precisely the same.

Similarly, if an AGSOC were to invest in a petrochemical plant, its shareholders would benefit if we sold that plant our royalty oil at a cut rate. This too would be a loss to the State's Permanent Fund and to those who did not hold shares of that AGSOC.

Only by passing an Alaska, Inc. type program first could we likely establish conditions where the State and all Alaskans' interests were compatible insofar as maximizing the return from the citizens' resource wealth. Once in place, such programs reduce the likelihood of conflicting AGSOC proposals being undertaken.

In its present form, proposed AGSOC legislation has other problems:

1. Since only one share of stock goes to each person here in Alaska at the time each AGSOC is formed, ultimately there would be two types of Alaskans: those who were shareholders, and those who were not.

Remedy:
One way to remedy this is to amend the bill to provide one share of stock for each year the shareholder has resided in a locale where the government recognizes cost of living impact sufficient to warrant their payment of a 25 percent cost of living differential to government workers. Then all Alaskans would be shareholders.

2. AGSOC shares would be transferable, permittting money to leave Alaska. This should be amended since the prime objective and rationale is to insure that Alaskans get a "piece of the action" to compensate them, in part, for the exceptionally high cost of living impact here in Alaska. Accordingly, persons who have moved to Hawaii or California have no justification for receiving such cost of living offset.

Remedy:
A remedy would be to require that persons make application for their annual dividends on an Alaskan income tax filing form attesting to their having resided during most of the previous year in an area of qualifying high cost of living differential.

3. Another problem is, what if the AGSOC loses money? Who then pays off the bonds or other debt obligations? I am opposed to State guarantees. Would the AGSOC shareholders then become liable?

Remedy:
To offset this concern, were the Alaska, Inc. concept in place first, guarantees or collateral could be an AGSOC shareholder's prospective Alaska, Inc. dividends. Far better to use the AGSOC shareholder's prospective Alaska, Inc. dividends as such than use, as guarantees, Permanent Fund principle or general fund monies which belong to all Alaskans, not just AGSOC shareholders.

4. Under an AGSOC proposal some shareholders may be unwilling participants in programs to which they are philosophically or otherwise ill disposed.

Remedy:
If one is already a shareholder in an Alaska, Inc. program, they should be able to elect whether or not they wish to become an AGSOC shareholder. By so doing, they would not be compelled to participate in some development program they may not favor in order to get any "piece of the action" whatsoever.

Another reason why the Alaska, Inc. program should go in place first is because it would motivate placement of more oil wealth behind the Permanent Fund "rope" where it could not be used for more government or as guarantees for some shakey AGSOC proposal. Since Alaska, Inc. shareholder "dividends" are directly dependent upon the amounts of money placed in the Permanent Fund, there would be a countering pressure to those political pressures which create bigger government.

Because the Alaska, Inc. approach would provide "dividends" from an "enterprise" already returning revenues which belong to all Alaskans, the charge of "improper involvement of government into private sector affairs" is absent. Of course, since AGSOC's are not truly government functions the traditional "undue involvement" charge does not really wash. However, because of the potential impact on government funds to bail out ailing AGSOCs, a reverse concern may be valid: "undue involvement by the private sector in the affairs of government."

Other advantages recommending prior implementation of Alaska, Inc. are its comparative simplicity and the fact that unlike the speculative nature of any AGSOC, we would be betting on a "sure thing." For example, we know that we have a fully capitalized, debt free enterprise in the Permanent Fund which can immediately start paying "dividends". No loans must be made; bonds sold; speculation engaged in. We are already functioning "in the black." Surely if we're going to condition the public to feel comfortable with any "dividend distribution' system at all, we should start with a simplistic "sure" winner.

A major benefit of increasing contributions to the Permanent Fund is that the other half of the resultant increased recurring income from Permanent Fund investments would flow into the General Fund where it could supplant these non-recurring oil wealth dollars now improperly funding our day to day government operations. Such reduction of our dangerous dependence upon principle dollars for funding operations - which should be funded with income dollars - is imperative.

If the AGSOC program goes on the line first, the chances of finding surplus State dollars to place into the Permanent Fund would likely diminish.

Thus, while I favor both the Alaska, Inc. and AGSOC concepts for insuring all citizens a "piece of the action," I believe it imperative that the Alaska, Inc. program be placed on line before an AGSOC be established. Meanwhile, I would like the enabling AGSOC legislation amended to deal with those problems I've previously outlined.

MIKE GRAVEL
ALASKA

United States Senate

April 26, 1979

Dear Friends:

Governor Hammond in his "Working Paper on Dividend Dispersal Programs" criticises the House State Affairs Committee AGSOC bill. He assures me that his comments were not intended to give the impression that he would veto the AGSOC bill, but were offered as an aid in moving the bill forward. However, the Governor has made some assertions which are wrong and need to be corrected.

The Governor implies that AGSOC, like Alaska Inc., is merely a means of distributing "dividends" to Alaskans. AGSOC is not a scheme for distributing state assets to Alaskans, but a vehicle through which Alaskans can acquire new wealth independently of government. AGSOC is a vehicle for new capital ownership by the citizens of Alaska, not a scheme to distribute something they already own.

The Governor maintains that AGSOC would place the interests of the shareholders at odds with the interests of the state. The interests of the state are not independent of the interests of its people. The shareholders of AGSOC will be the people of Alaska. It is my conviction that people will be better citizens if they have a real economic interest in private enterprise and that they will act in their own best interests as economic shareholders and political citizens.

The Governor criticises AGSOC because it will create two types of citizens, shareholders and non-shareholders, and proposes as a remedy a scheme which creates many classes of citizens shareholders based on length of residency in Alaska. The Governor misses the point of AGSOC. The rational for AGSOC is not to "compensate" anyone for living in Alaska, but to provide a means other than the taxing power of the state for Alaskans to participate in the economic development of their state.

The House State Affairs Committee AGSOC bill prohibits ownership of AGSOC shares by outsiders. When a shareholder leaves the state he is required to sell his stock either to the corporation or another Alaskan.

The House Committee carefully considered the question of state financial assistance to AGSOC and made it clear that AGSOC was to be treated no differently than any other private corporation seeking state financial assistance. If, after full legislative action, the state decides to assist in AGSOC financing it will be doing no more than what it has already done for those Alaskans holding more than $150 million in state low interest business loans.

The corporate doctrine of limited liability protects the shareholders of AGSOC from any liability for the debts of the corporation.

There is no requirement that an Alaskans become a shareholder of AGSOC. He may reject the stock offered to him at any time within one year of its issue. If he becomes a shareholder and does not want the corporation involved in a particular investment he may put the question to a vote of the shareholders.

Best regards,

Mike Gravel

HB 240

February 23, 1979

Honorable James Duncan
State Representative
Pouch V
Juneau, Alaska 99811

Dear Jim:

I would like to take this opportunity to express my opposition to your General Stock Ownership Plan (G.S.O.P.) bill.

I feel the State's royalty and/or permanent fund income would be more equitably used as a vehicle to reduce income taxes and increase revenue sharing. This would result in a distribution which relates in some manner to the widely varying burdens carried by different people by present income and property tax schedules.

I likewise find the $100/200/300 tax credit bill passed last year distasteful. The person who pays, say, $10,000 a year in State income tax realizes no more benefit than the person who previously paid only $300 and only an insignificant benefit in comparison to the person who draws welfare and pays no taxes.

A program for an across the board percentage temporary tax credit or permanent tax reduction would be more equitable. A scaled credit with a smaller percentage applying to higher tax brackets would be less preferable than a flat credit but would still be preferable to last year's credit or the proposed G.S.O.P., which are both nothing more than thinly-veiled welfare programs.

Sincerely,

Roger R. Shattuck

RRS/ce
cc: Honorable Mike Miller
Honorable Bill Ray

Shattuck + Grummett close
Insurance Comp
301 Seward St
Juneau 99801

ALASKA

GENERAL STOCK OWNERSHIP CORPORATION

BILL SUMMARY

Federal law requies state authorization of general stock ownership corporations receiving special tax treatment under Subchapter "U" of the Internal Revenue Code. The bill creates the Alaska General Stock Ownership Corporation (AGSOC). This corporation is a completely private for profit corporation which will operate under the Alaska Business Corporations Act to the extent consistant with the AGSOC act. The shares of the AGSOC will be owned and voted by the citizens of Alaska with each resident holding a share of stock.

The bill directs the Governor to appoint incorporators to form the AGSOC and sets forth the following:

1) Board membership limitations assuring Alaskan control;
2) Federal requirements for corporate articles;
3) Stock distribution to all Alaska residents;
4) Penalties for fraudulent acquisition of AGSOC stock;
5) One year statute of limitations on AGSOC challenges;
6) Financing for AGSOC startup costs; and,
7) Technical amendments required to Alaska statutes.

The corporation is designed to have as its shareholders existing Alaskan residents. Stock will be distributed to eligible individuals without cost. Investments by the AGSOC will be made through the use of borrowed funds and the earnings from those investments used to retire the loan and distribute dividends to the shareholders. Except for minor exemptions the AGSOC will be subject to the same rules as all other Alaska corporations.

DETAILED EXPLANATION

The bill creates a new Chapter 50, entitled "Alaska General Stock Ownership Corporation", within Title 10, the Corporations and Associations title, of Alaska Statutes. The act contains nine sections which may be summaried as follows:

Section 1 sets forth those areas where the AGSOC differs from a typical Alaska business corporation organized under Chapter 5 of Title 10. To the extent that these provisions do not conflict with the provisions of Chapter 5, the Alaska Business Corporations Act, Chapter 5 will apply;

Section 2 includes the corporation among those organizations eligible to receive secured loans from the Permanent Fund;

Section 3 allows the investment of surplus state funds in bonds of the AGSOC;

Section 4 exempts the AGSOC from registration under the Alaska securities laws while providing protection from fraud;

Section 5 creates a one year statute of limitations on suits brought to challenge legality of the AGSOC;

Section 6 makes the provisions regarding eligibility for stock ownership "nonseverable" in order to assure that if this fundamental section is found unconstitutional the entire law will be voided;

Section 7 makes fraud or misrepresentation in obtaining or selling shares of the AGSOC a Class C felony; and,

Sections 8 and 9 provide effective dates immediately following the Governor's signature for most of the legislation.

ANALYSIS: SECTION 1

Section 1 of the bill constitutes the primary legislative section. It creates a new chapter, Chapter 50, of the Alaska Statutes, Title 10, setting forth technical requirements for the Alaska General Stock Ownership Corporation. The Chapter is divided into nine sections dealing with creation of the AGSOC, federally required charter limitations, board of directors, notification of shareholders' eligibility, limitations on corporate liability, restrictions on application for shares, fraud penalties, corporate dividends and definitions. A section by section analysis of Chapter 50 follows.

50.010. ALASKA GENERAL STOCK OWNERSHIP CORPORATION CREATED.

This section directs the Governor to appoint nine people as the incorporators and initial board members of the Alaska General Stock Ownership Corporation. These nine people, a majority of whom must be Alaskans, will adopt corporate articles and bylaws and file with the state to create the corporation as required under the Alaska Business Corporations Act. The bill allows the appointment of some non-Alaskan directors to provide flexibility in obtaining special expertise.

The status of the general stock ownership corporation is made clear by this section. AGSOC is not and may not be considered to be an agency, instrumentality or political subdivision of the State of Alaska. This parallels the federal statute which provides that a GSOC shall be treated as a private corporation and not as a governmental unit. The section also clarifys AGSOC status in relation to other statutes by requiring that it comply with the provisions of Subchapter U of the Internal Revenue Code and the Alaska Business Corporations Act. To the extent that the AGSOC authorizing legislation is not inconsistant with Chapter 5 of Alaska Statutes Title 10, AGSOC will be subject to all the rules applicable to any other Alaska business corporation.

50.020. ARTICLES OF INCORPORATION.

Federal law requires certain charter provisions for general stock ownership corporations and these are set out as requirements for the articles of incorporation of the Alaska General Stock Ownership Corporation. Each of the subsections in .020 set forth a different requirement which must be included in the AGSOC articles.

Subsection 1 provides that the AGSOC may issue only one class of stock which impliedly must be voting common stock.

Subsection 2 provides that stock may be issued only to a certain class of individuals. The group to whom stock may be issued, a closed class of original issue shareholders, are those people who fulfill two tests:

a) They were residents of Alaska, as defined by the definition Section .900, as of the effective date of the legislation which, under Section 8 of the bill, will be the day following the Governor's signing; and,
b) They remain residents of Alaska until the shares are issued.

50.900 defines resident as a person who lives in Alaska and intends to remain here permanently. The definition allows for temporary travel or employment outside without loss of residency. If a dispute arises over residency all of the facts and circumstances indicative of permanent residency must be considered.

Subsection 3 provides that at least one share of stock must be issued to each eligible resident unless that person elects within one year not to receive the stock. The legislation contemplates issuance of shares to eligible individuals free of charge with corporate investments financed entirely with borrowed funds. The one year period allows shareholders who do not wish to receive stock for whatever reason to reject their share, but this election not to receive stock is irrevocable and once made may not be changed.

Subsection 4 provides for limitations on the transferrability of the stock so that shares may not be sold or used as security for a loan during the first five years unless the shareholder dies or moves out of the state. Shares may only be transferred to another Alaska resident and then only if that person would not own more than ten shares of AGSOC stock after the transfer. Corporations and other artificial persons may not be shareholders. Finally, in order to protect minors, shares may not be transferred until the shareholder reaches 18.

Subsection 5 provides that the corporation shall qualify as a general stock ownership corporation subject to the special tax provisions of Subchapter U of the Internal Revenue Code.

Subsection 6 provides for a limitation on investments which the corporation may purchase. The corporation may not invest in assets acquired by it or for its benefit through the power of eminent domain. This is not to imply that the AGSOC has the power of condemnation since that power may be exercised only by the government. The limitation is designed to prevent the AGSOC from acting in collusion with an agency or local government to acquire a going business from an unwilling seller. It is not intended to prevent the purchase at arm's lenght of a business where a portion of the seller's assets may have been acquired by condemnation. The AGSOC would not be prevented from investing in a project where some minor portion of the assets must be acquired through eminent domain is the State or local government determines that the exercise of its condemnation power is appropriate. Such a situation might occur should the AGSOC become involved in the construction of a major pipeline.

Subsection 7 provides the AGSOC with a right of first option to purchase, at a price not less than book value, any stock offered for sale during the first five years of the corporation. The terms and conditions for exercise of this right will be set forth in detail in the corporate bylaws and a notice of the restriction will appear on the stock certificates or receipts.

The five year period for the right of first option parallels the time during which shareholders are prohibited from selling their stock. Only a limited number of shares will become available for sale during this period of time and it is unlikely that an organized market for AGSOC stock will develop during this period. Discretion is left with the corporation to pay prices higher than book value for the stock, but it is likely that the directors will determine that book value is the appropriate price.

Since shareholders who become non-residents during the five year period of transfer restrictions may be able to sell their stock at a high price in an uncontrolled market emigration might be encouraged. The option by the corporation provides a controlled market during the transfer restriction period and allows time to structure the full public market which will develop after the transfer restrictions lapse.

50.030. BOARD OF DIRECTORS.

This section sets out the provisions for AGSOC directors which differ from those applicable under Alaska Statutes Title 10, Chapter 5. The nine incorporators serve as the original board of directors and are divided into three groups in accordance with AS 10.05.186, except that only one-third of the directors will stand for election at the first annual meeting, one-third at the second annual meeting and one-third that the third annual meeting. Thereafter each director will serve for a term of three years as provided in AS 10..5.186. None of the other provisions of the Alaska Business Corporations Act regarding directors are changed and the normal rules of Chapter 5 apply to the AGSOC.

SHAREHOLDER.

This section provides a civil right of action against individuals who obtain stock through fraud or misrepresentation and who sell stock on the same basis. It allows the stock to be voided, dividends to be recovered with interest and costs of the suit to be paid by the defendant.

50.080. DIVIDENDS OF THE CORPORATION.

Under the rules of the Alaska Business Corporations Act a corporation may pay dividends only out of earned surplus, the retained earnings of the corporation. Since the AGSOC is required by federal law to distribute 90% of its taxable income to its shareholders on an annual basis is may be necessary to distribute a dividend in excess of earned surplus. Such a situation can arise because accounting for tax purposes and for purposes of the corporation's books may not and are not required to be the same. For this reason an exception to the general rule of Chapter 5, Title 10, is required allowing the AGSOC to distribute dividends as required to meet the terms of Internal Revenue Code Subchapter U except where such distribution would cause the corporation to become bankrupt or when the corporation is already bankrupt. Bankruptcy in this situation means when the corporation is unable to meet its current obligations.

50.090. EXEMPTION FROM AS 10.05

This section exempts the AGSOC from the provisions of the Alaska Business Corporations Act which requires $1,000 of paid in capital before operation of the corporation commences.

50.100. LOAN GUARANTEE FUND.

This section establishes a fund within the Department of Revenue which is to be used to guarantee loans to the AGSOC by private lenders. This fund is intended to provide security for private credit to be used by the AGSOC for its startup expenses such as the costs of stock issue and the investigation of potential investments.

50.900. DEFINITIONS.

This section defines the terms used in Chapter 50. Especially important is the definition of resident since that definition will determine who is eligible to receive AGSOC stock without charge.

50.040. NOTIFICATION OF ELIGIBLE SHAREHOLDERS.

Since stock is to be distributed free of charge all Alaska residents must be notified of its availability. This section sets out the minimum notice requirements of weekly broadcast and publication for at least three months before stock distribution and monthly broadcast and publication for eleven months after distribution. These are minimum requirements only and the board of directors may determine that the corporation should take other steps to identify and notify potential shareholders. The AGSOC might want to compile mailing lists from various sources to develop a list of potential shareholders while in the bush it might be appropriate for it to hire census personel to locate and identify eligible Alaskans.

50.050. CORPORATION NOT LIABLE TO SHAREHOLDERS.

This section makes it clear that although the AGSOC is required to take reasonable steps to notify potential shareholders of their right to stock the burden of applying for stock lies with the resident and the corporation is not liable for failure to notify or issue stock to a potential shareholder. If a resident makes application for stock after the distribution of one or more dividends he looses his right to those dividends and is entitled to receive only those dividends declared and paid after the date upon which his stock was issued to him.

50.060. LATE APPLICATION FOR SHARES.

The legislation provides that stock is to be issued to all qualifying residents and the corporation directed to use reasonable efforts to identify potential shareholders. The burden of application is upon the resident. Those residents who are identified or who identify themselves will have one year in which to elect not to receive stock. To protect against those eligible residents who are not identified and fail to identify themselves hoping to see how the corporation fares before applying for their stock, a final cutoff date is provided after which distributions of stock will be made only upon payment to the corporation of book value.

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 12, 1979

The Honorable Mike Miller
Chairman
House State Affairs Committee

The Honorable Brad Bradley
Chairman, Senate Commerce Committee
Alaska State Legislature
Juneau, Alaska 99811

Dear Sirs:

Thank you for this opportunity to offer my views on SB 170/HB 240, the enabling legislation for an Alaska General Stock Ownership Corporation (AGSOC). As you know, I have been an advocate of a similar idea, Alaska, Inc., which was designed to distribute a portion of the income produced from Permanent Fund to Alaskans. This idea has been incorporated into my proposal for the Permanent Fund through the distribution of one-half of the earnings of the Permanent Fund to Alaskan residents in the form of tax credits.

As I understand it, the AGSOC concept proposes a completely private corporation, the shareholders of which would be Alaska residents who elect to receive a share. Like Alaska, Inc., the earnings of the AGSOC would also be distributed to residents as dividends on their shares. I would like to express my support of the AGSOC idea in concept. AGSOC would represent a unique experiment to provide an opportunity for the broad participation of Alaska residents in the financing of resource development projects in the state. I would encourage you to undertake as much investigation and public discussion as possible in order to familiarize all Alaskans with this idea and to insure that a wise and informed decision will be made. While I wish to reserve judgement on the specific details of this idea pending additional review, I do hope to work closely with your committee and other committees as the bills proceed through the legislative process.

To facilitate this cooperation, I have requested the Division of Policy Development and Planning to coordinate the Administration's review of this legislation, and to work closely with the Departments of Law, Revenue, Commerce and Economic Development, and with Sterling Gallagher, who is on contract with my office on this issue.

Specific comment and recommendations on the bill must await additional analysis. However, there appears to be a number of philosophical and technical difficulties with the sponsor substitute which we wish to take up with your committees at subsequent hearings.

One fundamental issue which I would like to raise at this point is the question concerning the applicability of the normal procedures for corporate governance (annual shareholder meetings, voting by proxy, etc.) to this unique corporate creature which will make shareholders voice their concerns and influence or veto management decisions. I hope that this experiment in economic democracy might be linked to an experiment in corporate democracy which might involve the creation of mechanisms specifically tailored to insure adequate shareholder representation and participation in major management decisions.

There are many details about the bill which require closer scrutiny, such as the amount of state assistance which will be required and the investment opportunities available. My Administration intends to work closely with you on this issue to analyze these and other questions. We look forward to an open dialogue to resolve any uncertainties and to talk with Alaskans about this exciting opportunity for our future.

Sincerely,

Jay S. Hammond
Governor

ALASKA STATE LEGISLATURE

Legislative Affairs Agency

Pouch Y - State Capitol
Juneau, Alaska 99811

REGIONAL INFORMATION OFFICE
1024 West 6th Avenue
Anchorage, Alaska
99501
(907) 278-3668

Enclosed for your information and files are materials relating to the teleconference on HB 240, Alaska General Stock Ownership Corporation held March 12, 1979, including a copy of the witness and observer list.

Judy Hopkins
Anchorage Moderator

LAA 11
(Rev. 4-29-77 K)

Alaska State Legislature

TELECONFERENCE HEARINGS

SUBJECT: HB 240 - Alaska General Stock Ownership Corporation (Duncan et al)

COMMITTEE: House State Affairs (MILLER, Fuller, Gardiner, Parker, Eliason, Martin, Metcalfe)

DATE: Monday, March 12, 1979

TIME: 5:30 p.m. A.S.T.

SITES PARTICIPATING: Gravel, Anchorage, Fairbanks and other interested sites

CONFERENCE MODE: audio

LOCATION: LIO

MODERATOR: Hopkins

UAA ADVISED, CONFIRMED na
Extra bills ordered
Register prepared 3/5/79

NOTES:

Summary Coming.

✓ UAA 263-1756
○ ACC 263-1536
✓ APU 276-8181
✓ ISER 278-4621

Briefing teleconference - hearings later on.

start - 5:30
end - 8 pm

PUBLICITY:

INVITATIONAL

	Date	Quantity
PSAs	3/6/79	26
Audio PSAs		
Video PSAs		
News releases	3/8/79	30
Direct mail		
Phone contacts	3/12/79	8 4
Other:		
Posted at LIO	3/5/79	

Copies to LTN Juneau 3/13
Copies to committee 3/13
~~Copies to sponsor~~

NUMBER IN ATTENDANCE 4
NUMBER TESTIFYING 0

61-08

Today in Anchorage

Public input on House Bill 240, creating the Alaska General Stock Ownership Corp., is invited by the House State Affairs Committee in an audio teleconference beginning at 5:15 p.m. at the Legislative Information Office, 1024 W. Sixth Ave. Area residents interested in testifying should register in advance by calling 279-3668. Observers are welcome.

Alaska State Legislature

TELECONFERENCE HEARINGS

March 8, 1979

Contact: Representative Mike Miller
465-4964 Juneau or Judy Hopkins
278-3668

FOR IMMEDIATE RELEASE

ALASKA GENERAL STOCK OWNERSHIP PLAN AIRED

Legislation creating the Alaska General Stock Ownership Corporation will be considered in an audio teleconference hearing beginning at 5:30 p.m. Monday, March 12 at the Legislative Information Office, 1024 West Sixth Avenue. Participants will include Senator Mike Gravel and residents of Anchorage and Fairbanks interested in commenting on the proposal before the House State Affairs Committee, chaired by Representative Mike Miller of Juneau.

House Bill 240, sponsored by Representative Jim Duncan and eight of his House colleagues, creates the Alaska General Stock Ownership Corporation as a completely private for profit corporation which will operate under the Alaska Business Corporations Act to the extent consistent with the AGSOC act. The shares of the AGSOC will be owned and voted by the citizens of Alaska with each resident holding a share of stock.

The bill directs the Governor to appoint incorporators to form the AGSOC and provides for board membership limitations assuring Alaskan control,

(MORE)

MORE ON STOCK OWNERSHIP PLAN

stock distribution to all Alaska residents, penalties for fraudulent acquisition of AGSOC stock, and financing for AGSOC startup costs.

The corporation is designed to have as its shareholders existing Alaska residents. Stock will be distributed to eligible individuals without cost. Investments by the AGSOC will be made through the use of borrowed funds and the earnings from those investments used to retire the loan and distribute dividends to the shareholders. Except for minor exemptions, the AGSOC will be subject to the same rules as all other Alaska corporations.

Federal law requires state authorization of general stock ownership corporations receiving special tax treatment under Subchapter "U" of the Internal Revenue Code.

###

Alaska State Legislature

TELECONFERENCE HEARINGS

March 6, 1979

Contact: Judy Hopkins 278-3668

PUBLIC SERVICE ANNOUNCEMENT

(Run through 3 p.m. 3/12/79)

PUBLIC INPUT ON HOUSE BILL 240, CREATING THE ALASKA GENERAL STOCK OWNERSHIP CORPORATION, IS INVITED BY THE HOUSE STATE AFFAIRS COMMITTEE IN AN AUDIO TELECONFERENCE STARTING AT 5:15 p.m. MONDAY, MARCH 12, AT THE LEGISLATIVE INFORMATION OFFICE, 1024 WEST SIXTH AVENUE.

AREA RESIDENTS INTERESTED IN TESTIFYING SHOULD REGISTER IN ADVANCE BY CALLING 278-3668. OBSERVERS ARE WELCOME.

###

Legislative Affairs Agency
Legislative Teleconferencing Network
State Capitol . Pouch Y . Juneau . 99811

Phone: 465-4980

PLEASE PRINT

Name: Douglas B. Terhune — Here to TESTIFY: ____

Representing: Self

Mailing Address: 2711 W. 84th Ave Zip 99502 — Here to OBSERVE: ✓

Phone: 243-7189

BROADCAST CONSENT: This proceeding may be broadcast live or recorded for later broadcast by radio or television stations. Please indicate your consent by signing below:

Douglas B. Terhune
(signature)

Have you participated in other legislative teleconferences? YES How many? 6-8

Would you have participated in this hearing if the network were not available?

PLEASE PRINT

Name: Amy E Quesnel — Here to TESTIFY: ____

Representing: Senator Frank

Mailing Address: P.O. Box 2283 Anchorage Zip 99510 — Here to OBSERVE: ✓

Phone: 277-4591

BROADCAST CONSENT: This proceeding may be broadcast live or recorded for later broadcast by radio or television stations. Please indicate your consent by signing below:

Amy E Quesnel
(signature)

Have you participated in other legislative teleconferences? ____ How many? ____

Would you have participated in this hearing if the network were not available? ____

How did you learn about this hearing?

If yes, did you use the network:
___ instead of travel
___ instead of phone conversations
___ instead of mailed testimony

PLEASE PRINT

(Fred)

Name: Fred B. Morgan — Here to TESTIFY: (Yes)

Representing: Self

Mailing Address: Box 2328; Anchorage, Zip 99510 — Here to OBSERVE: ____

Phone: ____

BROADCAST CONSENT: This proceeding may be broadcast live or recorded for later broadcast by radio, or television stations. Please indicate your consent by signing below:

Fred B. Morgan
(signature)

Have you participated in other legislative teleconferences? ✓ How many? 3 or 4

Would you have participated in this hearing if the network were not available? No

How did you learn about this hearing? Anch. Daily News (2-day in Anch. only)

If yes, did you use the network:
___ instead of travel
___ instead of phone conversations
___ instead of mailed testimony

Date: 3/12/79 Subject: HB 240 - GSOC Location: Anchorage

PLEASE PRINT

Name Jerry McCutcheon — Here to TESTIFY ____

Representing _____

Mailing Address _____ Zip _____ — Here to OBSERVE ____

Phone _____

BROADCAST CONSENT: This proceeding may be broadcast live or recorded for later broadcast by radio or television stations. Please indicate your consent by signing below:

_____
(signature)

Have you participated in other legislative teleconferences? ____ How many? _____

How did you learn about this hearing?

_____

Would you have participated in this hearing if the network were not available? _____

If yes, did you use the network:
___ instead of travel
___ instead of phone conversations
___ instead of mailed testimony

Date: 3/12/79 Subject: HB 240 - GSOC Location: Anchorage

EOM

LA21 1930 15.24 JA01 0043 15.24 03/16/79

FROM: FAIRBANKS LEGISLATIVE INFORMATION OFFCE

TO: REP. MILLER, HOUSE STATE AFFAIRS CHAIRMAN
CC: CLAUDIA COYNER, TELECONFERENCE NETWORK REP.

FOLLOWING IS LIST OF OBSERVERS ON MARCH 12 AT HOUSE STATE AFFAIRS COMMITTEE TELECONFERENCE ON HB 240 FOR INCORPORATION IN YOUR COMMITTEE'S RECORDS.

1. JENNIFER JOHNSTON, BETTYE FAHRENKAMPE, 221 KODY DR., FBKS 99701 452-8097
2. ROBERT DEMPSEY, ECON, DEVELOPMENT COMM., CHAMBER OF COMMERCE, 11 WOLF RUN, FBKS 99701 479-5154
3. ROSE C. HOUGH, SEN. MIKE GRAVEL AND DEMOCRATIC CENTRAL DIST. COMMITTEE, 4050 EVERGREEN AVE, FBKS 99701 452-6227
4. EDITH RISSELL, SENATR MIKE GRAVEL, BOX 7, 101 12TH AVE., FBKS 99707 452-6227
5. ALLAN R. JOHNSTON, SELF, 221 KODY DR., FB S 77701 452-8094
6. MONTE SHADE, SELF, P.O. BOX 1271, FBKS 99707 452-8352
7. TERRY PALCZER, SELF, SR BOX 10671, FBKS 99701 479-6344
8. SHERRY MODROW, SELF, BOX 2847, FBKS 99707 456-2037

/NS/ EOM

ALASKA STATE LEGISLATURE

Legislative Affairs Agency

Pouch Y - State Capitol
Juneau, Alaska 99811

REGIONAL INFORMATION OFFICE
1024 West 6th Avenue
Anchorage, Alaska
99501
(907) 278-3668

Enclosed for your information and files are materials relating to the teleconference on HB 240 - AGSOC held March 14, 1979, including a copy of the witness and observer list.

Judy Hopkins
Anchorage Moderator

LAA 11
(Rev. 4-29-77 K)

Alaska State Legislature

TELECONFERENCE HEARINGS

SUBJECT: HB 240 - Alaska General Stock Ownership Corporation (Duncan et al)

COMMITTEE: House State Affairs (Miller)

DATE: Wednesday, March 14, 1979

TIME: 5:30 - 7 p.m. A.S.T.

SITES PARTICIPATING:

CONFERENCE MODE: audio

LOCATION: LIO

MODERATOR: Hopkins

UAA ADVISED, CONFIRMED na
Extra bills ordered x
Register prepared x

NOTES:

Gravel will be on hand in Washington

PUBLICITY:

INVITATIONAL

	Date	Quantity
PSAs		
Audio PSAs		
Video PSAs		
News releases		
Direct mail		
Phone contacts		
Other:		
Posted at LIO	3/13	

Bob Richards (Mary Lou Couch) 276-3110
✓ Simpson 276-7133 out of town
✓ Zink 279-2522
✓ Hancock - 263-1810 out of town
Orgt - 272-3508

Copies to LTN Juneau 3/15
Copies to committee 3/15
Copies to sponsor

NUMBER IN ATTENDANCE 1
NUMBER TESTIFYING 1

1-30-79

Name Jerry McCutcheon (T) Here to TESTIFY ✓

Representing _____

Mailing Address _____ Zip _____ Here to OBSERVE _____

Phone _____

BROADCAST CONSENT: This proceeding may be broadcast live or recorded for later broadcast by radio or television stations. Please indicate your consent by signing below:

_____
(signature)

Have you participated in other legislative teleconferences? _____ How many? _____

How did you learn about this hearing?

_____

Would you have participated in this hearing if the network were not available? _____

If yes, did you use the network:
___ instead of travel
___ instead of phone conversations
___ instead of mailed testimony

Date: 3/14/79 Subject: HB 240 - AGSOC Location: Anchorage

LA21 2527 18.17 03/16/79 JA01 0013 08.36 03/17/79

FROM: FAIRBANKS LEGISLATIVE INFORMATION OFFICE

TO: SEN. MULCAHY, SENATE STATE AFFAIRS COMMITTEE CHAIRMAN
REP. MILLER, HOUSE STATE AFFAIRS CHAIRMAN
CC: CLAUDIA COYNER, TELECONFERENCE NETWORK REP.

FOLLOWING IS LIST OF WITNESSES ON MARCH 14 AT SENATE & HOUSE STATE AFFAIRS COMMITTEE TELECONFERENCE ON SB 170 & HB 240 FOR INCORPORATION IN YOUR COMMITTEES' RECORDS.

1. DONALD D. THOMAS, SELF, 3070 TOTEM DR., FBKS 99701 479-2004
2. BOB DEMPSEY, SELF, 11 WOLF RUN, FBKS 99701 479-5154
3. FRANK P. LEE, SELF, P.O. BOX 80565, FBKS 99701 456-8671
4. ALLAN R. JOHNSTON, SELF, 221 KODY DRIVE, FBKS 452-8094
5. MONTE S. SHADE, SELF, P.O. BOX 1271, FBKS 99707 452-8352
(OBSERVE ONLY)

/NS/ EOM

PERSONAL MESSAGE FORM

DATE March 13, 1979

NAME Vander Pearson

REPRESENTING The Greater Fairbanks Black Caucus

ADDRESS 1028½ 23rd Ave.

Fairbanks, Alaska 99701

PHONE NUMBER 479-6514

TO House State Affairs Committee

RE House Bill 240

MESSAGE I support House Bill 240 and would like to see this bill become law. As I understand H.B. 240, it would create a General Stock Ownership Corporation that would finance the Alaska Gasline. With this approach, every Alaskan will have an opportunity to participate in the growth and development of Alaska.

Vander Pearson
Signature

CAN BE CONTACTED AT FOLLOWING TIMES 4:30 - 8:00 P.M. Week days

ADDRESS AND PHONE NUMBER (If different from the above)

4705 Palo Verde, Univ. West

Fairbanks, Alaska 99701 479-6514

Senator Gravel finally got his Government Stock Ownership scheme into law, but who, all things considered, wants it?

A bad idea whose time, alas, came

Senator Gravel of Alaska
A curious way to build a constituency for capitalism.

By Fern Schumer

IN THE WANING HOURS of the 95th Congress a new economic animal was born—the Government Stock Ownership Corp. The GSOC (pronounce it "Gee, Sock") owes its life to Senator Mike Gravel of Alaska, who, in the rush toward adjournment, tucked the idea into the big tax-cut bill. It is an odd beast, a sort of state-chartered mutual fund. A state could use its credit to borrow right and left for the GSOC so that the corporation could invest in stock. It would distribute each year at least 90% of the profits to its shareholders, who, in turn, would be credited with the income for federal tax purposes. (Shareholders would not be able to use GSOCs as tax shelters, however, because they would not be allowed to flow through any losses.)

In theory, any state can now set up a GSOC. One can almost hear the bond salesmen and underwriters of the world bracing to handle a flood of new state-guaranteed issues. But, in fact, few are likely to, and only Alaska, with its huge

Not the least peculiar thing about the GSOC concept is that it all but totally separates risk from reward. If the Alaska legislature runs with the idea, each of Alaska's 405,000 residents would receive a free share of stock and its dividends. But the corporation's only real asset in the beginning would be the state's ability to guarantee huge loans, the proceeds of which would be invested by the corporation. As in any state, however, a lot of Alaskans don't pay taxes. Furthermore, Alaska is unique in that it has a native group of people who live off the land and have no cash income. Is it fair that only taxpayers absorb the risk of GSOC, while an initial group of Alaska residents reaps the benefits?

After the stock has been distributed, of course, there will also be an ever-growing divergence between the stockholders, on the one hand, and taxpayers and citizens on the other. As people move to the state, they may not be eligible for a share of stock. At the same time, citizens who lived in Alaska and have since moved may still own stock.

other stockholders. For instance, GSOC proponents are talking about investments on the scale of $1.5 billion. With that money the corporation might buy BP's 16% share of the oil pipeline. (BP is rumored to be eager to get its money out to help cover mounting exploration costs in the North Sea and elsewhere.) In that case, the state would be guaranteeing a $1.5 billion loan—its total indebtedness now is only $694 million, with guarantees in various forms for about another $400 million. The state's credit rating would clearly be affected. If it needs to borrow more money, say, for a public works project, interest rates would be higher. Who would pay these higher rates? The taxpayer, of course. The stockholders who *are* taxpayers would have a direct, obvious stake in the corporation's profits and a less obvious interest in holding down taxes.

"Not the least peculiar thing about GSOC is that it all but totally separates risk from reward. Is it fair that only taxpayers absorb the risk while an initial group of Alaska residents reaps the benefits?"

Gravel, nevertheless, is pushing GSOC as a way "to build a constituency for capitalism." He got the idea from the theories of economist Louis Kelso, godfather of the employee stock ownership plans in effect at a good many U.S. companies. Alaska shows at least tentative interest in pushing the idea. The state has given Kelso a $180,000 contract to draw up a GSOC blueprint and is spending an additional $60,000 on other related consulting work. Kelso's blueprint is due next February, and the legislature is expected to tackle it shortly after that.

Gravel's staff has looked with particular longing at BP's 16% share of the Alaska oil pipeline. That would produce revenues of $406 million a year, they reckon. After operating costs and annual debt payments, about $158 million would be left to distribute to shareholders. Thus each of Alaska's citizen-shareholders would get a dividend check for $390 a year. BP projects its revenues will be $372 million this year and $437 million next year if the pipeline runs at capacity.

GSOC, in a way, is another offspring of Proposition 13. "People recognize that once the money flows into the state treasury, it's harder to get it back into the hands of the people," says Milt Barker, a fiscal expert for the state legislature. GSOC may be perceived as one way to filter the money into the people's hands. But the Alaska legislature had better take a hard look at Kelso's blueprint and add

Rule 23.1 Derivative Actions by Shareholders.

In a derivative action brought by one or more shareholders or members to enforce a right of a corporation or of an unincorporated association, the corporation or association having failed to enforce a right which may properly be asserted by it, the complaint shall be verified and shall allege that the plaintiff was a shareholder or member at the time of the transaction of which he complains or that his share or membership thereafter devolved on him by operation of law. The complaint shall also allege with particularity the efforts, if any, made by the plaintiff to obtain the action he desires from the directors or comparable authority and, if necessary, from the shareholders or members, and the reasons for his failure to obtain the action or for not making the effort. The derivative action may not be maintained if it appears that the plaintiff does not fairly and adequately represent the interests of the shareholders or members similarly situated in enforcing the right of the corporation or association. The action shall not be dismissed or compromised without the aprpoval of the court, and notice of the proposed dismissal or compromise shall be given to shareholders or members in such manner as the court directs. (Added by Supreme Court Order 258 effective November 15, 1976)

MEMORANDUM

TO: Representative Jim Duncan, Chairman
Budget and Audit Committee
Alaska State Legislature

FROM: Arlon R. Tussing

RE: Questions about an Alaska General Stock Ownership Corporation (GSOC)

I am submitting these preliminary comments at the request of Mr. Milt Barker of the Division of Legislative Finance. They are based upon my review of the following materials:

1. Louis O. Kelso, et al, Design of an Alaskan General Stock Ownership Plan, Volume I. (February 15, 1979);

2. Kelso & Co., (untitled) documents on British Petroleum's interest in TAPS (December 7, 1978);

3. Alaska House of Representatives, Sponsor Substitute for House Bill No. 240 (March 6, 1979);

4. Wilmer, Cutler & Pickering, Federal Constitutional Issues Presented by Alaska's GSOC (December 15, 1978);

5. Senator Mike Gravel, various speeches, Congressional Record citations on GSOCs (1978 & 1979).

1

I regret that I was not able to present these comments in person to the House State Affairs Committee on March 20, 1979, but I hope that they will be of use to you. Please let me know if you have any further questions.

QUESTIONS ABOUT AN ALASKA GENERAL STOCK OWNERSHIP CORPORATION

1. GSOCs in General. Louis Kelso's concept of the General Stock Ownership Corporation (GSOC) has much in common with socialist and welfare state programs for redistributing wealth.* Instead of directly expropriating or taxing away property for redistribution, however, Kelso's approach would use the government's credit to finance specially created corporations, whose shares would be dealt out to eligible citizens. The individual shareholder in GSOC thus could regard any dividends he received as earnings from his ownership of private capital rather than as a government handout.

Like confiscation or condemnation, GSOCs would create no new wealth for society. The money used to create the GSOC would have to be bid away from private investors who did not have the same access to the government's power to tax (or, in the case of a federally-sponsored GSOC, to print money) in order to make good on their obligations. Because

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* Kelso's accusations against present-day capitalism could well have come from a handbook of revolutionary Marxism. His program, it appears, is a remedy for "endemic poverty . . . misuse of technology, resource waste, despoilation of the environment, declining personal freedom, increasing lawlessness and civil disorder, the waning of liberal education, the civil rights impasse, the youth revolt, urban concentration, rising public and private debt, public loss of confidence in leadership and the seemingly irreversible advance toward a totalitarian society." [Kelso, et al, p. 16].

the "losers" would be widely scattered and impossible to identify individually, however, we could expect this kind of property redistribution to be less painful and less socially disruptive than more traditional socialist schemes.

There is nothing novel or radical in this aspect of the GSOC. Private individuals and corporations already benefit from a wide variety of federal and state loan and guarantee programs: each of them reallocates resources and redistributes wealth as surely (if not as visibly) as would taxation or government ownership of industry. GSOCs would no more revolutionize or redeem the capitalist system than do the existing programs of government credit for housing, agriculture, shipbuilding, rural electrification or education. The value of the GSOC concept to Alaska must be judged not by the sweeping claims of its inventors, but rather by whether specific proposals are properly tailored to the state's specific problems.

2. GSOCs in Alaska. The GSOC concept (like that of "Alaska, Inc.") appeals to legislators and other Alaskans because it may be a Constitutional way to use the state's petroleum revenue to increase the wealth of present resident Alaskans without permanently swelling the size of state government or attracting a host of immigrants to share in the windfall. In my opinion, something like a GSOC as contemplated in H.B. 270 may indeed be the best way to give

Alaskans a personal stake in the state's natural resource income. But the GSOC concept is still a very rough one, and there are a number of reservations and cautions even apart from technical le al issues, that I would like to raise here. As the Legislature deliberates further on the GSOC concept, I would expect to raise other problems and perhaps to offer some suggestions for improving the pending legislation.

3. Widely distributed ownership vs. broad-based control. GSOCs may very well be a means of widening ownership in Alaska industry, but widely distributed ownership is not the same thing as broadly-based control. It is a truism that corporations with widely dispersed share ownership are the easiest for small groups of insiders to control. They are practically immune both to stockholder revolts and to hostile takeover attempts (which are often the only way in which an ineffective management can be replaced).

Small shareholders normally do not take an interest in corporate affairs, and it is usually not worth their time to do so. Most shareholders express any dissatisfaction with management by selling their stock, not by becoming active in corporate politics. Otherwise, they routinely give their pr ies to management, or simply decline to vote at the annual meeting. This experience in ordinary business corporations is duplicated in "non-profit" economic enterprises

with widely spread ownership, such as cooperatives, credit unions, savings and loan associations, and mutual insurance companies.

By limiting any person's interest to ten shares of GSOC stock, the proposed legislation assures that shareholders generally will not have a large enough stake to warrant their taking an active part in the corporation's affairs on the basis of economic self-interest. This limitation on individual share ownership, the absence of cumulative voting and the staggered terms of office for directors, almost guarantee a self-perpetuating management.

In this setting, the alternative of vigorous controversy among the shareholders is hardly more attractive, however. Any activists, apart from the insider group itself, are likely to be more concerned with personalities and politics then with prudent business management. Alaska can already offer a few prominent examples of broadly-based corporations with such a malady.

4. Motivations of the Directors. Since the officers and directors of a GSOC will not be selected on the basis of a substantial ownership position, and may not obtain such a position, the legislature should consider in advance just what kind of people will constitute this self-perpetuating insider group, and what their motivations are likely to be. Such a group is more likely to be moved by considerations

other than profitability than a board and management representing large shareholders, for example:

Their outside business interests;

Officers' salaries, directors' fees, and other perquisites;

Size and prestige of the organization;

Their social and business philosophies, ideals and ideologies; and

The approval of other businessmen, the media, or the community at large.

These are on the whole the considerations that motivate the boards of many "charitable" enterprises: "non-profit" hospitals, for example, are notorious for bad management, inefficiency, and petty corruption. None of the foregoing motives is necessarily reprehensible, and they are not always at odds with the interest of the shareholders in maximizing profits or capital gains. But as a small shareholder I would prefer to have a few large shareholders on the board looking at the bottom line, and, in their own self-interest looking askance at inefficiency, empire-building or gold-

plating.

5. Vulnerability to speculative promotions. Alaska is a fertile field for promotional schemes, and GSOCs may be just made to order for them. The big private gains in industrial development projects are not made on the operating profits of ownership (Kelso's theories notwithstanding), but from promotional and organizational expenses: land speculation and sales; engineering, consulting, legal and underwriting fees; and the purchase and sale of corporate assets --- all of which can be capitalized into a GSOC's initial "investment."

The Board of Directors of GSOCs will almost inevitably be made up of people who make their living, or at least many of whose friends make their living, by such pursuits. Those who were strangers to that way of life when they were appointed or elected as Directors would not remain so for long. It is likely that an Alaska GSOC of the kind presently contemplated would be tempted to invest in projects that sophisticated profit-motivated capitalists would shun, and for which the legislature would not have been willing to appropriate public funds.

6. State Loan Guarantees. One seeming advantage of the GSOC concept is that the state money backing GSOC credit would bring a double return to Alaska --- once from the investment earnings the government earns on money in the

guarantee fund, and once again from the citizens' GSOC dividends. But state funds needed to back GSOC debt would be considerable (in the case of the proposed BP Pipeline purchase, over $1 billion), they would be immobilized for any other purpose, and they would truly be at risk --- particularly if GSOCs were capitalized with 100 percent debt, as seems to be necessary if the corporations are to be created without an appropriation of equity capital from the general fund.

The proposed legislation is not clear who is to propose and approve state loan guarantees for the purchase of GSOC assets. There seems to be a Constitutional question whether such a guarantee could be authorized by the Legislature, or even by a popular referendum, but that is an issue outside my area of competence.

7. Investment in TAPS. A share in TAPS is one of the worst investments an Alaska GSOC could possibly make. If something went wrong at the Prudhoe Bay field, with the pipeline or terminal, or in the world petroleum market --- the state could simultaneously be faced with (1) a drastic decline in the oil revenues that support state government and underpin the Alaska economy, (2) an obligation to make good on defaulted pipeline bonds (either out of a guarantee fund or out of reduced general fund revenues), and (3) loss of the value of GSOC stock in the hands of individual Alaskans.

The fact that such a scenario is even imaginable makes it very unlikely that the present holders of pipeline bonds would agree to their assumption by an Alaska GSOC, or that they take any state loan guarantee seriously. As some big lenders have stated about state backing for gas pipeline debt, they would justifiably expect Alaska to try to recover any loss by means of higher taxes on oil and gas production, thereby further undermining the soundness of the lenders' other loans to th owners of TAPS. The same considerations apply, with only slightly less force, to GSOC investments in other facilities for transporting North Slope hydrocarbons.

If the Legislature were to authorize creation of a GSOC, however, there will surely be a clamor (which may well become irresistible) for it to finance or buy into the Alaska Highway gas pipeline, a North Slope gas conditioning plant, the Alpetco refinery, a Fairbanks petrochemical plant, or a natural gas liquids pipeline on terms that no rational private investor would accept. This is my own main concern about GSOCs today. But, for some Alaskans, it may well be a point in their favor.

Alaska State Legislature

House of Representatives

Ray Metcalfe
Pouch V
State Capitol
Juneau, Alaska 99811

April 6, 1979

The Honorable Avrum M. Gross
Pouch K
Juneau, Alaska 99811

Dear Mr. Gross:

Thank yc for you. timely response to my earlier proposal.

I have reviewed the problems that you have outlined with the original draft of my proposal Attached hereto is a redraft of that same proposal bearing two minor changes. The changes therein are for the purpose of addressing each of those problems that you found with my proposal. As you had indicated in your letter to me in the third paragraph of the first page, for a committee of the Legislature to negotiate agreements with the Matanuska/Susitna Borough is not a legislative function, is outside the purview of the Legislature and is a responsibility of the executive branch. Therefore, I have revised paragraph four of the first page of my proposal, to bring the recommended duties of the proposed committee within a proper legislative function.

In the fourth paragraph of your response to my proposal, you have indicated a potential conflict with A.S. 44.06.160. and A.S. 44.06.200-A.S. 44.06.260.. Therefore in paragraph three of my pro,osed method of moving the capital, I have added one more subparagrph of paragraph three which you will note as Item (d). Item (d) calls for the repeal of those statutes for the purpose of eliminating the potential conflict of the law.

It would appear from your response to my original proposal, that such action of repealing the above mentioned statutes would alleviate any potential conflict between the FRANK Initiative and this proposal. In addition to the removal of the conflict of the FRANK Initiative and the above mentioned statutes, you might also notice that the proposal goes one step further in removing any requirement to build a city as outlined by the commission's existing plan, On the first

page, paragraph three, item (c) requires that the Legislature must find the proposed capital improvements to be sufficient to accomodate the Governor's Office, the Legislature, the Legislative staff, and any other state personnel that the Legislature feels must be near or within the new capitol building.

Considering that this subject is coming before the State Affairs Committee meeting on Friday, April 6th, being the day of delivery of this letter, it would be most sincerely appreciated if your office could expeditiously review the minor changes in my proposal, in order to allow this matter to be discussed in the State Affairs Committee meeting beginning at 1:15 p.m. on the 6th.

Sincerely,

Ray Metcalfe
Representative

RM/ddp

1) A capital move proposal offered by Rep. Ray Metcalfe for the purpose of attempting to find an economically sound method of moving the capital that will hopefully,

A) Meet with the scrutiny of the Attorney General's office,

B) Satisfy the provisions of the 1978 FRANK Initiative,

C) Satisfy the 1974 mandate to move the capital,

D) Meet with the satisfaction of the people of the Matanuska/Susitna Borough.

2) This proposal is for the purpose of outlining a step-by-step method of moving the capital to Willow, Alaska, via an avenue that, if agreed to and pursued, will not encounter any insurmountable obstacles that might otherwise prevent the concept expressed herein, from being fully implemented.

3) This outline will be subject to the passage of the following legislation:

A) Enabling legislation to allow the Matanuska/Susitna Borough unlimited selection rights to those lands currently reserved for the development of a new capital city.

B) The passage of a concurrent resolution requesting the state to enter into negotiations with the Matanuska/Susitna Borough for the purpose of moving the capital.

C) An eventual approval by the Legislature of all plans, all negotiated agreements, and a decision by the Legislature that the State of Alaska finds the proposed capital improvements to be of sufficient magnitude to accomodate the Governor's office, the Legislature, the Legislative staff, and any other state personnel that the Legislature feels must be near or within the new capital building.

D) Legislation repealing Alaska State Statute, A.S. 44.06.160. and A.S. 44.06.200 - A.S. 44.06.260.

4) Immediately following the passage of legislation as outlined in item (D) above, the Legislature shall appoint a Capital Move Steering Committee. It shall be the responsibility of the Capital Move Steering Committee, to advise the Matanuska/Susitna Borough as to what that committee feels the Legislature as a whole will consider to be necessary for the completion of the project as outlined herein.

5) To the extent the Attorney General finds necessary, for the purpose of meeting the requirements of the FRANK Initiative, the Matanuska/Susitna Borough shall agree to pay for all salary, per diem and travel of those involved in the negotiations to be conducted between the State of Alaska and the Matanuska/Susitna Borough.

6) The Matanuska-Susitna Borough shall, in cooperation with the committee of the Legislature, prepare a basic site plan which shall consist of

A) All future major thoroughfares throughout the capital city,

B) All major corridors for future utility trunk line development,

C) All sites for major public facilities of the future,

D) Planting and zoning of major tracks of land to be made available to private industry for further subdivision and development of business, industrial and residential facilities, and

E) To the extent the committee and Borough find necessary, prepare a planned unit zoning plan for business and other industry immediately surrounding that site which is selected for the development of the new capital building.

7) In addition to the general site plan, the Matanuska-Susitna Borough shall, in consultation with the committee, develop detailed plans for a building that the committee determines to be of sufficient size to accomodate the Governor's office, the Legislature, and all state personnel determined by the committee to be necessary for the first meeting of the Legislature. Additionally, the Borough, in consultation with the committee, shall also determine what other facilities will be required in terms of capital improvements through the year 1992, as well as determine within what time frame the additional state facilities shall be constructed.

8) As a part of those negotiations,

A) The state shall agree to provide all rights-of-way to the Borough for construction of necessary access roads and other infrastructure items to be built by the Borough and others as described herein.

B) The Borough shall agree to construct all state facilities and other necessary infrastructure within a time fram to be outlined in those negotiations, and hand over to the State of Alaska in fee simple title, and with no incumberments, all those state facilities determined to be needed through the year 1992.

C) The State shall agree to occupy each facility constructed immediately following completion of said facility.

D) Upon completion of each facility the Matanuska-Susitna Borough shall be required to pay all costs involved in the moving of personnel, records and equipment from the capital city of Juneau to the new capital city of Willow.

9) Should the costs of maintenance and operation be determined by the Attorney General to be a cost that cannot be paid by the State of Alaska through the year 1992, because of the provisions of the FRANK Initiative, the Borough shall assume those responsibilities, unless or until, the Borough has secured a decision by a court of the State of Alaska determining such cost to be costs which the State would not be precluded from paying because of the provisions of the FRANK Initiative.

10) The entire agreement negotiated between the Matanuska-Susitna Borough and the committee of the Legislature shall be subject to the passage of legislation allowing the Matanuska-Susitna Borough unlimited rights to select lands from within the 64,000 acre proposed capital site, that in the Borough's opinion, will be necessary for the purpose of securing as well as paying for

A) All bonded indebtedness incurred by the Matanuska-Susitna Borough as a result of the capital city development,

B) All debts incurred from private financial sources as a result of the development of the new capital city,

C) All costs otherwise incurred by the Matanuska-Susitna Borough as a result of the development of the new capital city

D) Sufficient cash to equal a reasonable return for the risk the Matanuska-Susitna Borough has taken, which shall equal not more than 18% of all combined total costs and indebtedness incurred by the Matanuska-Susitna Borough.

11) All revenues produced from the sale of lands from the Matanuska-Susitna Borough to private industries shall be applied to the existing bonded indebtedness that has resulted from the construction of a new capital in Willow, or shall be escrowed for the payment of future bonds or bond payments that are anticipated to be incurred by the Matanuska-Susitna Borough as a result of the capital city development.

12) Once sufficient cash revenues have been generated by the Matanuska-Susitna Borough from the sale of lands, to cover all the costs and profits as outlined herein, the unlimited selection rights of the Borough shall cease, and all land that has not yet been sold by the Borough shall be returned to the State of Alaska.

13) In summary, it is to be understood that within this proposal it is understood that the Matanuska-Susitna Borough shall be required to pay for any and all costs of the capital move that are determined by the Attorney General to be a cost that the State is precluded from paying throughout the year 1992 as a result of the FRANK Initiative, as well as assume full responsibility for all bonded indebtedness incurred for capital improvements through that same period of time.

14) All costs shall be outlined in detail prior to any final agreement between the State of Alaska and the Matanuska-Susitna Borough. Should there be any dispute between the Attorney General's office and the Matanuska-Susitna Borough with regard to what costs the State is precluded from paying as a result of the provisions of the FRANK initiative, or for any other reason, the Matanuska-Susitna Borough shall pursue an expeditious settlement of the disputed matter via a decision of the courts of the State of Alaska.

15) Once final agreement is reached between the Matanuska-Susitna Borough and the committee of the Legislature, that agreement shall be submitted to the Legislature for its final approval, and the move shall be completed as expeditiously as possible thereafter.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907-465-3800

M E M O R A N D U M March 9, 1979

SUBJECT: Capital Move Concept
(Work Order No. 6821)

TO: Representative Mike Miller

FROM: Kenneth E. Vassar
Legislative Counsel

You have requested a legal opinion relating to the "Capital Move Concept" outlined in the rough draft of an agreement between the Matanuska-Susitna Borough and the state which you have furnished us. At the outset, I think it is appropriate to discuss the FRANK initiative and the effect of any attempt to avoid it.

I would have to approach any plan which would attempt to provide for the relocation of the capital without the expenditure of state money with a skeptical attitude as to its viability in the courts. Such a plan must avoid any expenditure of state money for the physical relocation of the present functions of state government and must also avoid incurring any obligation on the part of the state to pay any state money at any time in the future for such physical relocation. Even assuming that such a plan does exist, any prognosis as to the viability of the plan comes with a very large caveat, which will be explained in the following paragraph.

In the ordinary review of statutes, a court will apply the law in accordance with the literal meaning of the words used in the statutes unless there is some ambiguity which requires it to go behind the words of the statutes and look at the legislative intent. The phrase "State money may be expended," as it is used in the FRANK initiative, appears to be unambiguous, and so it would be fair to assume that a court would apply the law strictly in accordance with the language in the initiative under normal circumstances. Thus, a plan which does not involve the expenditure of any state money, now or in the future, for the physical relocation of the

present functions of the state government might be expected to survive a FRANK initiative attack. However, the magnitude of the issue and the fact that this is an initiative rather than a legislative enactment would take the interpretation of this language far from normal circumstances, and a court might go beyond the literal interpretation of the words used in the initiative and examine the purpose behind the words.

If this were the case, the court would surely give some weight to the "Purposes" section of the initiative. That section includes the following language:

> It is the purpose of this act to insure that the people of Alaska will have the opportunity to make an intelligent and objective decision on relocating the capital with all pertinent data available to them concerning the costs to the State. . . .

Since it would be only of relatively mild interest to the people to know the costs of the move after the move had begun, and since it would leave little room for decision making by the people at that point, I would assume that a court would view this purpose as applying before any move began. It would follow that a court could interpret the language of the initiative to actually mean that no movement of the present functions of state government may begin before the required bond issue election.

Turning now to the "Capital Move Concept," I would like to begin with a summary of my perception of the plan. Since the concept does not appear to present all the details of the plan, this summary and the following analysis may include some assumptions on my part relating to those details. Under the plan the borough would select from, or trade borough land for, a minimum of 6,240 acres of state land at the relocation site. The existing provisions of law relating to borough selections and exchanges of land are found in AS 29.18.205 and 29.18.209. In return, for the selection or trade, the borough would prepare a basic site plan for the capital city and finance and construct a building for use as a part of the total state office complex. When the building is completed, it would be turned over to the state for occupancy, and the borough would be allowed to charge rent on the building in an amount sufficient to cover debt service on a portion of the bonds issued by the borough for

the project. The state would provide rights of way to the borough for the construction and would establish an appropriate body to consult with the borough. The borough would return title to lands it receives under the agreement to the state if (1) the borough is repaid for all its expenditures; (2) any bonds issued by the borough are retired or assumed by the state; and (3) the borough regains entitlement to selection of an equal amount of land.

Before getting into an analysis of the concept in relation to the FRANK initiative, I have some comments about the selection and transfer of land under AS 29.18.205. That law allows boroughs to select vacant, unappropriated and unreserved state land within their boundaries. Under the terms of the 1974 initiative (AS 44.06.130), the land from which selections would be made under the concept submitted is classified as reserved use lands. Therefore, it is ineligible for selection under AS 29.18.205 absent some legislative action. It appears, however, that the land would be eligible for a land exchange under the authority of AS 29.-18.209. The exchange would have to be for land owned by the borough of equal value to the state land. The determination of equal value would be incumbent upon the director of the division of lands and the commissioner of natural resources.

The following paragraphs relate to the "Capital Move Concept" on a paragraph-by-paragraph basis with specific attention to the relationship of the concept to the FRANK initiative.

1. As noted before, this paragraph will require a land exchange rather than a municipal selection. In order to fulfill his statutory duties (which cannot be contracted away), the director will be required to determine whether there is a public interest to support the exchange and whether the land offered by the borough is of approximately equal value to the land offered by the state (including the non-monetary value of public benefits). In addition, the director must give notice of the exchange to the governing body of the borough under AS 38.05.305 and to the public under AS 38.-05.345. Finally, while AS 29.18 requires a survey to be conducted or paid for by the municipality for municipal selections under that chapter, it does not expressly require the municipality to survey or pay for the cost of a survey of land proposed to be exchanged.

The director's duties, particularly those relating to the giving of notice, appear to require the expenditure of some state money. Thus, the FRANK initiative prohibition could apply to this section. In the absence of statutory requirements relating to surveys, the state may be required to pay for the survey of the land subject to the exchange; this would be prohibited by the FRANK initiative.

2. Since this paragraph relates solely to planning by the borough, there would appear to be no FRANK initiative questions.

3. Since this paragraph relates solely to financing and construction of a building by the borough, there would appear to be no FRANK initiative questions.

4. This paragraph requires the state to provide rights of way to the borough for construction of necessary access roads and other infrastructure items to be built by the borough. This is a power granted to the director under AS 38.05.350. If the application is made in accordance with regulations promulgated under AS 38.05.330, it appears that there would be no required expenditure of money for the granting of the rights of way.

5. Under this paragraph, the state would be required to establish an appropriate body to consult with and coordinate the work of the borough to ensure compliance with the agreed plans. I am not sure how this body would be established; however, it appears that its duties would require travel and per diem allowances and possibly salaries. These obviously will require the expenditure of state money. Again, the FRANK initiative may prohibit this expenditure.

6. After the completion of the building, the borough will turn it over to the state to permit meetings of the legislature in the building. The borough, six months after completion of the building, will charge the state rent based upon the proportionate amount of revenue raised by the sale of bonds for the construction of the building.

There are two questions with regard to this paragraph. First, the obligation to pay rent would require an expenditure of state money. The obligation to maintain and operate a municipal building leased to the state for state purposes would

also require an expenditure of state money. Either of these expenditures could be violative of the FRANK initiative. The ultimate question would be whether they are expenditures for the physical relocation of the present functions of state government or whether they are expenditures for some other purpose. This could be the ambiguity that would justify a court's decision to look at the purpose of the initiative rather than relying on a literal interpretation of the words used in the initiative.

The second question also relates to the FRANK initiative. It seems that tying rental payments to an amount sufficient to cover debt service on a portion of the bonds equal to the ratio of borough expenditures on the building to total borough expenditures raises a strong argument that the borough is acting as a "straw man" for the purpose of the bond issuance. It could be argued that there is very little difference between the state issuing the bonds itself and the state contracting to pay the debt service on the bonds used to construct the building. A court, even if it found the payment of rent permissible under the FRANK initiative, could determine that tying the rent to payment of the bonds is impermissible.

7. This paragraph provides that, if the borough is repaid for its expenditures and if the bonds issued by the borough are retired, the borough will return the land it receives under the agreement to the state.

In order to accomplish this, the state could assume or pay off any amounts outstanding on the bond issuance; and I assume it would be the state that would reimburse the borough for its expenditures. Of course, none of this can happen until the FRANK initiative requirements are satisfied, amended or repealed.

8. This paragraph appears to have no FRANK initiative repercussions.

In conclusion, it would appear that, if I have understood the plan you have presented to us correctly, the plan could not be implemented without violating the provisions of the FRANK initiative.

KEV:jdn

CAPITAL MOVE CONCEPT

The objective of this concept is to provide a reasonable alternative plan for fulfilling the mandate of the people of Alaska to commence relocation of the capital to Willow by October 1, 1980.

1. Once the concept outlined herein is agreed upon, the Matanuska-Susitna Borough will be entitled to receive under Borough selection (or trade) a minimum of ,240 net acres within the Willow capital site area. Those 6,240 acres will be net of the areas designated in the site plan for state facilities, for streets, access roads and other infrastructure and for public use items. In return, the Borough agrees to carry out the undertakings outlined below.

2. The Borough, in consultation with the state, will prepare a basic site plan for the capital city. This plan will show the location of the state office complex, and the siting of infrastructure items to be built by the Borough hereunder. The Borough, with appropriate state input, will also prepare detailed plans for all the facilities it is to construct, including provision for their future expansion.

3. In accordance with the detailed plans, the Borough will finance and construct a building of not less than 75,000 square feet suitable for use as a part of the total state office complex, to be completed by January 1, 1981.

4. The state will provide rights of way to the Borough for construction of necessary access roads and other infrastructure items to be built by the Borough or by others hereunder.

5. The state will establish an appropriate body to consult with and coordinate the work of the Borough to ensure compliance with the agreed plans.

6. When the building referred to in paragraph 3 is completed, it will be turned over to the state for occupancy, to permit meetings of the legislature to be held at the site no later than 1981. Costs of maintenance, operation and desired alterations, if any, of this building and attendant infrastructure will be defrayed by the state commencing with the date of availability for occupancy. If revenue or other bonds to finance construction hereunder by the Borough remain outstanding, the Borough shall be entitled, commencing six months after the date of availability for occupancy, to receive rental payments for the structure not to exceed an amount sufficient to cover debt service on a portion of the bonds equal to the ratio which total expenditures by the Borough on account of the building and attendant infrastructure bears to total expenditures by the Borough under this agreement.

7. The Borough will return to the state title to lands transferred to it by the state hereunder and which have not previously been disposed of by the Borough or designated for

public (other than state) use, provided the following shall have occurred:

(a) The Borough shall have been repaid for the total amount of its expenditures.

(b) The revenue or other bonds (if any) issued for carrying out this agreement have been retired. (To accomplish this, the state may, at its option, at any time assume or pay off any amounts outstanding.)

(c) The Borough shall have regained entitlement to selection of lands equal to the number of acres originally selected or traded under this agreement.

8. Implementation of this concept is subject to obtaining any necessary approvals by appropriate authorities, together with confirmation of the powers of the parties hereto to carry out the obligations outlined.

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DAVIS, CALIFORNIA 95616

April 4, 1979

The Honorable Mike Miller
Chairman
State Affairs Committee
Alaska State House of Representatives
Pouch "V" State Capitol Building
Juneau, Alaska 99811

Dear Chairman Miller:

I am enclosing the promised specific, suggested amendments to SSHB 240 which are addressed to the questions of accountability of the Board, the rights of shareholders, and procedures for Board and Board Committee meetings. In each instance I have attempted to describe the content of the proposed amendment and to offer an explanation of why I hold the view that such an amendment would be desirable. I have then attempted to break the amendment down into its component ideas and to give the Committee an opportunity to vote them up or down. My further function in this regard is then to draft statutory language which carries into effect the decisions of your Committee.

A number of critical questions concerning SSHB 240 are <u>not</u> addressed in this transmission. We have yet to discuss the regulation of proxies, their content and the vexing issue of how they will be financed. If the legislature desires to influence these thorny problems, now is the only opportunity. Another unfinished item is the future political activities of the GSOC. We can anticipate substantial first amendment problems if we embark on a project to muzzle the directors in their individual capacities. If the directors can speak to the public, the limitation on the "corporation's political activities" is, at best, theoretical. Working on this problem should present quite a challenge!

Finally, there are the proposals I advanced on the first evening of my testimony regarding criminal liability of directors in certain instances. I will work on these in the course of the next week.

If I may offer a suggestion: As I spend more and more time with SSHB 240 and the Alaska Business Corporations Act the more I become convinced that the better course is not to amend the existing corporations code to make room for the GSOC, but to begin anew and design a fully developed Code to regulate the GSOC, a set of laws designed with the special attributes of a general stock ownership corporation in mind and not as an afterthought. This project sounds bigger than it will turn out to be. I sincerely believe that working with your staff people it could be accomplished in a matter of weeks, although I would prefer to have the summer months to fine-tune the statute but, in the final analysis, having come this far with you, I am the servant of the Committee.

I hope that this material proves of use to the Committee. When you have reached your decisions simply mail them back to me and I will sit down and draft the content of suggested legislation.

The Honorable Mike Miller
Chairman
State Affairs Committee

April 4, 1979

May I take this opportunity to thank you, the other members of the Committee, the various nonmembers who sat in on our discussions and the staff people for a splendid experience. People here have remarked that they have never seen me so energetic. One student commented that I seem to be following the "North Star." In any event, it has been an experience beyond the imagination of the scriptwriters for the "Paper Chase." I thank you all.

Best personal regards,

Sincerely,

Daniel Wm. Fessler

Daniel Wm. Fessler
Professor of Law

DWF:hf

Enclosures

TO: THE STATE AFFAIRS COMMITTEE OF THE ALASKA HOUSE OF REPRESENTATIVES

FROM: Professor Daniel Wm. Fessler, King Hall, the Law School of the University of California at Davis

SUBJECT: Suggested Amendments to Sponsor Substitute for House Bill 240: "An Act Creating the Alaska General Stock Ownership Corporation; and providing for an effective date."

DATE: April 4, 1979

Preliminary statement: At the conclusion of my appearance before the Committee last week I agreed with the members to prepare a series of written proposals for your consideration. Depending upon the sentiment of this body I will be directed in the drafting of amendments to the Sponsor's Substitute for House Bill No. 240. As will quickly become evident, it is time for the Committee to make some basic choices concerning the nature of the General Stock Ownership Corporation which it may wish to pass to the floor for consideration in the whole House. The suggestions which follow represent nothing beyond the scope of our discussion last week unless specifically indicated as "NEW." In each instance I will set forth the proposal and a brief statement illustrating specifically what it is that I am suggesting be accomplished if you elect to follow my recommendation.

I. SUGGESTIONS DESIGNED TO MAKE THE BOARD OF DIRECTORS MORE RESPONSIVE TO THE DESIRES OF SHAREHOLDERS OF THE GENERAL STOCK OWNERSHIP CORPORATION:

My perception of the need for revision: The pending proposal is that the legislature create the AGSOC as a "private" corporation essentially regulated under the terms of Chapter 05 of the Alaska Statutes (The Alaska Business Corporation Act). As I indicated in my testimony, this general statute is a bare bones version of the "Model Act" which is, in turn, fashioned after the

Illinois Business Corporation Act. Its essential feature is to give a corporation a license to create a very strong board of directors, a board which is effectively insulated from shareholder pressure during its tenure in office.

This is a crucial assertion. Once this corporation is created and deemed "private" the legislature will part with its major chance to have an effective voice in the behavior of such an instrumentality. If the GSOC is a successful economic venture the power of that unchecked body will rise dramatically and its ability to pursue conduct which subsequent legislatures may deplore is a real danger which ought to concern this present body.

Why is the board of directors of a corporation organized under a statutory framework such as the Model Act virtually unchecked in these circumstances? To begin our assessment we should think in terms of the content of three documents: the statutory framework, the articles of incorporation, and the bylaws. It is no accident that the Kelso Report presents this legislature with a package containing a recommended content for each of these essential documents. Here is a point the Kelso Report does not stress: the legislature has control only over the statutory framework (the enabling legislation now before the Committee). Once the GSOP is formed by this legislation, the incorporators (See, Sec. 10.50.010(a), p. 1 SSHB 240) will adopt the articles of incorporation and it will then be beyond the powers of this or subsequent legislatures to interfere with the content of that fundamental document. Once the incorporators have elected themselves as the initial board of directors (See, Sec. 10.50 030(b), p. 3 SSHB 240), they will act in that capacity to adopt the content of the bylaws. Again, it will be too late for the legislature to exert its will. Thus unless changes are made you will have surrendered to these nine appointed individuals sole determination over the content of the documents which will become the framework in which the corporation will actually be structured and function. Your only chance for effective influence

is with respect to the content of the statute. If you adopt the current content of House Bill 240, you will hand these appointed individuals (only a majority of whom need be Alaskans) a blank check to narrow their accountability to all of the citizens of this state in their capacities as shareholders in the GSOC. The express terms of SSHB 240 already give to this Board the strong power position of "classification" meaning that the directors will serve three year terms with the nine members segregated into three classes so that only one third of the membership is up for election by the shareholders at each annual meeting. (See, 10.50.030(a)(b), pp. 2-3 SSHB 240). There is a pragmatic advantage in this proposed classification in that insures to the incumbent board the continuity inherent in the fact that a working majority of the Board will not be facing election. There is also a grave danger. Such a Board could ignore the wishes of a majority of the shareholders and yet maintain effective control and management over the corporation for two years. The people in their role as shareholders would be powerless. This body in its role as representative of the people would be equally powerless. True, it could deny the GSOC cooperation to the extent that it was requesting the legislature to call for an election to authorize a state guarantee of GSOC debt instruments (although see the Memorandum of Attorney General Gross under date of March 20, 1979, raising a question as to whether recourse to the people would actually be required). Yet this is a very indirect way of attempting to discipline the Board or correct the excesses of that body as viewed from the perspective of the legislature. I do not wish to belabor the point: if the members of this House feel that a different distribution of power as between the shareholders and the board, and as between the GSOC and the government of Alaska is desired . . . now is the time to act and the content of the enabling legislation is the proper forum for that action.

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PROPOSALS DESIGNED TO INCREASE THE ACCOUNTABILITY OF INDIVIDUAL DIRECTORS AND THE BOARD AS AN ENTITY:

PROPOSAL NUMBER ONE: THAT DIRECTORS BE SUBJECT TO REMOVAL BY ORDER OF A SUPERIOR COURT UPON SUIT BY 100 OR MORE SHAREHOLDERS OF THE GENERAL STOCK OWNERSHIP CORPORATION.

I propose that the enabling legislation be amended to provide that a superior court may, at the suit of 100 shareholders or more or upon petition of the attorney general, remove from office any director in case of fraudulent or dishonest acts or gross abuse of authority or discretion with reference to the corporation and may bar from reelection any director so removed for a period prescribed by the court. In any such proceeding the corporation should be made a party to the action.

Explanation: This proposal is based upon Section 304 of the 1977 California Act with two important modifications: first, I propose that you alter the "standing requirement" from California's [". . . shareholders holding at least 10 percent of the number of outstanding shares. . . ."] to one hundred shareholders. To follow the California percentage would be most unreal given the total diffusion of shareholdings in the GSOC (one share per resident). It would require a petition of 40,000 Alaskans or more! In any other private corporation it is perfectly possible for a single shareholder to own 10% or more of the outstanding shares and thus have standing under the California Act. Requiring one hundred Alaskans to join in this suit should ensure that a single angry shareholder could not inaugurate a vexatious complaint. The second modification is to specially grant to the Attorney General standing

to initiate this removal litigation. I do this because while the attorney general may well have personal standing as a resident of Alaska to join in such a suit we must recognize that litigation may be costly and that frequently only the office of the attorney general may have the human and financial resources to prosecute a removal suit upon which may depend the welfare of the corporation (and with that, welfare and interests of Alaskans).

Now it must be immediately evident that this type of removal can only be for the most gross violations of the fiduciary responsibilities assumed by a director and that the statute only grants standing to potential litigants and subject matter jurisdiction to the superior courts. Naturally, the plaintiffs would have to prove the allegations of their complaint by a preponderance of the evidence before the superior court would be warranted in exercising the power vested in it by this statute. I should add that it is quite possible that if the legislature does not act to provide for removal of directors in circumstances such as are covered by this proposal, a superior court might entertain such suits on a theory that such a grave matter is within the court's inherent jurisdiction. There is precedent. See, California Fruit Growers' Assn. v. Superior Court, 8 Cal.App. 711, 97 Pac. 769 (1908). In my opinion, this is not a desirable alternative because the legislature would be without control over the vital questions of who had standing to initiate the litigation and what would be deemed sufficient grounds for this grave remedy.

DIRECTIONS TO YOUR DRAFTING AIDES: Does the Committee favor in principle the concept of having directors subject to removal by order of a superior court? YES ____ NO ____. If "yes," is the Committee in favor of the proposed formula

granting standing only to one hundred or more shareholders? YES ____ NO ____. Does the Committee favor granting standing to the Attorney General of Alaska to initiate a removal suit? YES ____ NO ____.

PROPOSAL NUMBER TWO: THAT ANY DIRECTOR OR THE ENTIRE BOARD MAY BE REMOVED BY THE SHAREHOLDERS WITHOUT CAUSE.

I propose that at any annual meeting or a special meeting properly noticed for the purpose at which a quorum is present, a majority of the shares voting in person or by proxy may remove the entire board and elect replacement directors. I further propose that the shareholders have power to remove less than the entire board provided there are appropriate safeguards to minimize the chance that an angry faction of shareholders could oust a single director.

Explanation: Both California and Delaware have found it expedient to pass recent legislation enabling shareholders who have lost confidence in the Board of Directors to remove either the entire Board or individual members at a meeting especially called and noticed to entertain such a motion, and that such removal may be for any cause deemed sufficient by a majority of the shares. In both California and Delaware, the statutes grant the right of removal to an absolute majority of the shares (50% plus 1 share). Again, we must recognize that there may be individuals or institutional shareholders who, though a handful in number, would command an absolute majority of the outstanding shares. Such a potential coalition of large shareholders is a strong check upon the Board of Directors. Unfortunately, there will be no such potential shareholder

coalition in the GSOC. We must deal with the fundamental characteristic of a corporate entity, the shares of which are held in lots of one . . . and by more than 400,000 individuals.

The Kelso Report recognizes the problem of human inertia inherent in such diffuse shareholdings when it proposes to set a quorum for shareholder attendance at annual and special meetings at one third of the shares voting either in person or by proxy (an absentee ballot). At any meeting at which such a quorum is ascertained to be present, a vote of a majority of that quorum is sufficient to elect directors. Simple arithmetic will reveal that a simple majority of one-third is one-sixth of the shares plus one. Such a scheme is permitted by Sec. 10.05.153 of the Alaska Business Corporation Act if the articles of incorporation are so drafted. I favor this aspect of the proposed articles contained in the Kelso Report because I fear that setting a higher quorum requirement might preclude the shareholders from effectively meeting. How then does this guide us as to the machinery for removal of directors by shareholder vote? I propose that the entire board might be removed for any reason either at an annual or special meeting of shareholders for which notice of such a proposal had been given (as provided in Sec. 10.05.141) upon the vote of a majority of a quorum of the shares present in person or by proxy.

If the shareholders desire to remove less than the entire board, we have a different problem. Here is a danger that a special interest group or other faction might attempt to gang up on a single director for his or her policies and seek to accomplish this at a special meeting which may well be attended by fewer shares than were present at the annual meeting which elected the targeted director. We can guard against this possibility by drafting the statute to provide that in the event that there is an attempt to remove less than the entire board, the resolution shall fail

unless the number of shares cast for rem[illegible] exceeds the numbe[illegible] of shares which originally elected the director. Thus if he was elected by a majority of 261,000 shares at an annual meeting, a special meeting noticed to entertain a removal resolution would not accomplish that objective unless 261,001 shares voted "yes" (in person or by proxy) on that question. If the director was appointed (as in the case of the initial Board), or elected by the Board to fill a vacancy arising by death, incapacity, or resignation mid-term, I would propose that a simple majority of a quorum would be sufficient to remove that director.

DIRECTIONS TO YOUR DRAFTING AIDES: Does the Committee favor in principle the concept of having directors susceptible of removal by vote of the shareholders? YES ____ NO ____. If so, is the Committee content with the suggested formula for that removal? YES ____ NO ____.

PROPOSAL NUMBER THREE: THAT THE ENABLING ACT REGULATE THE STANDING OF SHAREHOLDERS TO INAUGURATE ACTIONS AGAINST DIRECTORS OR OFFICERS BROUGHT FOR THE BENEFIT OF THE CORPORATION (SHAREHOLDER'S DERIVATIVE ACTIONS).

I propose that the enabling act be amended to regulate the standing of shareholders to inaugurate actions seeking declaratory relief or money damages as against officers and directors of the GSOC for the benefit of the corporation (shareholder's derivative actions); lodge discretion in the superior court respecting whether and in what amount a security bond for expenses of litigation should be required of such a plaintiff; preclude non-judicially approved out-of-court settlements of such actions; and, provide for an accounting to the corporation of any proceeds received by the litigating

shareholder(s) whether by judgment, settlement, or compromise.

Explanation: One of the most important developments in the past half century in seeking to hold directors and officers accountable for harm they bring upon the corporation is the concept of the shareholders' action or derivative suit. If you adopt the hypothesis that the Board or certain of its members is guilty of action or inaction which has brought great harm to the GSOC and which violates the duties of care or loyalty to the corporation, it is unrealistic to assume that those very directors will authorize or encourage corporate counsel to bring an action naming them as defendants! For this reason it is necessary to give individual shareholders the right to bring the litigation in the name of the corporation. Any recovery of money damages goes to the corporate treasury, not to the litigating shareholder (save for reimbursing him/her for the costs of the litigation).

Nearly every jurisdiction permits such actions and most regulate the conduct of such litigation by statute. Alaska is one of the few jurisdictions which permits but does not regulate by statute. Fortunately, the Supreme Court has acted to fill this void by providing in Rule 23.1 of the Civil Rules certain regulations for derivative actions by shareholders. (Added by Supreme Court Order 258, November 16, 1976.) The Alaska rule is predicated upon and nearly identical to Rule 23.1 of the Federal Rules of Civil Procedure. In my opinion, it does not go far enough in policing derivative actions by shareholders in the context of the General Stock Ownership Corporation.

The matters which should be covered by statute include:

* Who among the shareholders may bring such an action?

I suggest that standing be limited to a shareholder who held his or her share at the time of the transaction of which complaint is made

else an unscrupulous shareholder might merely "buy a lawsuit." And standing should be limited to a shareholder or shareholders with sufficient resources to be able to vigorously prosecute the action since a judgment will bind all of the other shareholders by its result.

* Should the shareholder be required to exhaust intra-corporate remedies (e.g., make a demand upon the Board that it bring the action) as a precondition to commencing the action?

Modern statutes do not require the shareholder to make demands upon the Board if that would be a futile act (e.g., if the directors are named as the defendants it is unlikely that they would respond to the demand by directing suit against themselves). Thus I would propose that the shareholder be required to make demand upon the Board for corrective action or to allege in his complaint before the superior court the reasons why he deems such a demand to be a futile gesture.

* Should the shareholder be required to post a bond as a precondition to maintaining any derivative action?

Defending a derivative action is time consuming and expensive and there is always a danger that a shareholder will bring an ill-founded or vexatious action simply to harass management or in the hope that he will be "bought off" with an out-of-court settlement. To minimize the instance of such "strike suits," many states in the 1940's adopted the practice of requiring a litigating shareholder to post a bond as a precondition to maintaining the action, a bond which would hold the defendants harmless against their costs of litigation (including attorney's fees) in the event the shareholder should fail to prevail. There is no current Alaska law on this point. Rule 23.1 is silent. My suggestion is that the Committee borrow the best

features of modern California and New York statutes on striking a balance on this vital question. Section 800 of the California Act leaves the trial court with substantial discretion to entertain a timely motion from defendants for the posting of such security. Thus the court could consider the nature of the plaintiff's allegations and project the likelihood of success. It would then exercise sound discretion in requiring that a bond be posted or in denying the request of the defendants. If a bond is required the court has further discretion to determine the amount of the bond. California presently limits the bond to a sum not more than $50,000. This ceiling is viewed as posing some protection against a judge who would simply price the plaintiff out of court with a bond requirement substantially beyond reasonable means. Again, the California Act provides that the amount of the bond may be raised or lowered (subject to the $50,000 ceiling) at any time during the course of the litigation upon the motion of either party or upon the court's own initiative as it seems the interests of fairness so require.

* Should the shareholder who has commenced a derivative action be allowed to compromise or "settle out of court"?

No, not in my opinion. This is very dangerous and tolerates "strike suits"--actions commenced with no solid ground but with the hope that management will tire of the time and expense of defending the litigation and "buy plaintiff off." New York is far ahead of other jurisdictions in warding off this danger. No action in the nature of a derivative suit may be settled or compromised without the approval of the court in which it was commenced and without notice to the other shareholders. This last feature is essential to protect the interests of both the court and the other shareholders. The court is protected

for a judicially approved settlement precludes any shareholder from attempting to relitigate the same questions. The notice requirement permits other shareholders to come forward and object either to the terms of the proposed settlement or to offer to take up the suit and carry it forward in the event of an afterarising unwillingness of the original litigant.

* Should the litigating shareholder in all circumstances be forced to account to the corporation for any proceeds realized from such an action?

Yes. In all jurisdictions this is mandatory if the court returns a judgment against the defendant officers or directors. All proceeds of the judgment are paid into the corporate treasury on the theory that the action has vindicated harm done to the corporation and not the litigating shareholder. The shareholder receives an allowance from these funds sufficient to cover the costs of the litigation. But what if the resolution is by way of an informal settlement? This is the dark side of this type of litigation. Frequently shareholders are offered a tidy sum (e.g., $20,000) if they will dismiss their suit. They keep the money and none of the other shareholders are the wiser. New York simply prevents this. There can be no informal settlement. Any dismissal predicated upon a compromise must be presented to the court, its terms noticed to the other shareholders, and any proceeds paid into the corporate treasury.

If all of these features are incorporated into the enabling act, I am of the view that Alaska will have the best of all possible positions with the virtue of derivative actions and none of the vices inherent in strike litigation.

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DIRECTIONS TO YOUR DRAFTING AIDES: Does the Committee favor in principle the concept of permitting derivative actions by shareholders in the General Stock Ownership Corporation? YES ____ NO ____. If "yes," does the Committee favor regulating the derivative action by special provisions in the enabling act? YES ____ NO ____. If "yes," does the Committee favor:

* The suggested standing rules? YES ____ NO ____.
* The suggested provision on exhaustion of intra corporate remedies? YES ____ NO ____.
* The suggested provision on the posting of a security bond for the defendants' costs of litigation? YES ____ NO ____.
* The suggestion that there be no compromise or dismissal of such an action without court approval? YES ____ NO ____.
* The suggested provision that the litigating shareholder in all circumstances be forced to account to the corporation for any proceeds realized from such a derivative action? YES ____ NO ____.

II. PROPOSALS DESIGNED TO INCREASE THE INFORMATION AVAILABLE TO AND THE POTENTIAL ROLE OF SHAREHOLDERS IN THE GENERAL STOCK OWNERSHIP CORPORATION.

PROPOSAL NUMBER FOUR: THAT THE ENABLING ACT BE AMENDED TO PROVIDE LIABILITY FOR AN OFFICER OR AGENT WHO WRONGFULLY REFUSES TO ALLOW A SHAREHOLDER, OR A SHAREHOLDER'S AGENT OR ATTORNEY, TO EXAMINE AND MAKE EXTRACTS FROM CORPORATE BOOKS AND RECORDS.

I propose that an officer or agent who refuses to allow a shareholder or the agent or attorney of a shareholder to examine and make extracts from corporate books and records

of account, minutes, and record of shareholders, for a proper purpose be made liable to the aggrieved shareholder for the penal sum of $1,000 in addition to other damages or remedy given such shareholder by law.

Explanation: Currently Sec. 10.05.240 of the Alaska Business Corporations Act confers upon shareholders a right to examine books and records. Section 10.05.243 provides a penalty for any officer or agent of the corporation who refuses to permit this inspection. Unfortunately, the penalty there provided (10% of the value of the shares owned by the aggrieved shareholder), is not much of a sanction in the context of the GSOC. In other contexts it may be very effective for it is obvious that the larger the number of shares owned by the aggrieved shareholder the more substantial are the consequences of denying the right of inspection. But a shareholder in the GSOC can never own more than 10 shares. Thus I propose to follow the current content of Alaska law in all particulars save for suggesting that a flat penal sum of $1,000 be established as the sanction.

The effective use of any of the shareholder checks upon management which are set forth in Suggestions One, Two and Three depend upon an effective ability to gain information as to the conduct of corporate affairs by the officers and the Board. Thus an effective right of inspection is essential. Indeed, the Committee might desire to see the penal sum imposed for each day there is a wrongful denial of the statutory right of inspection conferred by Sec. 10.05. 240.

DIRECTIONS TO YOUR DRAFTING AIDES: Does the Committee favor the concept of a statutory right of shareholders in the General Stock Ownership Corporation to inspect corporate books and records? YES ____ NO ____. Should this sum be levied: (a) per

refusal _____; or, for each day of a refusal _____?

PROPOSAL NUMBER FIVE: THAT THE SHAREHOLDERS BE GIVEN THE POWER TO INITIATE AMENDMENTS TO THE BYLAWS.

The current statutes in Alaska provide that the articles may restrict the power to adopt, amend, and repeal bylaws to the Board of Directors. The Kelso Report recommends articles which do so restrict the power to the Board and it is likely that this is what a Board would do. I propose that the enabling act be amended to reserve a power of adoption, amendment or repeal of the bylaws to the vote or written assent of shareholders entitled to exercise a majority of the voting power of the GSOC. I would also propose that the act permit the Board to enjoy this power save for the fact that the Board could not, on its own motion, repeal or amend a bylaw which had been adopted by vote of the shareholders.

Explanation: As was dramatically illustrated by the content of the Kelso Report, the document which is most likely to contain the crucial provisions which govern the structure and operation of the General Stock Ownership Corporation is the bylaws. A significant feature in what is, in my opinion, the excessive grant of power to the Board in SSHB 240 is the potential for vesting this power exclusively in the Board. The balance can be redressed by simply amending the enabling act to provide for a sharing of this power in the case of a General Stock Ownership Corporation.

DIRECTIONS TO YOUR DRAFTING AIDES: Does the Committee favor the concept of permitting the shareholders to adopt, amend or repeal bylaws in the General Stock Ownership Corporation? YES ____ NO ____. If "yes," does the Committee favor the

suggestion that this power be vested by statute in both the shareholders and the Board? YES ____ NO ____.

III. PROPOSALS DESIGNED TO IMPROVE THE QUALITY OF BOARD DECISION MAKING.

PROPOSAL SIX: THAT THE BOARD BE ENABLED TO TRANSACT BUSINESS BY USE OF A CONFERENCE TELEPHONE OR SIMILAR COMMUNICATIONS EQUIPMENT.

Given the significant distances as barriers to travel within the State of Alaska plus the strong likelihood that a minority of the directors will be non-Alaskans, I propose that the enabling act be amended to authorize the board to transact business by use of a conference tele[illegible] or similar communications equipment so long as all members participating in such a meeting can hear one another.

Explanation: One of the difficulties inherent in a body of nine members is to physically gather them in the same place at the same time for the transaction of Board business. In large corporate entities this is frequently difficult. The result has been a tendency to permit the Board to divide itself into smaller working committees or an "executive committee" to which is delegated most of the Board's function and authority. There is a price paid for such a solution. Decisions are made without the participation of the full m[illegible]bership. Yet a non-classical solution is at hand, and from my personal observation, a very familiar aspect of life in Alaska--the use of modern communications equipment to hold board meetings notwithstanding the fact that the members are not in the same place at the same time. Both California and Delaware now permit this and the reported experience is very satisfactory. I would suggest that such a provision be made a permanent amendment to Sec. 10.05.198 for all corporations formed in Alaska. It certainly merits adoption in the special case of the GSOC.

DIRECTIONS TO YOUR DRAFTING AIDES: Does the Committee favor the concept of permitting the directors to hold meetings via the use of conference telephones or similar communications equipment with participation in such a meeting constituting presence in person? YES ____ NO ____.

PROPOSAL NUMBER SEVEN: THAT REGARDLESS OF COMMITTEE ASSIGNMENTS EVERY DIRECTOR HAVE A RIGHT TO ATTEND THE MEETINGS OF ANY COMMITTEE AND BE PRIVY TO ALL BOOKS AND RECORDS.

Current Alaska law permits the Board to divide itself into committees including an executive committee and to delegate board functions and authority. I have no quarrel with this concept but do suggest that the enabling act be amended to make it clear that regardless of committee assignments any director shall have the right to attend (but not participate in) any meeting of any committee and to have access to books and records pertaining to the activities or responsibilities of such committees as may, from time to time, be created.

Explanation: Again we illustrate what one jurist has termed the "law of laws" . . . that every advantage is purchased at a price. The desire to streamline and specialize the functions of directors is understandable but the price is the exclusion of those directors who are not appointed to key committees. Sometimes this problem assumes serious dimension as those directors who are perceived by the majority as raising vexing questions and airing dissenting views are simply shunted aside by exclusion from committee assignments. The legislature can go some distance toward minimizing this harm by providing by statute a right of each director to attend the meeting of any committee and to have access to books and records.

DIRECTIONS TO YOUR DRAFTING AIDES: Does the Committee favor the concept of granting directors a statutory right to attend the meetings of any Board committee and to have access to minutes and records? YES ____ NO ____.

END OF THIS TRANSMISSION -- SEPARATE LETTER BEING TRANSMITTED NEXT.

* * *

The danger in this lack of understanding of the corporation by most Natives is that the Native community in Alaska is becoming corporatized. As with most economically disadvantaged minorities, the Native leadership pool is limited. And the action has switched from the political to the economic front. Former political leaders, many of whom were instrumental in getting the Claims Act passed, were naturally attracted by the economic clout of the corporations —as well as the $40,000 to $50,000 salaries many top officers are paid. Because of their former political status and because of the corporations' overwhelming importance to the Native community, the firms' officers are frequently still looked upon by their shareholders as broad-based community leaders, even though their perspectives and interests have narrowed somewhat.

With a few exceptions, the Native firms are corporations just like IBM and AT&T. And, while most of the corporate leaders say they realize that part of their mission is to help preserve the traditional Native life-styles, the ultimate success of a corporation is, as Koniag's Karl Armstrong noted, determined by that one quantifiable measure—profits and losses. And as corporations were designed more for stability than for democracy, they were also designed more to protect proprietary interests than to require disclosure and openness. It is not surprising that some of the Native corporations decline to disclose the salaries of officers, for example, or that some are reluctant to discuss negotiations with oil companies, even with their own shareholders.

Given the limitations and potential pitfalls involved in the modern corporate structure, it is somewhat surprising that, during the years of debate preceding the Alaska Native Claims Settlement Act, the focus was almost solely on the corporation as the vehicle for a settlement. Remarkably, the pre-settlement debate gave no serious consideration to developing a more democratic entity that would more nearly meet the economic and cultural needs of the Native peoples. As established, the Native corporations leave important decision-making power in the hands of a few corporate leaders. The individual shareholder's sole check on the corporation is a limited one: he or she can cast a vote at the annual stockholders' meeting for members of the board of directors. As the book *Alaska Native Land Claims*, the Alaska Native Foundation's detailed analysis of the Claims Act, puts it:

> Although a corporation's stockholders are its owners, the role of stockholders in the life of a typical corporation is a very limited one. . . . What the corporation sets out to do, and how effectively it accomplishes it, is dependent upon the qualities of judgment brought to the enterprise by corporate leaders.

Although directors are elected on the basis of one person, one vote, it is difficult for stockholders in most of the Native corporations to mount effective challenges to the group in power. This is due partly to a lack of political sophistication; partly to geographical factors which make it difficult for dissidents to get together to organize their opposition; and largely to the power of corporate incumbents to use the proxy.

The level of democracy in the corporations could be improved considerably, however, if the Native firms were organized in a different corporate form—along the lines of cooperatives. Such changes could be achieved through revisions in corporate bylaws rather than through amendments to the Native Claims Act. A key to the cooperative structure is maximum decision-making power by the stockholders, rather than by a few directors and corporate managers. Because the regional corporations all have more than 1,000 stockholders, it probably would be unwieldy for them to call full meetings every time there is a policy, or major investment, decision to be made. Instead, a representative assembly of, say, 100, could be established this would not only democratize the corporate decision-making process, but also would involve more deeply a greater number of individual stockholders, thereby reinforcing the feeling that the corporation is really theirs. Art Danforth, secretary-treasurer of the Cooperative League of the United States, told us that cooperatives at their best "can be kind of like New England town meetings," in that they involve the nearest thing possible to direct democracy under the corporate structure. In a situation where the corporate structure is an unfamiliar one, such as is the case with many Alaska Natives, and where there are even language barriers, the cooperative system would be far preferable, because important decisions affecting the future of the culture would be made by a representative group of Natives rather than just by a small number of corporate managers.

During the battle leading up to passage of the Claims Act, the Native lobbyists stressed the need for a settlement that would enable the Native cultures to survive and would also allow the Natives to

prosper financially. A per capita disbursement wouldn't have made a lot of sense, since the Natives treat land used to sustain their subsistence way of life as community property. Certainly, the paternalistic Indian policies of the past—a federal agency protecting the interests of its wards—have been discredited.

But there *are* problems with the Claims Act. Some Native leaders told us that one troubling aspect of the act is that Natives born after 1971 cannot obtain stock in any of the corporations except through inheritance. Even more worrisome is the provision that allows Natives to sell their stock after 1991, which raises the specter of eventual non-Native control. For example, in the case of Doyon, the largest of the regions,[17] the value of its land alone could make a stockholder's 100 shares worth more than $130,000 in 1992. With such value, many individual stockholders may be tempted to sell. Finally, there is an obvious built-in conflict between the goals of protecting a way of life and making profits. And some Natives have expressed the worry that the end result of corporatizing Alaska's Native people could be the same thing that happened when the Menominee Indians of the Midwest had their tribal status terminated and had land from their former reservation in the Menominee Forest turned over to them and corporatized. As the Native American Rights Fund described the aftermath of the Menominee Termination Act signed into law on June 17, 1954:

> The tribal assets were turned over to a new corporation, Menominee Enterprises, Inc. (MEI), and suddenly Menominee survival was based on knowledge of a complicated corporate style of living including: par value stocks, voting trusts, income bonds and shareholders' rights. . . .
>
> The effects of termination and corporate-style management of Menominee assets pitted brother against brother and parents against their children. It increased the poverty of most individual Menominees, created political turmoil, and brought on economic chaos. . . .

[17] The approximate amount of land due to each of the regions (including villages within the regions) under the Alaska Native Claims Settlement Act is: Doyon, 12 million acres; Calista, 6.2 million; Arctic Slope, 5.1 million; Bristol Bay, 2.9 million; NANA, 2.2 million; Cook Inlet, 1.2 million; Ahtna, 1.7 million; Aleut, 1.3 million; Koniag, 1 million; Chugach, 920,000; Bering Straits, 2.1 million; Sealaska, 200,000.

The approximate amount of federal and mineral royalty money that will go to each region under the Claims Act is: Sealaska, $200 million; Calista, $165 million; Doyon, $115 million; Bering Straits, $85 million; Cook Inlet, $75 million; Bristol Bay, $65 million; NANA, $60 million; Arctic Slope, $48 million; Aleut, $40 million; Koniag, $40 million; Chugach, $15 million; Ahtna, $12 million.

MEI, as well as individual Menominees, were forced to sell corporate shares and land in order to pay county and state taxes. As a result, acres and acres of the heartland of the magnificent Menominee forest were sold to non-Indians and Menominee reservation lands fell into the hands of non-Indian developers who destroyed religious sites and the cultural character of the community.

The report went on to note that unlike the Alaskan Natives, the Menominees did not have actual control of the corporation; this instead was handled by "non-Indian businessmen and so-called experts . . . to insure its success." Also, the Menominees faced immediate taxation of their lands, while the Alaska Native corporations have no such problem on undeveloped lands until 1992. Eventually, the Menominees asked restoration of their tribal status so that they could hold on to some of their financial assets, land, and tribal culture.[18]

Although there are differences in the Menominee and Alaska settlements, there are enough similarities to make the future uncertain for some of the corporations and the Native cultures. Yet, despite all the legal snafus and internal conflicts within the corporations, there still is no question that the Land Claims Act has given the Alaska Natives more political and economic clout than any minority group in the U.S. has ever commanded in one state. An orientation speech that was given by management for workers on the trans-Alaska oil pipeline illustrates this:

> Now, then, you may come upon a small Indian village of twelve or fifteen families somewhere up along the Yukon. You are to treat these people with respect. When you see them you may wonder why you are to treat them with respect. Well, we can give you three very good reasons. First, because they are people. Second, because they were here first and they owned the land before we did. Third, because their Native Land Claims corporations have got the money to hire the best legal talent in the United States.

There is an old Native saying that, "The way to beat the white man is with the white man's tools." As NANA's Hensley put it: "Anything that came along that helped us survive, we took ahold of it." The corporation, he told us, is just another of the white man's

[18] In the event the Alaska Native corporations ran into financial difficulty, what would the federal government's responsibility be, if any? Law professor Monroe E. Price, of the University of California, Los Angeles, noted that the situation is unclear. "No one knows what continues to be the relationship between the Alaska Native and the United States after the implementation of the Alaska Native Claims Settlement Act."

KELSO & CO.
INCORPORATED
INVESTMENT BANKERS

GREENSBORO, N.C. SAN FRANCISCO LOS ANGELES

March 30, 1979

Frances A. Ulmer
Director
Division of Policy Development
and Planning
Pouch AD
Juneau, Alaska 99811

Dear Fran:

We want to correct a statement made recently to you in a memorandum from Avrom M. Gross, Attorney General, by Joseph K. Donohue, Assistant Attorney General. The date of the memorandum is March 19, 1979, and the subject is "Policy and Legal Issues Surrounding AGSOC Legislation". On Page Three, at the end of the first paragraph, there is the following statement:

> "The investment opportunity presently recommended by Kelso's group is that the new AGSOC purchase BP's share of TAPS."

This statement is not accurate.

Our contract with the Alaskan Legislature specifically prohibited investigation into potential investments. See Page Two of the attached proposal which became part of the final contract.

Subsequently, Amendment I to the contract provided for:

> "(F) The contractor shall provide an analysis demonstrating how a direct investment in a pipeline would be made by an Alaskan General Stock Ownership Corporation."

We are quite sure that our oral testimony before various legislative committees has never indicated a recommendation for purchase of BP's interest in TAPS or any other investment opportunity.

In commenting on the urgency, as we see it, of getting the legislation enacted in the present legislative year, we have noted only that rapidly shifting world politics could affect the availability of an investment like the BP interest in TAPS, should the Board of AGSOC and the legislature conclude that particular acquisition to be of interest. That comment was not intended to be a recommendation, nor were recommendations requested of us.

We have not yet seen the text of the memorandum by Mr. Donohue, and we may well have other comments when we do.

We hope that this will help to clarify our interest.

With best regards,

Sincerely,

Louis O. Kelso

John A. Miskimen

LOK/JAM:ch
Encls.

CONTRACT BETWEEN

STATE OF ALASKA
LEGISLATIVE FINANCE DIVISION

AND

KELSO & CO., INCORPORATED
111 Pine Street
San Francisco, California 94111

The parties to this agreement are (1) the LEGISLATIVE FINANCE DIVISION, hereinafter referred to as the "State", and (2) KELSO & CO., INCORPORATED, hereinafter referred to as the "Contractor".

THE PURPOSE OF THIS AGREEMENT is to provide the consulting services described herein to the Alaska State Legislature.

IT IS THEREFORE MUTUALLY AGREED THAT:

CLAUSE I - STATEMENT OF WORK

(A) The Contractor shall provide a design study for a General Stock Ownership Plan in the manner described in the Contractor's proposal to the State of Alaska, dated July 10, 1978, as amended by the deletions indicated on the attached copy of said proposal.

(B) The Contractor shall provide draft proposals of the State and Federal legislation necessary to implement the General Stock Ownership Plan developed in the design study.

(C) The Contractor shall provide an analysis of the possible adverse effect upon the flow of Federal aid due to the successful establishment of an Alaskan General Ownership Plan and recommendations for dealing with this potential problem.

111 PINE STREET, SAN FRANCISCO, CALIFORNIA 94111 [415] 788-7484

(D) The Contractor may purchase the services and provide for the expenses of other consultants or professionals selected with the written approval of the Project Director.

(E) In the event of any conflict between the amended proposal and this agreement, this agreement shall govern.

CLAUSE II - PERIOD AND DATES OF PERFORMANCE

(A) The Contractor shall submit the study and proposed legislation on or before February 1, 1979. The report shall be submitted in duplicate in a form suitable for offset printing to the Project Director.

(B) The period of this contract shall begin on the date it is executed by all parties and terminated on February 1, 1979 unless extended or terminated by written agreement.

CLAUSE III - PROJECT DIRECTOR

The Project Director shall be _____ c/o Legislative Finance Division, Pouch WF, Juneau, Alaska 99811.

CLAUSE IV - COMPENSATION AND METHOD OF PAYMENT

(A) Contractor's total compensation, including all expenses for the work described in Clause I, shall be $180,000, and shall be payable to the Contractor as follows:

(1) On the date this contract is executed, August 25, 1978: - $30,000.

(2) The payment of the balance in monthly installments of $30,000 each, the first to be paid on the last day of the first full month subsequent to the acceptance of this proposal and the remaining installments in consecutive monthly payments.

(3) Out-of-pocket expenditures approved in advance by the State of Alaska will be billed monthly and due within 15 days of billing therefor by Kelso & Co.

CLAUSE V - PROGRESS REPORTS

The Contractor shall keep the Project Director informed as to the progress of the work performed under this agreement.

CLAUSE VI - RECORDS, DOCUMENTS, AUDIT

All documents, reports and writings produced in the course of the work performed under this contract are, upon delivery to the Agency or at the termination of this agreement, whichever occurs first, the property of the Agency.

CLAUSE VII - ALL WRITINGS CONTAINED HEREIN

This agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind either of the parties to this agreement. Contractor understands that State shall have an unlimited license, without further compensation, to reproduce and use all materials containing any claims of copyright by Contractor.

IN WITNESS WHEREOF, the parties have executed this agreement on the dates indicated below.

KELSO & CO., INCORPORATED
111 Pine Street
San Francisco, CA 94111

Louis O. Kelso _____ _____
President & Chief
Executive Officer

_____
Date

THE STATE OF ALASKA

Sen. Mike Colletta _____ Date
Chairman, Legislative
Budget & Audit Committee

Sen. John Sackett _____ Date
Chairman, Senate
Finance Committee

Rep. Steve Cowper _____ Date
Chairman, House
Finance Committee

KELSO & CO.
INCORPORATED
INVESTMENT BANKERS

GREENSBORO, N.C. SAN FRANCISCO LOS ANGELES

PROPOSAL TO THE STATE OF ALASKA TO PROVIDE A DESIGN STUDY FOR A GENERAL STOCK OWNERSHIP PLAN FOR USE IN FINANCING THE ACQUISITION AND/OR DEVELOPMENT OF SELECTED ENTERPRISES INVOLVED IN THE DEVELOPMENT OR EXPLOITATION OF THE RESOURCES OF THE STATE OF ALASKA IN SU H MANNER AS TO MINIMIZE THE COSTS THEREOF AND TO BUILD THE OWNERSHIP OF SUCH ENTERPRISE, OR SIGNIFICANT INTERESTS THEREIN, INTO EVERY ALASKAN CITIZEN

July 10, 1978

INTRODUCTION

This proposal is a revision of our proposal of May 10, 1978 to the State of Alaska, forwarded in its original form under a cover letter addressed to The Hon. Steve Cowper, Chairman of the House Finance Committee of the State of Alaska. By this reference, our cover letter to Mr. Cowper of May 10, 1978, our proposal included therein and its enclosures (collectively referred to herein as the "May 10, 1978 Proposal") are incorporated herein for background purposes only, and without any intent thereby to enlarge the scope or proposed compensation contemplated by this proposal.

After conferences between representatives of the State of Alaska and officers of our firm, it has been concluded that the initial step in the overall project contemplated by the May 10, 1978 proposal should be the development of the economic and financial design characteristics, together with an analysis of the legislative, legal and economic requirements for enabling the State of Alaska and its citizens to take advantage of the resulting device, which we refer to in our proposal of May 10, 1978, and refer to in this proposal as "Alaska General Stock Ownership Corporation", or "AGSOC" for short. We understand that the State of Alaska will be under no obligation to implement the plan thus developed, or any variation of it that may, in the future, recommend itself.

The thrust of the work proposed to be undertaken pursuant hereto is the development of the design characteristics of an institution capable of being used by the State of Alaska to build into its citizens individually the equity ownership of some predetermined portion of the capital facilities developed or constructed from time to time to exploit and to realize the economic value of the resources of the State of Alaska. In this initial phase, we are not to concern ourselves with particular potential investments nor with specific activities designed to educate or test the opinion of particular groups of people on any of the aspects of the design which it is the purpose of our study to develop and recommend to the State of Alaska. The focus is to be upon design, and upon the identification and solution of legislative (state and federal), legal, accounting, tax, business, economic and finance problems foreseeably incidental to the implementation of the design so to be recommended.

In our work, we are to make the fullest feasible use of the facilities and talents that may be available to us through the Legislative Research Division and its staff of technicians, presently under the directorship of Mr. Greg Erickson.

PROPOSED FEE FOR OUR SERVICES IN THE ACCOMPLISHMENT OF THIS PROPOSAL

We propose as a fee for our services in developing and perfecting the design of an Alaskan General Stock Ownership Corporation, the sum of $180,000. This sum would cover not only our services and all of our out-of-pocket expenditures, but the services and expenses of consultants, selected with advance approval by the State's representatives, to participate in the project.

We propose that the fee would be payable as follows:

1. An initial retainer of $30,000 upon the execution on behalf of the State of Alaska of this proposal memorandum, thus establishing an agreement between our firm and the State of Alaska.

2. The payment of the balance in monthly installments of $30,000 each, the first to be paid on the last day of the first full month subsequent to the acceptance of this proposal and the remaining installments in consecutive monthly payments.

An increase in a particular monthly fee (thus shortening the overall payment period) will be considered by the State of Alaska in the event approved out-of-pocket expenditures, combined with compensation for the ongoing efforts of our firm, for a particular month are materially higher than the average contemplated over the performance period.

COMPLETION OF THE DESIGN STUDY

Completion of our design study contemplated by this proposal and the delivery of a final report embodying the results thereof and our recommendations thereon to you will be made on or before February 1, 1979, assuming this proposal or any variation of it that we may negotiate is accepted by August 1, 1978. Otherwise, our completed report and recommendations would be delivered to you on or before 180 days from the date of acceptance of this proposal or of some variation of it.

Specialized consultants and subcontractors employed with the approval of whomever the State of Alaska may designate as the proper person or agency to supervise the project, would be paid by us from monies received from the State of Alaska hereunder. We anticipate that these consultants would include persons or organizations having the highest qualifications in their fields, and that, among others, these would include legal counsel skilled in the interpretation of the Alaskan and U. S. Constitutions, municipal bond counsel (who in this case would be entering a new field of counseling with respect to the use of a State agency to facilitate the distribution of stock representing private capital), State tax counsel, Federal tax counsel, accountants and lawyers skilled in the particular disciplines pertaining to problems developed by the design analysis (some of which may well be available within the State government), and other specialized talents. We assume that in every case, where the necessary talents can be found within the State government, that these would be used to minimize costs.

LEGAL PROBLEMS

A number of critical legal problems will require at least preliminary examination by the most highly qualified available experts. These will include the design characteristics of AGSOC as an agency of the State of Alaska, though intended for use to build the private and individual

ownership of productive capital into every Alaskan citizen. While the Legislature of the State can, and doubtless will for reasons of efficiency, confer exemption from State corporate income taxes and all State property and excise taxes upon AGSOC, and exemption from income taxes upon stockholders on account of dividends used to pay for stock subscribed to, careful attention in the legal and financial design of AGSOC and its relationship to its stockholders and stock subscribers will be required in order to bring such dividends within the mantle of protection of the State itself from federally imposed taxes. The theory behind the preliminary plan itself is the universally accepted financing strategy of business corporations that a sound and feasible investment is one that will pay for itself within a reasonable period of time and then, protected by good management, a sound research and development program to keep its products and services relevant to the available markets, and depreciation adequate to restore its capital instruments as they wear out, the investments will go on throwing off income virtually indefinitely. Obviously, however, capital will pay for itself much more efficiently if the buyer of capital receives the entire yield, after depreciation and operating reserves (including liquidity reserves, if necessary), than if a governmental body or bodies carve out, through corporate or personal income taxation or otherwise, income that could be used to enable the stock subscriber to pay for his stock. While it is both fair and equitable that Alaskan citizens who receive income from AGSOC stock that has already paid its acquisition costs should be taxed upon dividends they receive as spendable income, it is both rational and desirable that the rate of amortization of their non-recourse stock subscriptions not be delayed or retarded either by State or Federal income taxation. Opinions of qualified legal counsel on any relevant aspect of the Constitution of the State of Alaska or the U. S. Constitution, so far as such provisions may affect the legal or financial design of AGSOC would be obtained. Similarly, opinions of qualified tax experts on the steps needed to create a temporary immunity from Federal personal income taxation on dividends declared by AGSOC but applied by it to the payment of the subscription price on each subscriber's stock will be obtained.

It seems at the outset reasonably clear that at the most, exemption from Federal personal income taxation on dividends declared by AGSOC on its stock can be achieved only so long as neither the stock nor the dividend income itself is available for personal disposition by the subscriber or stockholder. Beyond that point, Federal legislation will be required, but it is submitted, an excellent foundation has been made for such Federal exemption. It is necessary to effectively broaden the capital ownership base of the American economy, and the Joint Economic Committee

has already officially recommended, in its 1976 Annual Report to Congress, that the rate of new capital formation be accelerated and that the base of ownership be broadened. It should be pointed out that the availability or non-availability of the Federal personal income tax exemption would not necessarily affect the feasibility of the plan itself, but rather, the length of time required for each stockholder's stock to pay its purchase price out of its dividends.

MEANS OF IMPROVING THE PROBABILITY OF FAVORABLE FEDERAL PERSONAL INCOME TAX EXEMPTION ON DIVIDENDS USED TO PAY THE PURCHASE PRICE OF STOCK

The likelihood of obtaining Federal legislation within a period of four or five years, at most, during which, it is our preliminary opinion, such exemption can be achieved through the design of AGSOC as an agency of the State of Alaska, will be significantly increased if circumstances are such that similar legislation would be needed by and beneficial to the citizens of the other 49 states. Ideally, this requisite would be accomplished by the enactment by Congress of S.3223, introduced into the 95th Congress, Second Session, by the Hon. Mike Gravel, United States Senator from Alaska, on June 22, 1978 (see Congressional Record, volume 124, number 96).

SPECIFIC ADDITIONAL FEATURES TO BE ANALYZED IN THE DESIGN STUDY, WITH RECOMMENDATIONS THEREON IN THE FINAL REPORT

The definitive structure of AGSOC and the design of its trust division, within which the escrow accounts of all subscribers to its stock would be established, should be planned and analyzed. On the assumption that the General Stock Ownership Plan Trust of AGSOC would function as the exclusive, or perhaps primary market for the stock of AGSOC as it may be transferred because of the succession of generations, or for whatever reasons, then careful consultation with the best available expert on stockholder relations would be held in order to foresee and, so far as possible, to avoid functional problems. Advice of counsel on the implications of Alaskan inheritance laws and inheritance tax laws would be sought.

All steps necessary to acquaint the blue sky commission of the State of Alaska with the details of operation of AGSOC and to arrange in advance for compliance with the applicable requirements of that agency should be made.

The Securities and Exchange Commission would be brought into consultation to acquaint all interested divisions fully with the nature of AGSOC and its proposed operations to obtain, so far as possible, understandings as to the applicability of the securities laws under its jurisdiction to the activities of AGSOC and its stockholders. While there is not much precedent for ascertaining in advance the questions which may arise, the general interest of the Securities and Exchange Commission in investors, as distinguished from speculators, and its interest in broad-based capital ownership, provide assurances that these problems will be satisfactorily solved.

The full details of the GSOP itself must be delineated. These would include the drafting of a body of regulations acceptable to the representatives of the State with respect to the definition of "eligible citizens" under varying circumstances of residence, time of birth, change of residence, period of years of eligibility to bring about full vesting, the conditions of forfeiture of vested interests, the provisions for transfer of ownership through sale, gift, descent and distribution, or otherwise, must be included in such regulations, and their legal soundness tested from every standpoint. The question of whether such stock, until released from the GSOP trust, would be subject to "spend-thrift" restrictions must also be covered by regulations. Rights of first refusal, or provisions for calls or puts with respect to the stock by the GSOP trust under various circumstances, should be considered, and the resulting decisions embodied in regulations duly adopted by the Board of Directors of AGSOC.

The design study would include an analysis of any special rights or privileges that may be necessary or appropriate between AGSOC and the native tribes or their corporations.

We will, of course, be pleased to respond to any and all questions. If you decide to proceed with the Economic Design Study as outlined in this proposal, please provide authorization for Kelso & Co., Incorporated's services by execution of the acceptance hereof through signature by officers authorized to obligate the State hereunder and returning a copy of this memorandum to us with a check payable to our firm as our retainer hereunder for the sum of $30,000.

KELSO & CO., INCORPORATED

By_____
Louis O. Kelso, President and
Chief Executive Officer

LOK:ma

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF–STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

AMENDMENT I

to the

CONTRACT BETWEEN

STATE OF ALASKA
LEGISLATIVE FINANCE DIVISION

AND

KELSO & CO., INCORPORATED

The Legislative Finance Division and Kelso & Co., Incorporated hereby amend the contract to which they are parties as follows:

1. CLAUSE I - STATEMENT OF WORK is amended by adding the following paragraph:

> "(F) The contractor shall provide an analysis demonstrating how a direct investment in a pipeline would be made by an Alaskan General Stock Ownership Corporation."

2. CLAUSE II - PERIOD AND DATES OF PERFORMANCE is amended by:

(a) deleting "February 1, 1979"; and

(b) inserting "February 15, 1979" in both paragraphs (A) and (B)..

3. CLAUSE IV - COMPENSATION AND METHOD OF PAYMENT is amended by:

(a) deleting "$180,000" and inserting "205,000"; and

(b) adding the following sentence to subparagraph (1):

"On the date that Amendment I is executed - $25,000."

IN WITNESS WHEREOF, the parties have executed this amendment on the dates indicated below.

KELSO & CO., INCORPORATED
111 Pine Street
San Francisco, CA 94111

Louis O. Kelso

Louis O. Kelso
President & Chief Executive Officer

January 15, 1979
Date

STATE OF ALASKA

Senator Mike Colletta
Project Director

Date

Rep. Jim Duncan
Project Director

1/12/79
Date

AGSOC Plan Overhaul Advised

By NANCY HARRIS
Empire Staff Reporter

The House State Affairs Committee, wary of the power which might be vested in the board of directors of the proposed Alaska General Stock Ownership Corp. (AGSOC), has agreed that a new set of laws should be drafted to govern the corporation.

The committee is responding to a warning from a University of California law professor that the Alaska Business Corporations Act is not designed to control a corporation such as AGSOC and that its board members could become the nine most powerful persons in Alaska.

Professor Daniel Fessler last week sent the committee proposed amendments to legislation setting up AGSOC which he says are designed to make the board of directors more responsive to corporation shareholders.

In addition, the panel agreed that a new chapter under Alaska's corporations laws should be drafted to deal specifically with general stock ownership plans.

The committee has held a series of hearings on the AGSOC proposal since early March, but just last week started addressing specific changes in the legislation. Identical bills introduced in the House and Senate (HB240 and SB170) were drafted from a plan produced for the Legislature by Louis Kelso, an economist who fathered the idea of general stock ownership plans.

The measures, as introduced, only set up the framework for the corporation, which would be a private business in which all Alaskan residents would be shareholders.

Under the AGSOC proposal, the state would loan the corporation several million dollars to finance start-up costs. The initial board of directors would be appointed by the governor and would adopt articles of incorporation and bylaws.

Fessler cautioned the committee that once the corporation was launched, the legislature would have no further say in how it is run and that AGSOC's citizen shareholders would have little power to affect corporate decision-making.

The committee decided to build restrictions on the AGSOC board into the enabling legislation, while at the same time working to keep it an entirely private corporation.

Amendments tentatively agreed to by the committee include:

—Giving shareholders power to initiate amendments to the corporation's bylaws. Under current law, a corporation can restrict

Continued on Page 2

AGSOC...

Continued from Page 1

that power to its board of directors. Fessler said the AGSOC board would be likely to adopt that restriction, but that could be prevented by giving the power to shareholders, also, in the enabling legislation.

—Requiring legislative approval of the articles of incorporation and bylaws adopted by the first board.

—Restricting AGSOC's ability to lobby and campaign. Representatives of the administration, and others, have expressed fear that AGSOC could create a powerful lobby by the citizen shareholders to repeal taxes and restrictions on industries the corporation invested in.

—Limiting the initial loan guarantee fund to strictly "start up" expenses not to exceed $5 million. The legislation currently does not spell out what the initial appropriation would be used for. Some lawmakers are concerned that the corporation would have to keep coming back to the state for more money and that there were no safeguards to prevent a drain on the state's treasury.

—Requiring a voter referendum for later appropriations and loan guarantees.

KELSO & CO.
INCORPORATED
INVESTMENT BANKERS
GREENSBORO, N.C. SAN FRANCISCO

April 10, 1979

The Honorable Mike Miller
Chairman, State Affairs Committee
Alaska State House of Representatives
Pouch V
State Capitol Bldg.
Juneau, Alaska 99811

Dear Representative Miller:

We are writing you to comment upon the principal items covered by the memorandum from The Honorable Avrum M. Gross, Attorney General (by Mr. Joseph K. Donohue, Assistant Attorney General), to The Honorable Frances Ulmer, Director of the Division of Policy Development & Planning, under date of March 19, 1979. We understand this memorandum has been considered by both State Senate and State Assembly Committees, but is presently before the State Affairs Committee. The subject of the memorandum is "Policy & Legal Issues Surrounding AGSOC Legislation (SSSB 170 and SSHB 240)". The memorandum states that it is in response to a request from The Honorable Frances Ulmer for a brief outline of the various issues which the Administration should review in the context of the analysis of the AGSOC legislation presently pending before the legislature.

The memorandum itself, the care and astuteness used in its preparation, and the wisdom of Miss Ulmer in requesting it, all attest the high degree of responsibility and thoroughness with which the legislature is studying the AGSOC legislation. We hope that our comments on certain of the provisions of the memorandum will prove of use to your Committee, and to others to whom you may wish to distribute copies.

For simplicity of reference, we will initiate each of our comments with a reference to the paragraph or paragraphs and to the page number in the memorandum of March 19th or 20th (March 20th being the date used on its separate pages). We will also number our paragraphs for easy reference in case you wish to ask questions or comment on this letter.

1. THE FIRST FULL PARAGRAPH ON PAGE 3

The question of whether the State should follow the policy of the federal legislation and exempt AGSOC from State corporate income tax and from certain other State level taxes which might otherwise be imposed on the corporation are, of course, precisely the kinds of questions that only the legislature can answer. There is one erroneous statement at the end of the paragraph, however, and that is that

our firm, as investment bankers, is presently recommending "the new AGSOC purchase BP's share of TAPS." We, in our instructions from the legislature, were expressly requested to avoid recommendations as to AGSOC's investments, although, basically to illustrate feasibility, we believe, we were asked to do a feasibility study of that particular purchase.

In general, it will be obvious to your Committee that the taxes imposed on AGSOC at the corporate level would simply slowdown the rate at which AGSOC could amortize its debt incurred in acquiring productive investments from time to time, and thus slowdown the rate at which AGSOC is effective in building capital ownership into each Alaskan resident.

2. THE LAST FULL PARAGRAPH ON PAGE 3

In the last paragraph at the bottom of Page 3 (erroneously reproduced in our copy at the top of Page 4), it is postulated that by purporting to give each resident of the State a direct interest in the development of the State's natural resources, AGSOC would become an independent voice for more rapid exploitation of those resources, and that because the AGSOC is required to pay out substantially all of its net income to residents of the State, it "would likely" become a lobbying force for lower State taxes. We do not believe that these conclusions are by any means obvious or sound. It apparently has been overlooked that while AGSOC, as a corporation in which every resident owns an interest, is intended to build capital ownership in each such resident each resident also has other and independent interests. He has an interest in the overall tax impact on him. Thus if reducing the taxes on AGSOC raised his personal income tax, or his property tax, he would certainly take both into consideration and either of these events would undoubtedly have a far greater individual effect than lowering State taxes of the corporation of which he is a shareholder. It is inconceivable that AGSOC would become a lobbying force contrary to other basic interests of the residents of Alaska, simply because its stockholders would have ultimate control over AGSOC.

To be sure, as independent and privately owned capital is built into Alaskan residents, there will be less need for welfare and redistribution of income within the State of Alaska. The very theory upon which AGSOC is structured asserts that by enabling each resident to become, to whatever degree possible, economically autonomous and independent, such resident will be freed from the indignity of seeking welfare and other taxpayers will be freed from the unpleasant task of being forced to support strangers through taxation used for welfare purposes. These are "trade-offs" of a political and economic nature, but the underlying theory of AGSOC is that economic self-sufficiency through the ownership of income producing capital is preferable to welfare for some and redistributive taxes for others. We believe that this point should be clearly and thoroughly debated by the legislature and the question of whether the legislature prefers the prin-

ciple of capitalism or the principle of socialism should be determined.

3. THE SEVERAL PARAGRAPHS BEGINNING AT THE BOTTOM OF PAGE 4 UNDER SECTION II. FINANCING

It is represented in the memorandum that Louis Kelso testified before the Joint Committee and has stated to various Administration officials that AGSOC will be able to obtain financing on the private market without recourse to State guarantees or State credit. This is not, we believe, an accurate summary of my personal testimony and statements to various Committees and to various individuals in the legislature.

I have pointed out that in addition to start-up funding in order to make AGSOC an operating reality, it should then seek the best sources of funding available. Some investments, it is possible, can be acquired through collateral financing, or other conventional types of corporate finance. On the other hand, some investments may require support by the State or by some appropriate or appropriately created State agency. The important point to be focused upon in this area is that conventional corporate and business finance tends specifically to make the rich richer and to fail to make the poor richer. We do not see how it can be considered objectionable for the people of the State to use their collective power to assist the individual residents -- all residents at the outset and new residents as these grow in significant numbers -- by amendments to the State and federal legislation, or by the Alaskan State Legislature's specifically incorporating future AGSOCs -- AGSOC-I, AGSOC-II, etc.

The points made in the remainder of Section II should, of course, be considered by the legislature in the light of the existing Constitutional provisions and the existing State mechinery for backing up an enterprise -- AGSOC -- that is a private corporation but whose activities will address themselves to the solution of a public problem. AGSOC is a device to carry into practice preventative economic measures to avoid future poverty and to improve future affluence for Alaskan residents as a whole. We submit that these are noble public purposes and that in considering the use of the power of the State to support investments made by AGSOC, all of the income of which is commanded to be distributed to the stockholders of AGSOC, the legislature should not impose administrative barriers that would prevent AGSOC from competing effectively with giant corporations for investments. Investments of AGSOC will benefit all the residents of Alaska whereas investments of the traditional giant corporations primarily benefit the pinnacle wealth owners, a few of whom may be Alaskan residents, but most of whom will be non-residents and perhaps even non-U.S. citizens.

For our part, it would seem that the wisdom of the legislature in appropriating particular funds that can be used as guaranty funds is adequate assurance of careful review by the legislature on behalf of the people as a whole.

4. SECTION III. DEPOLITICIZING THE AGSOC BEGINNING ON PAGE 7

In general, it appears to us that the discussion here is made-up not of legal analysis primiarly, but rather of political concerns.

In the first paragraph under this item is the statement that "it should be noted that there is nothing in the federal legislation which would preclude the AGSOC's establishment as a state agency or public corporation." We believe this is a misinterpretation of the federal law, which requires that a General Stock Ownership Plan be a private corporation even though its shareholders must include, at the outset, all residents of the State as of a date selected by the legislature and as of the date of the issuance of its stock.

We disagree with the unwarranted conclusion drawn in the paragraphs at the bottom of Page 7 and on Page 8, at seq. that, if successful, AGSOC would quickly become highly politicized and an extremely powerful force -- in fact a Fourth Branch of Government. If AGSOC were permitted to accumulate its net income and thus develop a vast reservoir of funds which it could spend as its Board of Directors saw fit, then these comments might be justified. But that is precisely what AGSOC is designed to avoid. Its income is promptly translated into the income of its broad base of stockholders. It is not designed to be a powerful entity for anyone except the people of the State as a whole. As the shareholders gain power, their power to control AGSOC, through election of directors and through the power, under general law, to initiate a suit to have questioned in court a misuse of funds by AGSOC, is, it would seem to us, an ironclad guaranty that AGSOC would never become a branch of government in any form.

Because of its very size, and its potential economic importance to the enormously broad base of Alaska residents, we do not believe the speculation that ultimately one-tenth of the residents could wind-up owning all of AGSOC. One very simple reason for this belief is that if the residents do not tenaciously hold on to their AGSOC stock, the legislature is free to incorporate successive new AGSOCs and to add assurances that they do keep their individual economic power and independence.

Thus we regard it as simply improbable and unfounded speculation that any "power blocks" of residents could be established or that, if established, they could not be controlled quite easily by stockholders' derivative litigation.

With the absolute necessity that for many if not most of its investments AGSOC will look to the economic power of the State, as determined by the legislature, to give it access to federal or private credit, we think that there is no basis for imagining that AGSOC could develop a constitutency over which it has no control whatsoever. We also believe that since AGSOC must pay its income to its stockholders, and has no duty except to develop and produce wealth and to distribute

it to those citizens, that the Board of Directors or the management of AGSOC could not become a political center or political leader of any kind whatsoever.

The last paragraph on Page 8 speculates that "Although one could argue that AGSOC violates the fundamental political theory of the State Constitution which established only three branches of government****". As noted above, AGSOC is not, and could never be under the proposed legislation, a branch of government of any kind whatsoever. It is an instrumentality created by the State, just as the State creates the laws under which business corporations in general can be established, but upon which the governments, State and Federal, have imposed limitations to assure that it will work for all residents -- all stockholders -- rather than for one, or a few, as present corporate grants do. Having made a false assumption that AGSOC could be a "Fourth Branch of Government", it is natural to speculate on all the dangers that would flow from this impossible situation. The recommendation for bureaucratic regulation appears to us to be totally unwarranted and would impede the potential efficiency of AGSOC to improve the economic status -- legitimately -- of all residents of Alaska. There is no virtue in bureaucratic regulation as such. The stockholders would annually vote on directors and upon all issues put to them by the Board or by stockholder initiative. A broader and more diversified base for AGSOC could hardly be conceived. The power of AGSOC is in its stockholders, not in its Board of Directors or its management.

Sight seems to have been lost of the fact that AGSOC is meticulously designed as the new method of financing economic growth and development for the purposes of attacking the cause rather than merely the effects of poverty. This is precisely what it is designed to do and precisely what it must do under its structural regulations. That is its purpose. Since AGSOC must pay out substantially all of its earnings to its shareholders, its sole function is to connect each resident with capital ownership and income. Could a more desirable goal be conceived?

5. BEGINNING AT THE BOTTOM OF PAGE 8 AND CONTINUING ONTO PAGE 9 OF THE MEMORANDUM

The problem is raised that members of the Board of Directors of AGSOC could use their position as a forum for criticizing the Administration's economic policies and ultimately as a launching pad for State elective office.

This is not a very real concern because the only official obligation of the members of the Board of Directors of AGSOC is to develop and produce Alaskan wealth for ownership by every Alaskan resident. When members of the Board of Directors periodically run for election as such, if they are incumbents, they do so on their performance record, as does any elected official, public or private.

The freedom of particular directors and/or officers of AGSOC to criticize the State's economic policies is nothing but the Constitutional right of all U.S. citizens to free speech. Precisely the reverse exists as well. The Governor, or any Committee of the legislature, is free to criticize the investments of AGSOC. It would appear to us that the absolute dependence from time to time of AGSOC upon specific legislative provision of economic support for its investments assures that any free speech that passes between the Board of Directors of AGSOC and any branch of the State Government will be tempered with these realities in mind.

Any activity within or without the State of Alaska could theoretically be a "launching pad" for public office. But AGSOC as an entity that makes every resident more affluent will increase the possible opportunities of every resident to run for State office, and to participate in local State and community affairs. This is a more democratic basis for the State than where only a few people can afford to run for office. Does Alaska want more or less democracy?

In the first full paragraph on Page 9 of the memorandum, it is suggested that AGSOC be prohibited from lobbying and from making political contributions to candidates for State offices. We would think it entirely proper that AGSOC be prevented from making political contributions out of its funds to candidates for State office. Indeed, since it must periodically come under the scrutiny of the entire legislature and the Governor, we find it difficult to imagine that such prohibition would not be voluntarily imposed upon itself. But nothing would be lost by including such limitations in the legislation.

However, we have grave reservations about "strict proxy review mechanisms" that would cause the directors to act in "a politically neutral fashion". AGSOC is not designed to act in a politically biased fashion, nor does its design so permit. It has one function: to make each resident wealthier and to deliver that wealth to him periodically and dependably. Nothing more. What the residents of Alaska do with their wealth would seem to us to be their business.

On general legal principles, it would appear to us that any stockholder of AGSOC could institute legal action to restrain AGSOC's Board from using the potential income belonging to the residents as stockholders for the benefit -- any benefit -- of the Board of Directors.

Only totalitarian states adopt edicts to shield bureaucrats from speaking freely, but AGSOC's single purpose assures the ease of its stockholders in holding it to the performance of its sole purpose.

6. CAN AGSOC BECOME A CENTER OF CONCENTRATED ECONOMIC POWER?

This question is raised at the bottom of Page 9 and on Page 10 of the memorandum. We believe that this is random and unrealistic

speculation.

It is quite true that because of the vastness of its stockholder constituency, AGSOC should seek to invest in massive and highly productive economic developments and activities. But it is not true that this can lead to its becoming a "major force for concentration of economic power in the State***". The design of AGSOC specifically makes this impossible for the very simple reason that it is required to pay out all of its income to its shareholders. That its shareholders will become more affluent, less dependent on redistribution of wealth, less dependent on welfare, and more powerful, is elementary. But this is the same as saying that its shareholders are the ones who have the power to scrutinize, correct, and contain any potential concentration of economic power in AGSOC.

Th same is true of the risk that AGSOC may violate the Federal anti-trust laws. We have seen no lack of ability on the part of the Federal Anti-Trust Division to watch over this area of business activity. The periodic supervision by the legislature at the time it grants added support for any further investment by AGSOC assures that the State legislature itself can consider the question of whether any anti-trust monopoly action is involved. Certainly the absolute inability of AGSOC to accumulate internal funds defeats its power of ever exercising the main means by which business corporations violate anti-trust laws, namely by withholding the "wages of capital" from the owners of capital (the stockholders) and accumulating those funds to buy monopolistic power. Again, AGSOC is designed to make this impossible. We cannot conceive of the slightest need for any added limitations in this area.

We submit that the last sentence in the last paragraph on Page 10 of the memorandum, in itself, recognizes the improbability of the speculation involved in the preceding paragraphs. The fact that the stockholders of AGSOC and the people of the State are, and at all times will be identical, merely shows that AGSOC is, by its design, constrained through its broad ownership, and through the right of the legislature to launch any number of additional AGSOCs and to dry up its source of funding, designed to avoid any of the conflicts thus imagined.

Since the type of conflicts imagined in Pages 9 and 10 of the memorandum are unrealistic and cannot occur, the remedies proposed on Page 11 for this non-existent danger would seem to be entirely unnecessary. AGSOC's designed trust obligation -- to develop and produce wealth for all Alaskans -- assures that any wasteful or improper use of its resources could be enjoined by any of its stockholders under general principles of corporate law. The imagined problems simply do not and cannot exist, and if they did, they could be quickly restrained under these generally applicable legal principles.

7. PAGE 11, SECTION IV. CORPORATE DEMOCRACY

That the existence of classification of directors would limit the ability of minorities within the State to obtain representation on the Board of Directors of AGSOC is, in our opinion, without foundation in fact. Board classification is desirable to promote stable policies in corporate matters. The possibility of an entirely new Board being elected each year would be highly undesirable. Board membership will be in a corporation charged with a trust to represent all the people of the State of Alaska.

On the question of cumulative voting, we do not see, in a corporation with a stockholder base as vast as that proposed for AGSOC, that there would be any advantage in insuring cumulative voting. On the other hand, we see no disadvantage in assuring that cumulative voting must exist.

On the question of limiting the duration of any voting trusts, made in the paragraph at the bottom of Page 12, it would appear to us that this suggestion is a good one.

Similarly, providing for shareholders to initiate amendments to the Articles of Incorporation would be desirable where a substantial shareholder initiative, say 10%, or even 5%, of the registered shareholders' signatures would be required. It would not be desirable to permit a tiny handful of stockholders to upset the efficiency of the corporation in making its day-to-day decisions.

8. DESIRABILITY OF A HIGH FORUM REQUIREMENT

This would seem to us to simply impose clumsy procedures on the State's prime weapon in building preventative economic power into its citizens, i.e., measures to prevent future poverty from arising. AGSOC will be under a constant obligation to educate its stockholder constituency about the economics of capitalism and will, of necessity, become a source of economic education because it will enable, for the first time in history, every Alaskan to become a capital owner. To go further than this would seem to be probably wasteful in terms of paperwork and a pointless waste of time.

9. LESIGLATION ASSURING ADEQUATE NOTICE OF MEETINGS

In the second paragraph on Page 14 of the memorandum, suggestion with respect to this are made. We would think this entirely proper if the restriction does not obstruct reasonably efficient governance of the corporation.

10. THE CORPORATE BY-LAWS

The memorandum suggests that the power to amend the By-Laws should be reserved to the shareholders "in order to ensure adequate public review." We believe that such a provision would be too expen-

sive and too restrictive in terms of efficient governance of the corporation, and excessively wasteful of time.

11. AGSOC'S FINANCING OF PROXY FIGHTS, ACCESS TO VOTING LISTS AND VOTING MACHINERY

We believe that the suggestion made in Paragraph 8 on Page 14 would be salutary if the signatures of 10% or more of shareholders were required. Otherwise, the corporation could waste time dealing with mere adventurers.

12. SECTION V. PRIVATE CORPORATION: CLOSED CLASS OF SHAREHOLDERS

In this matter, covered on Pages 15 and 16 of the memorandum, we believe that the first paragraph on Page 15 is in error in stating that federal legislation mandates that the shareholder group in AGSOC be made up of a "closed class" in any realistic sense, for the simple reason that it imposes no limitation upon the number of AGSOCs which the Alaskan Legislature could authorize. Thus a longtime resident might well wind-up holding shares in ten or fifteen different AGSOCs, while those who depart the State would only own shares in those AGSOCs whose stock ownership qualifications they had previously met.

The "scenario" imagined by the author of the memorandum in the second paragraph on Page 15 is simply unrealistic. The preventative economic measures involved in establishing AGSOC that strike at the cause of poverty rather than merely at the effects of poverty hold more promise for eliminating poverty than all past measures, State and Federal, dealing with this subject, for those measures merely apply band-aids to the effects of poverty.

The problems imagined here are under year-to-year control by the legislature since AGSOC must be created by a separate act of the legislature. Other AGSOCs can be created at will by the legislature. Changes in the law concerning transferability of its stock can be made by the legislature if experience proves that such changes are warranted. It is contemplated that the full thrust of AGSOC's educational stockholder relations program will induce most stockholders to hold onto their shares as their dearest economic possessions.

We hope that the foregoing comments will be of use to your Committee in its deliberations. We would be pleased to respond to any requests for elaboration or to any questions.

Sincerely,

KELSO & CO., INCORPORATED

By _____
Louis O. Kelso

By _____
John A. Miskimen

LOK/JAM:ch

cc: The Honorable John G. Fuller,
Vice Chairman, State Affairs Committee
The Honorable Terry Gardiner,
State Affairs Committee
The Honorable Bill Parker
State Affairs Committee
The Honorable Terry Martin,
State Affairs Committee
The Honorable Ray H. Metcalfe,
State Affairs Committee
The Honorable Richard Eliason,
State Affairs Committee
Frances Ulmer, Director, Division
of Policy Development & Planning

STATE OF ALASKA

JAY S. HAMMOND
GOVERNOR

OFFICE OF THE GOVERNOR

DIVISION OF POLICY DEVELOPMENT AND PLANNING

POUCH AD-JUNEAU 99811
PHONE 465-3577

April 19, 1979

The Honorable Mike Miller
Chairman
House State Affairs Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mike:

Attached is a briefing memo prepared for the Governor's conference call with Senator Gravel last Friday. We offer it to your committee as a source of ideas for additional amendments to HB 240. In particular, the items on pages two through four include a number of points raised by Professor Fessler and others which have not yet been incorporated into the committee substitute. The most important of these are circled. If your committee decides to pursue any of these items, Administration staff will be available to provide assitance upon your request. One point not discussed in the memo which should be mentioned is the level of state financial assistance to AGSOC. The Governor recommended and and Senator Gravel agreed that the AGSOC should not be allowed to request or receive any state financial assistance (by appropriation, guarantee, or any other method).

While the Governor has not yet resolved all of the "First Level" questions for himself, he wants to share the ideas in this memo with your committee and to provide staff assistance, so that the best possible AGSOC bill might be developed.

Sincerely,

Fran Ulmer
Director

Enclosures

STATE of ALASKA

MEMORANDUM

DIVISION OF POLICY DEVELOPMENT AND PLANNING
OFFICE OF THE GOVERNOR

TO: Governor Jay S. Hammond

DATE: April 12, 1979

FILE NO:

TELEPHONE NO:

FROM: Frances A. Ulmer
Director

SUBJECT: AGSOC

The following questions still remain concerning SB 170/HB 240, the Alaska General Stock Ownership Corporation bill. There are really two levels of questions. The first are the more basic philosophical questions which defy technical resolution. They must be answered intuitively. The second level involve more tangible questions which can, to a greater or lesser degree, be resolved via amendment to the bill. However, consideration of second level questions assumes that the first level questions are resolved in favor of the basic AGSOC concept and a decision is made to develop the best possible bill.

First Level

1. What are the basic goals of AGSOC? Is AGSOC the best mechanism for achieving those goals?

   Basic goals: to provide broad capital ownership by Alaskans of either existing assets or new assets involved in resource development

   to provide dividends to supplement personal income.

2. Is there any way to avoid or resolve the basic conflict of interest between residents as taxpayers and citizens, and residents as shareholders?

   Examples; purchase of oil line share - tarrif question

   development of petrochemicals - royalty prices

   construction of gasline - oil recovery

   virtually any business - any regulation.

3. With respect to the above questions, can we expect AGSOC to become an important political force? Is it appropriate or possible (first amendment rights question) to prevent this?

4. Even with the amendments contemplated by either the House State Affairs Committee or the Administration regarding corporate governance, how likely is democratic control of AGSOC?

5. What is the likely extent of state subsidies to AGSOC? What will be the impact on the state's credit rating from passage of the bill? From actual extension of state financial aid?

Should procedures and/or conditions for extending such aid be included in the bill?

NOTE: The House State Affairs Committee has requested drafting of amendments to provide for a referendum for any state financial assistance to AGSOC. No legislative approval would be required for AGSOC investment not requiring state financial assistance.

6. Is it possible to resolve/avoid the "closed class" problem created by "old" residents being shareholders while "new" residents are not?

7. How will the Governor make decisions as to who shall constitute the first Board of Directors?

8. Does the Alaskan public want an AGSOC?

Second Level

1. What should be the procedures for electing the Board of Directors?

2. Should the state allow the federal corporate income tax exemption to pass through to state corporate income taxes?

NOTE: The House State Affairs Committee has agreed to pass through the tax exemption.

3. Should there be one AGSOC per investment or project, or should there be only one AGSOC which could invest in a variety of projects?

NOTE: Senator Colletta supports the former approach; House leaders support the latter.

4. Should people who leave the state be able to take their shares with them?

NOTE: The House State Affairs Committee has decided to mandate that people who cease to be residents transfer their shares either to a resident or to the corporation.

5. Is AS 10.05 of the Alaska Business Corporation Act the appropriate "regulatory umbrella" for AGSOC, or do we need a new chapter specifically designed for AGSOC?

NOTE: The House State Affairs Committee has requested drafting of a new "GSOC" chapter.

6. Should there be a limitation on, or incentives against, litigation between AGSOC and the state (because the same people bear the costs)?

Does AGSOC possess unfair competitive advantages which could lead to anti-trust problems?

7. What are the implications for AGSOC of SEC regulations?

8. What other changes to the bill, Articles of Incorporation, or Bylaws are desired by the Governor or the legislature?

House State Affairs Committee (tentative) desired amendments:

- Chairman of the Board must be Alaska resident.

- Nine member board, seven residents, two outsiders.

- No classified board; all directors elected every two years (mechanics, i.e., proxy issues, undecided).

- Directors removable by shareholders without cause.

- Statutory provision for derivative suits.

- Require legislative approval by resolution of articles and bylaws.

- Give shareholder the ability to amend bylaws.

- Allow board business to be conducted via telecommunications.

- Every director has right to attend all board committee meetings.

- Liability for officers' refusal to allow shareholder access to corporation books and records.

- Loan guarantee fund limited to start-up costs not to exceed $5 million.

- Delete Sections 2 and 3 regarding investments of GF surplus or permanent fund in AGSOC securities. Consider amendment to AS 37.10.070 to prohibit use of subsection 6 for investment of GF surplus in AGSOC. Also delete Sec. 4 which would exempt AGSOC securities from registration under the Alaska Securities Act of 1959 and from filing of sales and advertising literature.

- Prohibit officers and employees of corporation from serving on board.

Administration working Group desired actions or amendments:

- Statutory reservation by the legislature of the right to amend the statute - impairment of contracts issue.

- Development of election procedures for the Board, including financing of proxy fights, access to voting lists and mailing machinery, and consideration of a regionalized board.

- Solution of "single class of stock" issue created by the voting rights of shares held by minors.

- Assessment of the definition of "resident" provided in the bill.

- Assessment of potential for tax liability on initial issue or otherwise to be greater than dividend.

- Criminal liability of directors in certain instances.

- Provision for cumulative voting.

- Limitation on voting trusts.

- Requirement that feasibility analysis and other information be provided to the Governor and the legislature in sufficient time before a decision is necessary on financial or other state aid.

- Details of shareholder meetings, i.e., notice, location, quorum.

- Limitation on assignement of dividend rights.

- Limitation on ability of corporation to acquire Treasury shares.

- Shareholders' ability to amend the number and terms of office of the Board of Directors.

- Directors subject to removal by Superior Court at suit of 100 or more shareholders or Attorney General for fraudulent or dishonest acts or gross abuse.

- Limitation of ownership to one share.

MEMORANDUM

To: MG

From: Jerry Gauche

Re: Markup Issues for State Affairs

Date: 4/23/79

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1. Question of whether petition signed by 100 shareholders is too open to abuse and whether the number of signatures required for shareholder nominations or ballot issues should be some higher number like 500 or 1,000.

2. Directors should be able to suggest changes in bylaws to be voted on by the shareholders even though the shareholders prposed the bylaw. Currently the bill, at page 18, line 2, restricts the board from making such proposals for one year after the meeting at which a shareholder bylaw was proposed.

3. Could allow more outside directors and still assure Alaskan control by providing that a quorum of the board may not be constituted without a majority of Alaskan directors (instead of the current treatment of requiring that only 1/4 of the board be from outside). Bill at page 18 line 12.

4. Add clause which insures that legislative disapproval

IF ARTICLES OR BYLAWS AND ANY LEGISLATIVE CHANGES TO THE GSOC CHAPTER WILL NOT AFFECT FINANCIAL COMMITMENTS OF THE CORPORATION. BILL SECTIONS 330 (PAGE 32) AND 635 (PAGE 57).

5. SUGGEST THAT TO LIMIT SHARE OWNERSHIP TO ALASKANS PROVIDE DURING FIRST YEAR ANYONE CAN GET SHARES FREE OF CHARGE, AFTER FIRST YEAR AND UP TO YEAR SIX MUST PAY BOOK VALUE. BILL SECTION 7, PAGE 60/61.

6. NEW PROVISIONS ON APPOINTMENT OF INCORPORATORS.

7. DISCUSS REMOVING THE LOBBIEST SECTION FROM THE COMMITTEE AMENDMENT REGARDING POLITICAL ACTIVITIES.

James Allen were able to create and fund the Economic and Development Corporation, a separate Swiss company, and pay $750,000 to Dr. Hubert Weisbrod, a Swiss attorney, to stimulate West German jet sales without the knowledge of the board or, apparently, other senior executives

At 3M, chairman Bert Cross and finances vice president Irwin Hansen ordered the company insurance department to pay out $500,000 for imaginary insurance and the bookkeeper to fraudulently record the payments as a "necessary and proper" business expense for tax purposes. Although the transactions lacked required documentation, they were approved by both departments and later "verified" by Haskins and Sells, the outside auditor.

Ashland Oil Corporation's chief executive officer, Orwin E. Atkins, involved at least eight executives in illegally generating and distributing $801,165 in domestic political contributions, also without question. Not only was the board not informed until the Special Prosecutor's Office and Internal Revenue Service compelled Atkins to dribble out details of the misappropriation of funds, but Ernst and Ernst, Ashland's accountants, did not effectively investigate any of half a dozen separate accounts it discovered that suggested Ashland's illegal course of action.

The Legal Basis of Management Power

The legal basis for such a consolidation of power in the hands of the corporation's chief executive is the proxy election. Annually the shareholders of each publicly held corporation are given the opportunity of either attending a meeting to nominate and elect directors or returning proxy cards to management or its challengers signing over their right to vote. Few shareholders personally attend meetings. Sylvan Silver, a Reuters correspondent who covers over 100 Wilmington annual meetings each year, described representative 1974 meetings in an interview: At Cities Service Company, the 77th largest industrial corporation with some 135,000 shareholders, 25 shareholders actually attended the meeting; El Paso Natural Gas with 125,000 shareholders had 50 shareholders; at Coca Cola, the 69th largest corporation with 70,000 shareholders, 25 shareholders

Source: Taming the Giant Corporation
Nader, Green, and Seligman

attended the annual meeting; at Bristol Meyers with 60,000 shareholders a like 25 shareholders appeared. Even "Campaign GM," the most publicized shareholder challenge of the past two decades, attracted no more than 3,000 of General Motors' 1,400,000 shareholders, or roughly two-tenths of one percent.

Thus, corporate directors are almost invariably chosen by written proxies. Yet management so totally dominates the proxy machinery that corporate elections have come to resemble the Soviet Union's euphemistic "Communist ballot"—that is, a ballot which lists only one slate of candidates. Although federal and state laws require the annual performance of an elaborate series of rituals pretending there is "corporate democracy," in 1973, 99.7 percent of the directorial elections in our largest corporations were uncontested.

Of the 6,744 corporations required to file data with the Securities and Exchange Commission, incumbent management retained control in at least 6,734 companies, or 99.9 percent. In the 500 largest industrial corporations—corporations which account for some 66 percent of the sales of all industrial corporations in the United States—no incumbent management was even challenged in 1973. One-sided as these results are, they are entirely typical for the largest business corporations. During the 18 years for which data are available, 1956–73, management has won 99.9 percent of all proxy solicitations in 10 out of 18 years.

THE BEST DEMOCRACY MONEY CAN BUY

The key to management's hegemony is money. Effectively, only incumbent management can nominate directors—because it has a nearly unlimited power to use corporate funds to win board elections while opponents must prepare separate proxies and campaign literature entirely at their own expense.

There is first management's power to print and post written communications to shareholders. In a typical proxy contest, management will "follow up" its initial proxy solicitation with a bombardment of five to ten subsequent mailings. As attorneys Edward Aranow and Herb Einhorn explain in their treatise, *Proxy Contests for Corporate Control:*

Perhaps the most important aspect of the follow-up letter is its role in the all-important efforts of a soliciting group to secure the *latest-dated* proxy from a stockholder. It is characteristic of every proxy contest that a large number of stockholders will sign and return proxies to one faction and then change their minds and want to have their stock used for the opposing faction.

The techniques of the Northern States Power Company in 1973 are illustrative. At that time, Northern States Power Company voluntarily employed cumulative voting, which meant that only 7.2 percent of outstanding shares was necessary to elect one director to Northern's 14-person board. Troubled by Northern's record on environmental and consumer issues, a broadly based coalition of public interest groups called the Citizens' Advocate for Public Utility Responsibility (CAPUR) nominated Ms. Aloha Snaby, a former Minnesota state legislator, to run for director. These groups then successfully solicited the votes of over 14 percent of all shareholders, or more than twice the votes necessary to elect her to the board.

Northern States then bought back the election. By soliciting proxies a second, and then a third time, the Power Company was able to persuade (or confuse) the shareholders of 71 percent of the 2.8 million shares cast for Ms. Snaby to change their votes.

Larger, more experienced corporations are usually less heavy-handed. Typically, they will begin a proxy campaign with a series of "build-up" letters preliminary to the first proxy solicitation. In Campaign GM, General Motors elevated this strategy to a new plateau by encasing the Project on Corporate Responsibility's single 100-word proxy solicitation within a 21-page booklet specifically rebutting each of the Project's charges. The Project, of course, could never afford to respond to GM's campaign. The postage costs of soliciting GM's 1,400,000 shareholders alone would have exceeded $100,000. The cost of printing a document comparable to GM's 21-page booklet, mailing it out, accompanied by a proxy statement, a proxy card, and a stamped return envelope to each shareholder might have run as high as $500,000.

Nor is it likely that the Project or any other outside shareholder could match GM's ability to hire "professional" proxy solicitors such as Georgeson & Company, which can deploy up to 100 solicitors throughout the country to personally contact shareholders, give them a campaign speech, and urge them to return their proxies. By daily tabulation of returned proxies, professional solicitors are able to identify on a day-by-day basis the largest blocks of stock outstanding which have yet to return a favorable vote.

Management's "army" in a proxy contest will also include attorneys to prepare necessary documents for the SEC and distract the opposition with costly litigation; accountants and statisticians to prepare the most self-serving financial analysis allowable; and public relations advisors to prepare advertisements for trade journals and the financial section of major newspapers. In the past 25 years there have been no more than a dozen instances in which insurgents have been able to match management expenses in a major proxy fight. Over the past decade, only the MGM proxy contest of 1967 has seen insurgents match management expenses in a large corporation's proxy contest for control.

A second advantage—and one that no outsider can match—is management's ability to use corporate personnel on its own behalf. Clerical help and clerical facilities including printing presses, photocopying machines, and addressing machines are invariably employed. Salespersons skilled in talking to customers are frequently assigned to the telephones to answer inquiries and to supplement the professional proxy solicitors by making direct calls to shareholders. Moreover, senior executives can be assigned to telephone particularly important shareholders who may be impressed by the personal call of a top executive.

State corporations law has done nothing to correct this inequality of corporate resources. Although leading cases in Delaware and New York have engaged in much gnashing of teeth about limiting management expenditures to: (a) proxy contests involving a "policy" issue, (b) expenditures necessary to inform shareholders about the "policy" issue, and/or (c) "reasonable" expenses—no decision since 1907 in either jurisdiction has denied management the power to expend corporate funds or use corporate personnel exactly as management chooses. Even such seemingly "unreasonable"

expenditures as public relations counsel, "entertainments," chartered airlines, limousines, and the indirect cost to the corporation of using officers and employees on behalf of an incumbent director slate have survived judicial scrutiny. By contrast, state courts have firmly established the rule that insurgents, unlike management, are not entitled to reimbursement of any campaign expenses as a matter of right. Challengers must defray all their own expenses, with the single slim hope of later being reimbursed *if* they are successful and the stockholders approve.

MANAGEMENT CONTROL OF INFORMATION

Management's grip on corporate power is tightened by its authority to print and distribute annual, quarterly, and other reports to shareholders. Besides the formal proxy statement, these reports usually embody the only detailed information shareholders receive about their corporation.

Neither state nor federal law places any meaningful restrictions on the amount of money management may spend reporting to shareholders. SEC Proxy Rules *do* require certification of financial statements. The report, however, "may be in any form deemed suitable by the management" and is not subject to the same standards of truthfulness that the text of a proxy solicitation is subjected to. Consequently, though every word of an insurgent shareholder's communications with other shareholders may be challenged if it is arguably "false or misleading," most management reports are subject to no textual regulation whatever.

Unfortunately, management reports are frequently "false and misleading." They are often written in an upbeat public relations jargon which emphasizes "positive" aspects of the past business year while rationalizing or ignoring management mistakes, financial losses, corporate or executive criminal violations, or civil actions successfully prosecuted against the corporation. Frequently, as much as half of the text of an annual report is represented by oversized charts, colored illustrations, and kindred public relations gimmickry.

There is often little difference between the text of a failing corporation's annual report and a healthy corporation's report. For example, although subsequent congressional testimony made clear that Lockheed would have gone bankrupt unless it received an emergency loan guarantee from the federal government, Lockheed's 1969 annual report managed to ignore the prominent debate in Congress over whether the federal government should "bail out" the firm. Instead shareholders read the following:

> It is disappointing to have to record a net loss for the year. Yet setbacks like this are singularly possible in an industry so dependent upon government policy and the ebb and flow of domestic and international developments.
>
> We have experienced them before and in each case have emerged stronger than ever. We are confident this will be so again. We say this not out of easy optimism but from the knowledge that we have many broadly based defense and commercial programs with high business potential and that we are expending much technical effort to meet the nation's future needs.

The report then spent six pages suggesting that Lockheed's financial difficulties were primarily the result of contractual misunderstandings with the federal government. It strongly suggested that the federal government would compromise in these disputes. It was only *after* the Senate voted an Emergency Loan Guarantee by the razor-thin margin of 49–48 in August 1971 that Lockheed reported to its shareholders that without this congressional subsidy the corporation would have collapsed.

A similar lack of veracity appeared in the 1973 Annual Report of the Franklin New York Corporation, whose principal subsidiary was the Franklin National Bank, the largest state bank ever to fail in the United States. Just a few months before the Comptroller declared the Franklin National Bank insolvent, the corporation's management reported to its shareholders that "In 1973 Franklin crossed an important threshold so that it is now in a position to move forward in establishing itself as a major worldwide financial institution and a leading money center banking operation." Nowhere in the report was any mention made of the foreign currency speculation or improvident real estate loans which four months later caused the bank's demise. This was a serious omission, for the preponderance of financial loss caused by Franklin's collapse was

absorbed by the shareholder-readers of this report, not the management or the public relations firm which wrote it. These shareholder-readers were given absolutely no warning of what was coming, no opportunity to exert their prerogative to change management or to vote a more timely dissolution.

Nor can insurgent shareholders obtain much additional information from their own corporation when they prepare for a proxy challenge. They lack the legal tools to gain access to live interviews with corporate executives, board meetings, or memoranda which could document internal debate, management error, derogations of law, sloppy execution of policy, or even the content of management's policy formulations.

All of which is a bizarre commentary on the Securities and Exchange Commission. The federal security laws emphasize disclosure. The Commission has claimed that its Proxy Rules "represent an effective contribution to corporate democracy" because disclosure enables individual investors to exercise some measure of control over the management of their corporation. Although the Securities and Exchange Act of 1934 authorizes the SEC to require annual and quarterly reports, including the authority to prescribe "the items or details to be shown in the balance sheet and the earnings statement . . . ," shareholders can not compel their corporation to give a product line or division accounting so as to uncover unprofitable operations. Specific management mistakes may thus be submerged in consolidated financial reports. Shareholders may wish to know whether executives are using expense accounts improperly or are being indemnified for certain civil or criminal liabilities. They cannot find out. They may wish to read minutes of the meetings of corporate directors—whom they elect—or reports of decisions by executives respecting corporate property—which shareholders own. Under federal securities laws, they have no legal rights to do so.

Under state statutory law, shareholders theoretically have broad rights to examine corporate records. State statutes typically authorize inspection of shareholder lists—without which a shareholder could not even begin a proxy solicitation—and "other books and records." But this access is circumscribed by legal requirements of "good faith," "proper purpose," and minimum share ownership, as well as ample opportunities for management to delay compliance with legitimate shareholder demands by forcing expensive court tests.

Almost invariably shareholders prevail in court battles to secure a shareholder list, for, as a leading Pennsylvania decision put it, ". . . the right to examine the stockholders' list is a basic privilege of every stockholder of a corporation and should be given the widest recognition as fundamental to corporate democracy." But the courts are reluctant to enforce shareholder demands for other information. Doctrinally, this has been rationalized as deterring excessive "stockholder agitation." The Supreme Court of Minnesota rather melodramatically explained why in the leading case of *State Ex rel. Pillsbury v. Honeywell:*

> In terms of the corporate norm, inspection is merely the act of the concerned owner checking on what is in part his property. In the context of the large firm, inspection can be more akin to a weapon in corporate warfare. The effectiveness of the weapon is considerable: "considering the huge size of many modern corporations and the necessarily complicated nature of their bookkeeping, it is plain that to permit thousands of shareholders to roam at will through their records will render impossible not only any attempt to keep their records efficiently, but the proper carrying on of their business." . . . Because the power to inspect may be the power to destroy, it is important that only those with a bona fide interest in the corporation enjoy the power. . . .

Alarming as the specter of "thousands of shareholders roaming at will" through once efficient corporations may be, it can only be conjured up by courts so cunning as to overlook their inherent judicial power to restrict any shareholder access to corporate data to reasonable numbers of shareholders at reasonable times and reasonable places. Yet phantom or not, this rationale has been employed in recent decisions to deny one A&P shareholder access to the minutes of board meetings and information relevant to store closings; to deny Ralston Purina shareholders access to monthly profit analyses employed by management; and to deny shareholders of Gulf Sulphur Corporation information concerning a firm with which Gulf proposed to merge.

MANAGEMENT CONTROL OF THE LAW

Management power is further entrenched by three significant legal advantages.

First, in approximately 90 percent of all large industrial corporations, cumulative voting is not required. In these corporations, a minority of shareholders—even a minority as substantial as 49.9 percent—may be precluded from electing even one director to the board.

Under cumulative voting, each shareholder is entitled to votes equal to the number of his or her shares multiplied by the number of directors to be elected. The shareholder may cast all his or her votes for a single candidate or distribute them among two or more candidates as he or she sees fit. Cumulative voting, therefore, helps to protect the *financial* interest of minority shareholders by assuring them voice on the board of directors. And it protects the *political* interest of minority shareholders. For without cumulative voting, the tendency of large industrial corporations to perpetuate one-party rule is powerfully enhanced. As Professor Charles M. Williams demonstrated after analyzing proxy contests for the years 1943–1948, corporations with cumulative voting were more than twice as likely to have proxy contests as those without.

Because of these benefits, cumulative voting has enjoyed considerable popularity. From 1870, when Illinois became the first state to require cumulative voting, until 1955, 23 states had established absolute requirements for cumulative voting. Additionally, federal law requires cumulative voting for over 5,000 banks subject to the Federal Banking Act of 1933 (although the intent of this law has often been frustrated by bank holding company structures); and the Securities and Exchange Commission has consistently required cumulative voting for corporations subject to the Public Utility Holding Act of 1935 and corporations undergoing reorganization under Chapter X of the Bankruptcy Act. As an attorney snapped in 1950 in frustration at Wisconsin's refusal to enact cumulative voting, "Cumulative voting is so obviously in accord with our basic political philosophy of group representation and the party system that it is difficult to understand the legislature's repeated rejection of it, except in terms of a response to the pressure of corporate management's interest."

Unfortunately, "the pressure of corporate management's interest" often does prevail in state corporation law. Between 1955 and 1972, five states dropped mandatory cumulative voting. In 1973, Michigan changed from mandatory to permissive cumulative voting; in 1974 both California and Ohio considered—but did not enact—similar legislation. Today, in Delaware, as well as 32 other states, cumulative voting is not required. True, in most of these states, cumulative voting is permitted. In practice, however, permissive cumulative voting offers little but an illusory right. Studies by Professor Williams in 1951 and the Conference Board in 1973 indicate that only about 15 percent of the corporations in states with permissive cumulative voting have provided for this right.

And even in those few corporations which voluntarily institute cumulative voting, most states provide ample devices to subvert it. Although cumulative voting aims to prevent a simple majority from maintaining absolute corporate control, Delaware permits a simple majority to amend the corporate charter to repeal cumulative voting. And Delaware and some 42 other jurisdictions allow the "classification" of the board of directors. This device reduces to one third or one half the number of directors required to stand for election anually and thus increases the minimum vote necessary to elect a director.

Management's second legal edge is its power to issue nonvoting stock or classes of stock with unequal voting rights. For example, prior to December 1, 1955, there were three classes of stock in Ford Motor Company: common, Class A, and Class B. Only the Class B shares (4.94 percent of total equity), all of which were owned by Ford family interests, were entitled to vote.

Only Illinois and a few other states forbid the issuance of classes or series of stock without voting rights. But the refusal of both the New York Stock Exchange and the American Stock Exchange to list corporations with nonvoting stock has substantially reduced the number of corporations which may totally eviscerate shareholder suffrage, although neither exchange actively enforces equal voting rights.

The third statutory device for impairing shareholder suffrage

rights is a provision common to the law of Delaware and apparently every other jurisdiction requiring the submission of proxy materials only to *shareholders of record*. This innocent sounding requirement effectively disenfranchises approximately 50 percent of the beneficial owners of corporate stock in the largest industrial corporations. For approximately 50 percent of the stock in the 1,800 companies traded on the New York Stock Exchange is held by mutual funds, life insurance or property and casualty insurance companies, private pension funds (usually administered through commercial bank trust departments), state and local pension funds, foundations, university endowment funds or other institutional investors. The result is a mockery of shareholder democracy: *Approximately 50 percent of the votes in our largest industrial corporations are cast by financial intermediaries—not the real owners.*

These institutional shareholders provide virtually no check to corporate management. Most financial institutions, according to the SEC's 1971 *Institutional Investor Study*, follow what is known as "The Wall Street Rule": An investment in a business corporation is considered an investment in that corporation's management; if the financial institution ceases to like what management is doing, the institution sells the stock. By examining the voting practices of 215 large institutions between January 1, 1967 and September 30, 1969, the SEC determined that approximately 30 percent of these institutions *always* voted for management (in elections other than votes for directors). For the remaining institutions, both voting against management and abstention were found "to be a relatively infrequent phenomenon." For example, in only 26 instances did any of the 215 institutions vote against an acquisition favored by management, "a miniscule fraction of such transactions."

The SEC conducted its study before the proliferation of shareholder proposals directed at social issues and precipitated by Campaign GM. In the past five years, some financial institutions have established formal procedures to consider shareholder public policy or ethical proposals. According to newsletters published by the Council on Economic Priorities and the Investor Responsibility Research Center, a small number of church-related funds, foundations, and universities have supported shareholder proposals respecting disclosure of political contributions; withdrawal from South Africa, Rhodesia, or Namibia; opposition to military production; or review of corporate safety, environment, occupational discrimination, or community programs. Since most institutional shares are voted by banks, insurance companies, and mutual funds, and these financial institutions have shown only a negligibly greater willingness to oppose management, the overall pattern of institutional voting has changed little in the past five years.

MANAGEMENT CONTROL OF OTHER FUNDAMENTAL DECISION-MAKING

Historically, shareholders controlled the business corporation not only through the election of directors but also through shareholders' power to initiate and vote upon all fundamental changes in the character of the corporation. Management's ability to initiate change was carefully circumscribed by requiring two-thirds or three-fourths affirmative votes for charter amendments, bylaw changes, mergers, sales of assets, stock issuance, recapitalization, or dissolution and was further limited by shareholder appraisal and preemptive rights.

Under Delaware's General Corporation Law, shareholders have lost nearly all power to initiate corporate change. Only the board of directors may propose charter amendments, a merger, or a sale of assets. The SEC Proxy Rules complement Delaware's corporation law by denying shareholders opportunity to communicate opposition to management proposals or to suggest modifications in management's formal proxy proposals.

This rout has been substantially replicated in all other leading chartering states. Indeed, the trend of recent revisions to state corporation law has been to attempt to deny the shareholder any vote at all! Modern corporate draftsmen invariably write short, purely formal certificates of incorporation and then place most of a corporation's actual governing rules in its bylaws, which the certificate establishes can be revised by the corporation's directors without any shareholder vote. For example, when ITT reincorporated in Delaware in 1967, it did so by creating a Delaware corporation called the "DeLitt Corporation" and by then merging ITT, previously a Maryland corporation, into DeLitt. The certificate of incorporation of DeLitt was only 1½ pages long. It reads in toto:

CERTIFICATE OF INCORPORATION
OF
DELITT CORPORATION

Article 1

The name of the corporation is Delitt Corporation (hereinafter called the "Corporation"). The name and mailing address of its incorporators are as follows:

NAME	MAILING ADDRESS
John J. Navin	320 Park Avenue, New York, N.Y. 10022
William J. Donovan	320 Park Avenue, New York, N.Y. 10022
DeForest Billyou	320 Park Avenue, New York, N.Y. 10022

Article 2

The address of the registered office of the Corporation in the State of Delaware is No. 100 West Tenth Street, in the City of Wilmington, County of New Castle. The name of its registered agent at such address is The Corporation Trust Company.

Article 3

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

Article 4

The total number of shares of stock which the Corporation has authority to issue is 100 shares of capital stock of the par value of $100 per share.

Article 5

Whenever the vote of stockholders at a meeting thereof is required or permitted to be taken for or in connection with any corporate action by any provision of the General Corporation Law of Delaware, the meeting and vote of stockholders may be dispensed with if the holders of stock having not less than the minimum percentage of the vote required by statute for the proposed corporate action shall consent in writing to such corporate action being taken, provided that prompt notice must be given to all stockholders of the taking of such corporate action without a meeting and by less than unanimous written consent.

Article 6

In furtherance and not in limitation of the powers conferred by law, the Board of Directors is expressly authorized:

(a) To make, alter, amend or repeal the By-Laws of the Corporation.

(b) To direct and determine the use and disposition of any annual net profits or net assets in excess of capital; to set apart out of any of the funds of the Corporation available for dividends a reserve or reserves for any proper purpose; and to abolish any such reserve in the manner in which it was created.

(c) To establish bonus, profit-sharing, stock option, retirement or other types of incentive or compensation plans for the employees (including officers and directors) of the Corporation and to fix the amount of the profits to be distributed or shared and to determine the persons to participate in any such plans and the amounts of their respective participations.

(d) From time to time to determine whether and to what extent, and at what time and places and under what conditions and regulations, the accounts and books of the Corporation (other than the stock ledger), or any of them, shall be open to the inspection of the stockholders; and no stockholder shall have any right to inspect any account or book or document of the Corporation, except as conferred by statute or authorized by the Board of Directors or by a resolution of the stockholders.

(e) To authorize, and cause to be executed, mortgages and liens upon the real and personal property of the Corporation.

Article 7

The corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

The key sentence is contained in Article 6: "In furtherance and not in limitation of the powers conferred by law, the Board of Directors is expressly authorized: (a) To make, alter, amend or repeal the By-Laws of the corporation. . . ." What ITT tried to do, as so many other giant Delaware corporations have tried to do, was to totally shut shareholders out of the governing process except in those rare instances in which the Delaware General Corporation Law explicitly requires a shareholder vote—which is not very often.

True, technically, section 251(c) grants shareholders a vote on management merger proposals. But this, in fact, is a mere snare

for the dim-witted. Only a small minority of corporate [illegible] actually trigger this shareholder vote. The overwhelming majority employ one of three conventional loopholes (discussed in the Source[illegible]

Similarly, section 271 limits shareholder suffrage in a sale, lease, or exchange of assets to transactions involving "all or substantially all" of a corporation's property and assets. Since most large industrial corporations are highly diversified, this provision effectively insures their shareholders will never vote. For example, General Motors could sell an automobile division such as Pontiac or Cadillac and not require a vote. It could liquidate hundred-million-dollar plants which manufacture refrigerators, diesel engines, and trucks or auction off all of its Detroit real estate and relocate in the Peoples Republic of China, and shareholders would have no choice in the matter. Only if GM sold *all* assets used to manufacture "automotive products" (about 75 percent of the corporation) would a sale of assets require a shareholder vote.

Moreover, section 271 is the only Delaware statute concerning corporate divisions. A Delaware corporation may create and fund new subsidiary corporations, regardless of size; liquidate these subsidiaries or comparable divisions and distribute assets to shareholders; or spin-off new corporations altogether without any shareholder vote. As business corporations have evolved these new forms, Delaware and other principal chartering states have deliberately not kept pace. Corporate executives have not hesitated to take advantage of this laxity. In the past three years many Delaware corporations have "gone private" and bought up minority shareholdings at bargain prices during a depressed stock market. This will allow favored shareholders or the firm itself to reap the profits when the company's stock price rises. Other senior managements have used the merger provisions to prevent take-over bids—which can benefit all shareholders—by requiring super-majorities, such as 75 or 90 percent, to consent to any consolidation or sale of the companies assets.

Whither/Wither the Board of Directors?

But does not the board of directors with its sweeping statutory mandate "to manage the business and affairs of every corporation"

provide an internal check on the power of corporate executives? No. Long ago the grandiloquent words of the statutes ceased to have any operative meaning. "Directors," William O. Douglas complained in 1934, "do not direct." "[T]here is one thing all boards have in common, regardless of their legal position," Peter Drucker has written. "*They do not function.*" In Robert Townsend's tart analysis, "[M]ost big companies have turned their boards of directors into nonboards. . . . In the years that I've spent on various boards I've never head a single suggestion from a director (made as a director *at* a board meeting) that produced any result at all."

Recently these views were corroborated by Professor Myles Mace of the Harvard Business School, the nation's leading authority on the performance of boards of directors. In *Directors—Myth and Reality*, Mace summarized the results of hundreds of interviews with corporate officers and directors.

Directors do not establish the basic objectives, corporate strategies or broad policies of large and medium-sized corporations, Mace found. Management creates the policies. The board has a right of veto but rarely exercises it. As one executive said, "Nine hundred and ninety-nine times out of a thousand, the board goes along with management. . . ." Or another, "I can't think of a single time when the board has failed to support a proposed policy of management or failed to endorse the recommendation of management."

The board does not select the president or other chief executive officers. "What is perhaps the most common definition of a function of the board of directors—namely, to select the president—was found to be the greatest myth," reported Mace. "The board of directors in most companies, except in a crisis, does not select the president. The president usually chooses the man who succeeds him to that position, and the board complies with the legal amenities in endorsing and voting his election." A corporate president agreed: "The former company president tapped me to be president, and I assure you that I will select my successor when the time comes." Even seeming exceptions such as RCA's 1975 ouster of Robert Sarnoff frequently turn out to be at the instigation of senior operating executives rather than an aroused board.

The board's role as disciplinarian of the corporation is more apparent than real. As the business-supported Conference Board conceded, "One of the most glaring deficiencies attributed to the corporate board . . . is its failure to monitor and evaluate the performance of the chief executive in a concrete way." To cite a specific example, decisions on executive compensation are made by the president—with perfunctory board approval in most situations. In the vast majority of corporations, Professor Mace found, the compensation committee, and the board which approves the recommendations of the compensation committee, "are not decision-making bodies."

Directors do not even ask discerning questions. It is considered "discourteous," a breach of "corporate manners" for directors to "challenge" the president or other corporate officers. This can be a very expensive form of decorum, as the Penn Central's shareholders painfully discovered. At the time of its collapse in June 1970, Penn Central was the largest railroad in the country and the sixth largest industrial corporation overall. Within a two-year period, shareholders witnessed the decline of their shares from $86.50 to $2.75.

Why? "The board was definitely responsible for the trouble," recounted outside director E. Clayton Gengras. "They took their fees and they didn't do anything. Over a period of years, people just sat there. That poor man from the University of Pennsylvania [University President Gaylord P. Harnwell], he never opened his mouth. They didn't know the factual picture and they didn't try to find out." As the Penn Central rushed towards its monumental crack-up, the board routinely approved every proposal forwarded by management. Although Penn Central was desperate for capital, the directors paid out nearly $100 million in dividends. The board never saw a capital expenditures budget. It never understood the inaccuracies published in Penn Central's annual reports. Just six hours before the corporation filed its bankruptcy petition, the board routinely approved new contracts for eight corporate executives, apparently unaware even then of the dimensions of the Penn Central's crisis. "All of this raises the serious question as to whether giant corporations affecting the everyday lives of our population . . . should continue to be governed in the traditional fash-

ion or whether a new system of corporate directorships should be devised," concluded the House Banking and Currency Committee.

Yet boards will continue to be dysfunctional as long as they remain the creature of the corporate chief executive. For it is the chief executive who, like the family owner-manager in a small corporation, selects new members of the board. And it is the chief executive who de-selects existing board members when nominations for the board are necessary for annual shareholders' meetings.

Our own survey of the boards of the 200 largest industrial corporations found that the average board had a total of 14.49 directors, including 7.93 "outsiders" (that is, directors who were not employees of the corporation) and 6.56 insiders (or employee directors). Some 69 percent of the outside directors were fellow corporate executives; 6 percent were investment bankers; 7 percent were lawyers. Only 2 percent were women; a lesser percentage were black. Hence over 90 percent of the directors of our largest corporations either worked for the corporate chief executive or were fellow corporate executives, corporate bankers, or corporate lawyers.

Most "outside" directors appear to be chosen because of their status. "Presidents and chairmen of large and respected companies," one corporate president observed, "enjoy the prestige of serving on similar large and respected company boards. They are identified with their peers. They find the experience socially satisfying. Outside directorships provide a few more lines in their *Who's Who*, and it is a little bit like being knighted to say 'I'm a director of General Motors, or General Electric, or AT&T.'" Frequently, the chief executive chooses his friends, or individuals known to be "sympathetic" or "congenial," to be directors. "You certainly don't want anyone on your board who even slightly might be a challenge on a question of your tenure, so you pick personal friends with prestige titles and names," a corporate president explained. Another executive agreed: "What would you do if you were president? You control the company and you control the board. You want to perpetuate this control. . . . You sure as hell are not going to ask Ralph Nader. . . ."

At its worst, the outside director system degenerates into a private club, as the president of a west coast company explained:

You've got to remember that the outside directors of large national and regional companies are members of a sort of club. To be considered for admission you must have the title as president or chairman of a respectable and respected organization. This is what some young people call the Establishment. But these are the people you do business with, travel around with, serve on community projects with—and it has to be a group the members of which get along together. Regionally each area has its elite. Sometimes many will in fact be members of the same golf or social club. Here in Los Angeles you will find a great number of directors with membership in the Los Angeles Country Club; in Cleveland the same is true of the Union Club—each city has its hard core members of the club group.

Exceptions to this pattern become news events. In reporting on General Motors' 1971 annual shareholders' meeting, the *Wall Street Journal* noted that, "The meeting's dramatic highlight was an impassioned and unprecedented speech by the Rev. Leon Sullivan, GM's recently appointed Negro director, supporting the Episcopal Church's efforts to get the company out of South Africa. It was the first time that a GM director had ever spoken against management at an annual meeting." Now Rev. Sullivan is an unusual outside director, being General Motors' first black director and only "public interest" director. But what makes Leon Sullivan most extraordinary is that he was the first director in *any* major American corporation to come out publicly against his own corporation when its operations tended to support apartheid.

Yet as lethargic as outside directors usually are, employee directors tend to be even less effective. The typical vice president/inside-director is in a very precarious position at a board meeting. Unwilling to say anything in disagreement with his boss, he usually sits quietly and waits until he is called upon to speak. Disagreements with other corporate executives are invariably resolved out of the board room. The effect is to present outsiders with a "united front": to make the corporate chief executive's decisions seem inevitable.

So staffed, board meetings in most large industrial corporations have become formalized into a monthly or bimonthly ritual, usually lasting about one to three hours. Much of this time is consumed by perhaps a 30-minute to an hour review of operations for the last period (month or quarter) by the president or vice president of finance. This is followed by board approvals of capital appropriations and of the actions of the executive committee taken since the last meeting. The meeting often concludes after senior executives have described a new research development or a major operations program. Usually the entire meeting—which is closed to shareholders—is choreographed by the corporate chief executive. He chooses which officers shall speak. He writes the agenda. When he wants to be asked about a particular issue, he plants the relevant question.

The impossibility of so infrequent or so circumscribed meetings of the board enabling directors to effectively "manage" their corporation was sardonically illustrated by the congressional testimony of H. O. Havemeyer, a corporate chieftain of an earlier day:

Q. As a member of that board, what else have you done?
A. *Oh, I have convened and talked.*
Q. You have convened and talked?
A. *And adjourned.*
Q. Well, you have convened and talked?
A. *And adjourned.*
Q. Well, what have you talked about?
A. *Statistics.*

This testimony was given in 1887 when outside directors were typically the "tools" or "dummies" of the controlling corporate president or bank. A popular gag on Wall Street was that the role of an outside director was to receive his five-dollar gold piece at the start of each meeting and then obediently fall asleep. Directorial lassitude is not so obvious today. Yet considering that the size and complexity of corporate enterprise has significantly increased since 1887 while the frequency and length of directors' meetings has not, it is a fair assumption that the outsiders who obediently nod through ceremonial board meetings today are little better informed than their brethren who slept before them.

Certainly directors' sources of information remain as much subject to management control today as they did 90 years ago. After resigning from TWA's board, former United States Supreme Court Justice Arthur Goldberg had this complaint: "What the typical board of directors gets is a recommendation which seems mono-

lithic. . . . It's not like a court, where a judge can order a brief from both sides." Recently the *quantity* of preparatory information available to outside directors has significantly increased. Yet the thickened reports and whirlwind plant tours are still only what the corporate chief executive wants outsiders to see. "In many corporations," found Professor Melvin Eisenberg, "the executives go so far as to wholly deny the board—supposedly entrusted with supreme power over the corporation—access to certain categories of information." For instance, a 1971 survey found that only 17 percent of 474 industrial firms sent manufacturing data to directors prior to board meetings, only 21 percent sent marketing data, and 11 percent sent no data at all.

And outside directors have little personal incentive to doubt management. A 1973 survey of 378 manufacturing corporations with assets of $50 million or more showed that outside directors received median annual fees of approximately $5,000, while inside directors generally are not paid at all. On top of the $100,000+ incomes typically earned by outside directors, who are corporate chief executives or vice presidents, leading investment bankers, or law firm partners, such annual retainers or meeting fees seem like peanuts. The result is counterproductive. Outside directors rationalize not doing very much by the fact they are not paid very much.

How, then, can one reconcile the grand imperative, "The business and affairs of every corporation . . . shall be managed by or under the direction of . . . a board of directors" with the reality of this "non decision-making body"? The fashionable response is that the board is a legal fiction. Management control has overwhelmed the rule of law.

This widely held view is only half right. Management has deposed the board of directors—but it has done so under color of law. No rule within the modern corporation statutes prohibits management from nominating and serving as directors. Corporation law has abrogated directional independence by omission. Moreover, even if the statutes provided structural safeguards to maintain the independence of the board, these could not undo the effect of two provisions found in most state corporation laws.

The first provision is exemplified by a Delaware Corporation Law section which provides that a director shall "be fully protected in relying in good faith upon . . . reports made to the corporation by any of its officers." The meaning of this provision is very simple. Directors have no duty to know. "Unless something occurs to put them on suspicion that something is wrong, directors are entitled to rely on the honesty and integrity of [management]," held the leading case of *Graham v. Allis-Chalmers Manufacturing Company*. Directors are not required to "put into effect a system of watchfulness." They need not anticipate problems nor verify the accuracy of reports upon which they rely.

A second provision of the Delaware General Corporation Law accomplishes the same result by allowing the board to *formally* delegate responsibility for most corporate business to a committee dominated by inside directors. Our survey of the 200 largest industrial corporations indicates that approximately two-thirds of the corporations had withdrawn directorial powers from the full board—typically a majority of whose members were outsiders—to an executive committee at least half of whose members were insiders.

A much smaller number of corporations accomplish a comparable result by delegating authority to an insider-dominated finance committee. In our survey of the 200 largest industrial corporations, we found that 16 corporations had delegated authority to a finance committee, half or more of whose members were insiders.

Examples of the delegation of the board's authority to either an insider-dominated executive or finance committee have been well described by attorney John A. McMullen:

> At IBM—four directors, all top level officers of the corporation, control the all-important executive and finance committees; in addition, three of them are members of the powerful Corporate Office. At GM, four or five men, all inside directors of the company, dominate the executive and finance committees of the board as well as the administration committee comprised of key officers and directors. . . . DuPont's executive committee consists of the company's chairman of the board, president, and six senior vice presidents. Each of these men is entirely relieved of day-to-day functional responsibilities; each operates jointly with his fellow committee

members to set overall corporate policy, and acts only as an advisor to the operating department from which he originally derived his skills, training, and experience.

Yet, whether or not the board formally resolves to delegate operational authority to an executive committee between board meetings, the actuality is that employee directors or other senior executives invariably exercise the powers of initiation. It does not matter whether key corporate decisions are initiated by a single corporate autocrat or a board committee or a committee operating out of the office of the president. Senior executives call the shots. This is what Berle and Means meant by their insightful descriptions of "management control." This is why state corporation law is moribund. Not only is it written by corporate management's representatives, it is also hopelessly inaccurate. In appreciating the law of corporate governance, one rule above all others must be followed: *Concentrate on the omissions.* Where state law does not require directors to be, corporate executives inevitably are.

The Limitations of Shareholder Litigation

STATE LAW: THE NON-DUTY OF CARE

The erosion of shareholder authority within the corporation would be less serious if shareholders were able to oppose the abuses of corporate management in court. In theory, civil litigation remains the shareholder's ultimate check. The problem is that, except for certain limited claims under the federal securities laws, it rarely works. Long ago judicial doctrines reduced the state shareholder action to a trivial value.

Earliest was the judicial rejection of the principle of *ultra vires* action. In its classical form, the doctrine of *ultra vires* envisioned the corporate charter as a contract between the state, corporate management, and the shareholders. Corporations were prohibited from performing certain acts, not because they were illegal but because neither the state nor the shareholders had agreed to them. Shareholders could enjoin corporate officers and directors from engaging in actions "beyond their powers." Accordingly, in a leading 1867 case, a single shareholder blocked a railroad from extending its railway to a more distant point than that specified in the charter because that was not the enterprise he had bargained for.

With the rise of the corporate enabling acts, the principle of *ultra vires* declined. Shareholder limitations were overridden through court discoveries of "implied" or "auxiliary" powers. In the 1896 case of *Jacksonville M. P. Ry. & Nav. Co. v. Hopper*, for example, the United States Supreme Court held that the Florida railway company might engage in leasing and running a resort hotel, on the curious logic that "to maintain cheap hotels or eating houses . . . would not be so plainly an act outside the powers of a railway company as to compel a court to sustain the defense of ultra vires. . . ." By 1931, *Fletcher's Cyclopedia of Corporations* could proclaim, "the theory that a corporation can do no acts beyond its authority [has been] discarded by a majority of the courts in the country."

Paralleling the decline of *ultra vires* has been the universal refusal of state courts to hold corporate directors or officers liable for negligence. Because they are vested with great power over other people's property, the law has always nominally required, in the language of the present New York statute, that "Directors and officers shall discharge the duties of their respective positions in good faith and with that degree of diligence, care and skill which ordinarily prudent men would exercise under similar circumstances in like positions."

In practice, the typical judicial or statutory formulation of the duty of care is too vague to require much of anything. As Yale Law School's Professor Joseph Bishop concluded after an extensive review of the case law:

> The search for cases in which directors of industrial corporations have been held liable . . . for negligence uncomplicated by self-dealing is a search for a very small number of needles in a very large haystack. Few are the cases in which the stockholders do not allege conflict of interest, still fewer those among them which achieve even such partial success as denial of the defendant's motion to dismiss the complaint.

In all, Professor Bishop was able to find only four recent cases in which a state court held that a shareholder had alleged a good cause of action for negligence uncomplicated by self-dealing. In only one

of these cases did a state court rule on the merits that a corporate officer was liable for negligence. And in that case, the word "negligence" had been used as a euphemism for dishonesty.

This result is primarily the fault of statutory draftsmen. They have refused to identify *how* a corporate officer meets his duty of care. They have never identified what specific actions he must perform; what specific responsibilities are his. In the absence of a clear standard from the legislature, state courts have refused to guess.

At most, state courts will hold corporate directors or executives liable for conduct involving obvious self-enrichment such as fraud, misapplication of funds, diversion of corporate business opportunities, or causing the corporation to make excessive payment for the purchase of their property. Yet even in these types of cases, where the actions of corporate officers amount to simple and obvious theft, the procedural rules of state corporation law have been skewed to discourage shareholder suits.

The most onerous bars to shareholder litigation are the so-called "security for expenses" provisions enacted by New York, New Jersey, Pennsylvania, Michigan, California, and 13 other states. These provisions require a complaining shareholder owning less than a stated amount of stock—typically 5 percent of the stock or shares worth less than $50,000—to "give security for the reasonable expenses, including attorney's fees, which may be incurred" by both the corporation and the parties defendant in a shareholder action. Since the cost of defendants' legal fees may amount to hundreds of thousands of dollars, the security for expense provision, when enforced, presents a formidable barrier to shareholder action.

The rules respecting attorneys' fees pose a second procedural pitfall for shareholder actions. Nearly every jurisdiction provides that only shareholders whose suits are successful may be reimbursed by the corporation for attorneys' fees. This rule seeks to discourage attorneys from bringing nonmeritorious suits. Several states, however, further provide that attorneys' fees may be awarded only if a substantial monetary benefit is conferred upon the corporation. As a practical matter, this standard precludes shareholder litigation in all cases except those of overreaching where a monetary benefit—the amount taken—is readily apparent. In all other cases it is normally cheaper to sell the stock than to compel the corporation to obey the law.

FEDERAL SECURITIES LAW: "TAKING OVER THE UNIVERSE GRADUALLY"?

To some extent, federal securities law—and federal court decisions—have compensated for the atrophy of state shareholder protection.

In 1968, the influential Second Circuit Court of Appeals handed down its celebrated *S.E.C. v. Texas Gulf Sulphur* decision which revolutionized the case law interpreting Rule 10b-5 under the 1934 Securities and Exchange Act. Rule 10b-5 provides that it is unlawful for any person to employ a fraudulent scheme, to make any untrue statement, or to fail to state a pertinent fact when purchasing or selling a security. *Texas Gulf* substantially broadened this antifraud rule by holding that corporate directors, officers, and employees violated 10b-5 when they purchased company stock knowing of a huge mineral strike before this fact was generally known or communicated to the public.

A federal district court, also in 1968, ruled in *Escott v. Bar Chris*—a decision some commentators initially believed would have even greater effect on directorial behavior than *Texas Gulf*. In *Bar Chris* security holders asserted that a bowling alley construction company that had sold them convertible debentures had filed a registration statement prior to the sale of the bonds which contained false statements and omissions. After concluding that the registration statement did, indeed, contain numerous inaccuracies, the district court stunned Wall Street by holding all nine directors who signed the prospectus—including two new to the board—liable. In summing up their liability, the court seemed to move far toward creating a federal duty of care, at least with respect to registration statements:

> Section 11 imposes liability in the first instance upon a director, no matter how new he is. He is presumed to know his responsibility when he becomes a director. He can escape liability only by using that reasonable care to investigate the facts which a prudent man would employ in the management of his own property. In my opinion, a prudent man would not act in an important matter without any knowledge of the relevant facts, in sole

reliance upon representations of persons who are comparative strangers and upon general information which does not purport to cover the particular case. To say that such minimal conduct measures up to the statutory standard would, to all intents and purposes, absolve new directors from responsibility merely because they are new. This is not a sensible construction of section 11, when one bears in mind its fundamental purpose of requiring full and truthful disclosure for the protection of investors.

The cumulative result of these and other federal securities law decisions led the *Wall Street Journal* to exclaim in early 1973, "[D]irectors of corporations now face more perils than Pauline ever did!" In a similar vein, Harvard Law School's securities expert, Professor Louis Loss, observed in 1969 that "the great Rule 10b-5," which had emerged as the principal basis of liability under the federal securities laws, "seems to be taking over the universe gradually."

In retrospect, both views seem overstated. The basic reason the securities laws will neither "take over the universe" nor seriously "imperil outside directors" is that they are restricted to a discrete set of securities transactions. Although present securities laws do require corporate officers to file with the SEC accurate periodic financial reports and securities registration statements, not make false and misleading statements in proxies, nor defraud outsiders in connection with their own securities purchases or sales, the securities laws do not, emphasized the Supreme Court in 1971, reach transactions which otherwise involve "internal corporate mismanagement."

And in late 1973, the Second Circuit Court of Appeals held in *Lanza v. Drexel* that only corporate officers who recklessly or deliberately defrauded shareholders could be held liable for money damages under Rule 10b-5. In refusing to follow the reasoning of the district court in the *Escott v. Bar Chris* case, the appeals court made plain that an outside director who was "merely negligent" in his participation in a fraudulent securities transaction had little to fear.

The consequence of *Lanza* and similar recent decisions has been to leave federal securities law in a crazy quilt pattern. The federal securities laws, for example, will not reach a deliberate though not self-enriching decision of corporate executives to engage in an unprofitable line of business unless there has been an accompanying failure of disclosure. Nor will they reach decisions which *do* enrich corporate officers unless they involve security transactions. Liability seems so haphazard and fortuitous that former SEC Chairman William Cary was moved to complain:

> There is no justification for a *federal* law disciplining or holding a tippee liable for misusing inside information concerning management decisions but not monitoring the misconduct of management itself. . . . It is absurd that a corporate transaction, clearly unfair though perhaps not fraudulent, should be subject to attack in the federal courts only upon the ground that it has not been disclosed to shareholders rather than because of its inherent inequity.

NULLIFY THE JUDGMENT: INDEMNIFICATION INSURANCE

Not only is it difficult for shareholders to successfully sue their companies, but even successful judgments often can be nullified. Seventeen states today permit corporations to purchase indemnification insurance for their directors and officers against, in the words of a typical policy, any "wrongful act [committed] . . . in their capacities as directors or officers." A 1974 survey of the Fortune 500 list found that 80 percent of these companies carried indemnification insurance. A similar sample of corporations listed on the New York Stock Exchange found that 76.1 percent carried such insurance. Since indemnification insurance was virtually unknown as recently as a dozen years ago, and most insurance policies were purchased within the past five to seven years, it is a fair assumption that nearly every large industrial corporation permitted by state law will carry indemnification insurance within a short time.*

* One reason for the enormous leap in the number of corporations carrying indemnification insurance has been the scare tactics employed by the insurance companies. The general tenor of their approach is illustrated by an advertisement on page six of the *Wall Street Journal*, March 21, 1968, featuring a composite photograph of a board of directors presided over by a stuffed duck and the explanatory text, "As a corporate officer or director, you may be a sitting duck for a shareholder or third party liability suit." A similar ad appears on page nine of the same issue wherein a sullen looking stockholder announces that he "might just sue every company director reading this newspaper," and reminds the presumably panicking directors that he is just one of "24 million potential enemies."

There is, to be sure, a persuasive case for indemnifying corporate directors against the costs of nonmeritorious legal claims. If innocent directors had to settle such suits because they lacked the resources to hire competent attorneys, responsible men and women would be discouraged from becoming directors. But current indemnity statutes are not limited to the purpose of protecting innocent officers from the costs of nonmeritorious suits. They also protect guilty officers from accountability for their wrongs and reduce incentives for lawful conduct.

Delaware's statute exemplifies this overbreadth. It allows a corporation

> to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation . . . against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the corporation would have the power to indemnify him against any such liability under the provisions of this section.

As written, this provision permits the corporation to insulate its officers from *all* potential liabilities. Officers may be insured against any negligence, self-dealing, looting the corporation or embezzlement, all conflicts of interest, and deliberate statutory violations. They may be reimbursed for violations of federal safety, civil rights, environmental, tax, or antitrust laws. They may even be insured against the same judgments in derivative actions that an earlier provision of the same statute provided a corporation could not indemnify directly.

Delaware defends such insurance as a form of compensation, arguing that the corporation could make a larger compensation arrangement with the executive and let him pay for the insurance himself. But the question is not how much officers' compensation should be, but rather whether wrongful acts *should* be indemnified at all. Why should an executive of a drug company be indemnified for the costs of a criminal fine if he is convicted of allowing a harmful drug to injure several thousand people when the same act as a private individual would send him to jail? An untenable double standard has been created. The more powerful an executive becomes, the less likely he is to pay for an abuse of power.

Conflicts of Interests

In almost every primary economic relation of the industrial corporation—to competing corporations, to banks, to suppliers, to distributors, to investors—the law now permits (in many instances, encourages) the most blatant division of loyalties.

Most threatening is the anticompetitive practice of *interlocking directorates*. A philosophic cornerstone of American business is that vigorous competition will enable firms to have comparable access to capital, supplies, distributors, and markets, and thus an equal chance to succeed or fail on the merits. But if competing corporations place directors on each other's boards, there is opportunity to conspire on price or territory. If corporate officers sit on the boards of their banks or suppliers or distributors, there arises the obvious temptation to obtain preferential treatment based on favor and friendship. Then the race is not to the swift, but to the well-connected. Louis Brandeis saw the problem early in this century:

> The practice of interlocking directorates is the root of many evils. It offends laws human and divine. Applied to rival corporations, it tends to the suppression of competition and to violation of the Sherman law. Applied to corporations which deal with each other, it tends to disloyalty and to violation of the fundamental law that no man can serve two masters. In either event it leads to inefficiency; for it removes incentive and destroys soundness of judgment. It is undemocratic, for it rejects the platform: "A fair field and no favors"—substituting the pull of privilege for the push of manhood.

With Brandeis as a major proponent, Congress in 1914 enacted the Clayton Act, section 8 of which expressly forbids any person from serving on the boards of two or more competing corporations. Until recently, however, section 8 had not been enforced. Through 1952, some 38 years after the enactment of the Clayton Act, the Department of Justice had not litigated a single case to a decision by a court. Through December 1975, the Department had instituted a total of 15 cases. The Federal Trade Commission, which has concurrent enforcement responsibilities, had filed only 13 complaints under section 8 of the Clayton Act through January 1965. Only one of these complaints resulted in a cease and desist order; the remainder were dismissed when the directors involved discon-

tinued the prohibited relationship. As Chairman Emanuel Celler's House Antitrust Subcommittee concluded in 1965 after a lengthy study of interlocks among competitors: enforcement had been neither "prompt nor vigorous."*

Shortly after Celler's study was released, economist Peter Dooley calculated that there were a total of 4,007 directorships held by the directors of the 200 largest nonfinancial corporations and the 50 largest financial corporations. "While most of these directors sat on a single board, 562 sat on two or more boards: Five men held six directorships each. In all, 1,404 directorships were held by multiple directors." Two hundred and thirty-three of the 250 corporations had at least one director who sat on the board of at least one other of the largest corporations. Most significantly, fully 297 interlocks involved companies which were competitors. "While illegal under the Clayton Act," observed Professor Dooley, "the law has not been effectively enforced, so that the institution of interlocking directorates continues to provide a vehicle for restricting competition. . . ."

Our own more recent survey of the boards of directors of the 50 largest industrial corporations identified eight apparent instances of illegal interlocks. John T. Connor, for example, is both a director of General Motors and Chairman of Allied Chemical, though Allied Chemical produces seat belts, shoulder harnesses, and airbags, all of which GM either presently manufactures or potentially could. Dean McGee is a director of General Electric and Chairman of Kerr-McGee, though both sell nuclear fuels. Henry S. Wingate is a director of both U.S. Steel and International Nickel Company of Canada, both of which mine nickel, iron ore, and other competing metals.

Even beyond inadequate enforcement of its provisions, section 8 only forbids interlocks among competitive corporations. Interlocks among corporations which provide services, supplies, funding, or distribution for each other equally violate the fundamental law that no man can serve two masters. They are also far more numerous. In 1974, the Center for Science in the Public Interest analyzed interlocking directorates and advisory committee connections of the eighteen largest United States oil corporations. They found 460 interlocking connections in all, including 132 interlocks with banks, 31 interlocks with insurance companies, 12 interlocks with utilities, 15 interlocks with transportation corporations, and 224 interlocks with manufacturing and distribution corporations. Oil company ties with banks (which supply capital), insurance companies (which provide an underwriting service), distribution companies (which distribute oil company products), and utilities, transportation, and manufacturing corporations (which purchase oil products) inevitably diminish the arm's length atmosphere in which effective competition thrives.

Such clubbishness, however, is typical of this nation's largest corporations. Our survey of the 50 largest industrial corporations and 10 largest commercial banks found that the 50 largest industrialists had 54 interlocks with the 10 leading commercial banks and 24 interlocks among themselves. Our survey also established that it has become a common practice for the leading commercial banks to bring together competitors on their boards of directors. For example, on its board Chase Manhattan unites directors from competing companies in four industries: industrial chemicals (Allied Chemical, Celanese, and Commercial Solvents Corporation); drugs (Pfizer and Squibb); paper goods (Celanese and International Paper); and oil (Exxon, Royal Dutch Petroleum, and Standard Oil of Indiana). Continental Illinois brings together leading agricultural equipment producers Caterpillar Tractor and International Harvester; food producers Esmark and Krafteo; and railroads Chicago-Milwaukee and Illinois Central.

When interlocks are viewed on a city-by-city basis, it becomes clear that there are substantial social costs as well—as in the case of Minneapolis-St. Paul. In January 1971, Richard Gibson, a methodical staff reporter for the *Minneapolis Star*, described the social structure of a major industrial city by examining the boards of the 20 or so leading Twin City industrial corporations and eight leading banks. What he found was a tight little net or what he

* In the past three years the Federal Trade Commission has begun to enforce the Act, bringing three major actions, the most important of which required seven directors common to the boards of 12 competing oil and gas corporations to resign. More recently the Justice Department awoke from its long slumber and brought an action in 1975 against the Bank of America holding company and certain insurance companies which allegedly competed in providing designated services.

called swapping: Burlington Northern placed its executive on the board of General Mills, and General Mills reciprocated by placing an executive on the board of Burlington Northern. Honeywell, Pillsbury, 3M, and Dayton Hudson just placed executives everywhere, as did the leading banks.

But Gibson went beyond the statistics and examined the personalities involved. He found that the boards of the 30 leading corporations in a major metropolitan area of some two million people were dominated by 19 men. Eight served on three or more boards: five men served on four boards; six served on five boards or mor Crucially, these were the men that served as chairman or led the key committees. All but one of these men, Professor Walter Heller, was a corporate executive. Fourteen of the 19 were corporate chief executives. Examined in social terms, the economy of Minneapolis looks like an oligarchy.

Certainly no one would argue that all interlocks, whether among competitors, in financing, supply, or distribution relations, direct or indirect, lead to collusive behavior. But it is unnecessary that any interlock occur. There are sufficient directors available so that each board may be staffed by disinterested persons. The costs of interlocks—favoritism, joint price or output actions, discouragement of entrepreneurs—must be weighed against what are at best negligible advantages.

Conflict of interests can also occur when large industrial corporations invite their investment banker or outside counsel to serve on their boards. For the investment banker, especially, this creates a stark division of loyalty. In addition to underwriting security offerings and relat l corporate financial services, he typically does investment counseling, employs brokers, and administers mutual funds. He is just as likely to perceive his primary obligation to run to his investment clients as to the shareholders of the corporation he directs. As one top executive explained, "As soon as you have an investment banker [on the board], you put yourself in a position where one group of shareholders might be favored at the expense of other shareholders."

A worse situation occurs when the investment banker is favored at the expense of *all* shareholders. J. M. Juran and J. Louden, authors of the American Management Association's study, *The Corporate Director*, cited instances where investment bankers have been guilty of guiding the company into a poor acquisition to create a need for selling securities. Investment banker-directors have insisted on being involved—for a fee—when the corporation seeks to borrow money from an insurance company or other lender. And when a corporation has an investment banker on its board, it becomes very difficult to transact business with other investment bankers. "Having a senior partner of an investment banking firm on our board is notice to the world that we are his captive client," said one corporate president. "Of course this is the main reason investment bankers want to be on so many boards. They think of board membership as a very good way of assuring that the business of the company goes only to them. It's a sort of Operation Stakeout. It tags the company as belonging to one particular firm."

A similar division of loyalties occurs when corporate counsel serves on the board. Attorneys have a financial interest to increase the corporation's law bills, rather than economize for its shareholders. This inability of lawyer-directors to give disinterested counsel has led some law firms to discourage partners from serving on clients' boards. For example, New York City's Debevoise, Plimpton, Lyons and Gates will not permit a partner to go on a board without the approval of the firm as a whole. Skadden, Arps, Slate, Meagher and Flom, also of New York, flatly prohibits partners from becoming directors "except in extenuating cases." Nonetheless, an exhaustive 1971–72 study of some 12,000 companies, which filed information statements with the SEC, found that approximately one in six employs an attorney from the company's outside counsel as a director.

Aggravating the costs to shareholders of these structural conflicts of interest is the tolerance by modern corporate law of self-enriching executive conduct. As early as an 1846 Supreme Court opinion, the rule was well established that any contract between an interested director and his corporation was voidable at the mere insistence of the corporation or any of its shareholders regardless of the fairness or unfairness of the transaction. Professor Harold Marsh explained why:

Under this rule it mattered not the slightest that there was a majority of so-called disinterested directors who approved the contract. The courts stated that the corporation was entitled to the unprejudiced judgment and advice of all of its directors and therefore it did no good to say that the interested director did not participate in the making of the contract on behalf of the corporation. . . .

By 1880, this principle "appeared to be impregnable. . . . It was stated in ringing terms by virtually every decided case, with arguments which seemed irrefutable, and it was sanctioned by age." One scholar termed this the "fundamental law of morals and of human nature" and identified its Biblical origin: "No man can serve two masters." "Fraud is too cunning and evasive," reasoned a New Jersey court, "for courts to establish a rule that invites its presence."

Today this principle is dead. The Delaware General Corporation Law not only tolerates interested conduct by corporate officers and directors; it has made self-dealing the norm.

Under current Delaware law, the chief executive of a corporation and other senior corporate executives may serve on the board of directors or compensation committee which: (1) sets executive salaries; (2) sells or purchases property from corporate executives; (3) loans money—on a secured or unsecured basis; with or without interest—to corporate executives; and (4) establishes pension plans, profit sharing plans, stock bonuses, retirement, benefit, incentive, and compensation plans (including "phantom stock"—a risk-free, cost-free stock option plan), trusts; health insurance; or deferred income plans for such corporate officers or their dependents.

Not only may corporate officers engage in such self-dealing but shareholders under Delaware law are nearly powerless to minimize the amount of corporate largess top executives pay themselves. Any contract or transaction between the corporation and an interested executive is permissible as long as it is "fair." But, in Delaware, fairness is presumed. Professor Ernest Folk, the leading commentator of Delaware's General Corporation Law, explains that "Given Delaware's presumption of sound business judgment with respect to board decisions, the courts will try to determine whether the decision can be attributed to any rational business purpose, and if so, there will be no judicial preemption of the decision."

There seem to be few practical limits to this doctrine. For example, if a corporate chief executive were so graceless as to embezzle $500,000, there is little question that even in Delaware he would be required to return the money and would be subject to criminal prosecution. Yet if that same corporate executive raised his salary $500,000 and received the approval of a board of directors he selected, there is equally little question that a Delaware court would term this "fair"—so long as the chief executive could point to similar salary increases in his industry or received the $500,000 through an "incentive bonus" or profit participation plan.

In the absence of judicial limitations, excessive remuneration has become the norm. In 1974 the executive compensation (salary, bonus, deferred income, and directors' fees) of the highest paid executive at the 50 largest industrial corporations was approximately $400,000—or about as much in one year as many of their employees earn in a lifetime and two and one-half times the average executive compensation of $145,000 earned by the highest paid executive at the 50 largest industrial corporations in 1963.

Contrary to the conventional wisdom, top executive salaries do not generally decrease in response to a decline in corporate sales or profits. In the recessionary years 1970–1973, Professor Wilbur Lewellen, a leading authority on executive compensation, found that the "mean" salary for the top executive at 50 large manufacturing corporations increased steadily from $251,867 in 1970, to $287,759 in 1971, $323,802 in 1972, and $389,277 in 1973.

But salary, bonus, and deferred income are only the most obvious benefits appropriated by corporate chieftains. Equally important is ownership income. Nearly every large industrial corporation offers its top executives stock options. These options allow executives to buy shares of stock in their corporation at a fixed price at any time or at specified times—often with the help of company-secured low interest loans or interest-free loans—and subsequently sell them.

From the shareholder's point of view, the result is a classic case of "heads we lose, tails you win." Over time, executives are

able to build up a substantial fortune in corporate stock without personal risk. The more they do so, the more they dilute the value of other stockholders' shares.

We examined the stock holdings of the highest paid executives at the 50 largest industrial corporations to get some indication of the extent of executive stock holdings. From the start, we eliminated from consideration the seven highest paid chief executives whose stock holdings were either largely inherited or largely "founder's shares": Henry Ford II (Ford Motors), Robert Sarnoff (RCA), Brooks McCormick (International Harvester), Willard Rockwell (Rockwell International), Armand Hammer (Occidental Petroleum), Sanford McDonnell (McDonnell Douglas) and J. P. Grace (W. P. Grace). The 43 remaining chief executives were "employee" executives. Yet each owned an average of $1,566,009 of his corporation's stock, according to the most recent proxy statements filed with the SEC and the closing stock prices of October 1, 1975.*

This crude figure illustrates three points. First, primarily at shareholder expense, the top executives of our largest corporations can and often do, build up million-dollar fortunes in corporate stock on top of their substantial cash and deferred compensation. Second, the income of top executives is significantly increased each year by dividends from their corporate stock. Using our 43 top executives again as an example again, each received an average of $60,382 in dividend income in 1974 above and beyond a $400,000 salary. Third, each top executive will further be enriched by increases in the price of the stock. Professor Lewellen has determined that a similar list of chief executives at the fifty largest industrial corporations (after deleting "extreme values" such as inherited or founder's stockholdings) averaged $220,087 per year in capital gains income for the four years 1960–63.

* This figure is admittedly a very crude approximation of ownership income. On the one hand, it does not distinguish the shares the executives purchase with their own money from those the company gave them through stock options, stock bonuses, or loan arrangements. On the other hand, it understates the amount of ownership income of these executives by making no allowance for the fact that corporate chief executives frequently sell stock they own in their own corporation and put their money in other investments.

Additionally, pension or retirement benefits have swollen. McKinsey and Company's 1975 Executive Compensation Survey found that all but one of 577 major U.S. corporations studied had a pension or profit-sharing retirement plan to pay former executives a fixed income each year after they retire. Almost half of the companies provide either a thrift or savings plan or a profit-sharing plan in addition to the pension plan. Our own survey found that the 21 chief executives of the 50 largest corporations who disclosed their estimated annual retirement benefits anticipated an income of $133,970 per year after they retire. And corporate executives also enjoy other benefits such as life and medical insurance; free medical service; educational grants for their children; indemnification insurance; company apartments; country club membership; luncheon or dinner club membership; chauffeur-driven cars; free legal and tax counseling; personal financial counseling; expense accounts; and other amenities. This myriad of stock bonus, insurance, and benefit programs increases the income of corporate chiefs by approximately 50–75 percent above their $400,000 direct remuneration to an actual income of approximately $600,000 to $700,000 per year.

Yet if excessive remuneration were a conflict of interest confined to the corporate chief executive, it would seem small once it was divided by the total number of shares in most large industrial corporations. What makes the executive compensation conflict truly expensive is that the corporate chief executive not only sets his own salary but also determines the remuneration of other executives all the way down the line. It is clearly in the corporate chief executive's personal interest to seek the greatest possible rewards for his subordinates as well as himself. For a corporate chief who can "deliver" high salaries increases the personal loyalty of his subordinates. And the higher his subordinates' income, the higher the chief executive's income must be.

A good illustration of this is General Electric, where in 1974 Reginald Jones, the chairman, received a compensation of $501,200. Walter Dance, Jack Parker, and Herman Weiss, the next three highest paid executives, received $400,750; $400,500; and $400,000, respectively. The next 107 highest paid officers averaged direct compensation of $121,240. Aggregate figures for "executive groups" at the other 50 largest industrial corporations were approx-

imately the same. In the average corporation, the 31 or so officers ranked immediately below the five highest paid executives received an average of $99,256 in direct remuneration, which would equal approximately $150,000 imputing the present value of stock bonus programs, retirement benefits, insurance, and other perquisites.

A compensation system is obviously askew when a private business corporation must pay a chief executive compensation and benefits of over $600,000 when this is 15 times the $40,000 or so the United States government must pay its highest ranking general, regulator, or Senator. Or when it must pay its next 20–100 senior executives an average of $150,000 each when the federal government expends a maximum of $38,000 per year to hire its highest ranking civil servants, and California, this nation's largest state, pays its governor $49,000.

This is not to deny that the entrepreneur or corporate founder who, at substantial risk, introduces a new or better good or service should not be given a substantial incentive to make an unusual personal contribution to society. But we are concerned here with the administrators of large industrial corporations who, at minimal personal risk, serve as the bureaucrats of private industry. These individuals receive their staggeringly large salaries and stock options by rising through executive ranks—in exactly the same way that government civil servants rise through civil service ranks—and by then exploiting the laxity of state corporate laws that their predecessors helped write.

Remedies

REVAMPING THE BOARD

The modern corporation is akin to a political state in which all powers are held by a single clique. The senior executives of a large firm are essentially not accountable to any other officials within the firm. These are precisely the circumstances that, in a democratic political state, require a separation of powers into different branches of authority. As James Madison explained in the *Federalist No. 47*:

> The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny. Were the federal constitution, therefore, really chargeable with this accumulation of power, or with a mixture of powers, having a dangerous tendency to such an accumulation, no further arguments would be necessary to inspire a universal reprobation of the system.

A similar concern over the unaccountability of business executives historically led to the elevation of a board of directors to review and check the actions of operating management. As a practical matter, if corporate governance is to be reformed, it must begin by returning the board to this historical role. The board should serve as an internal auditor of the corporation, responsible for constraining executive management from violations of law and breach of trust. Like a rival branch of government, the board's function must be defined as separate from operating management. Rather than pretending directors can "manage" the corporation, the board's role as disciplinarian should be clearly described. Specifically, the board of directors should:

- establish and monitor procedures that assure that operating executives are informed of and obey applicable federal, state, and local laws;
- approve or veto all important executive management business proposals such as corporate by-laws, mergers, or dividend decisions;
- hire and dismiss the chief executive officer and be able to disapprove the hiring and firing of the principal executives of the corporation; and
- report to the public and the shareholders how well the corporation has obeyed the law and protected the shareholders' investment.

It is not enough, however, to specify what the board should do. State corporations statutes have long provided that "the business and affairs of a corporation shall be managed by a board of directors," yet it has been over a century since the boards of the largest corporations have actually performed this role. To reform the corporation, a federal chartering law must also specify the manner in which the board performs its primary duties.

First, to insure that the corporation obeys federal and state laws, the board should designate executives responsible for compliance with these laws and require periodic signed reports describing the effectiveness of compliance procedures. Mechanisms to administer spot checks on compliance with the principal statutes should be created. Similar mechanisms can insure that corporate "whistle blowers" and nonemployee sources may communicate to the board—in private and without fear of retaliation—knowledge of violations of law.

Second, the board should actively review important executive business proposals to determine their full compliance with law, to preclude conflicts of interest, and to assure that executive decisions are rational and informed of all foreseeable risks and costs. But even though the board's responsibility here is limited to approval or veto of executive initiatives, it should proceed in as well-informed a manner as practicable. To demonstrate rational business judgment, the directorate should require management "to prove its case." It should review the studies upon which management relied to make a decision, require management to justify its decision in terms of costs or rebutting dissenting views, and, when necessary, request that outside experts provide an independent business analysis.

Only with respect to two types of business decisions should the board exceed this limited review role. The determination of salary, expense, and benefit schedules inherently possesses such obvious conflicts of interest for executives that only the board should make these decisions. And since the relocation of principal manufacturing facilities tends to have a greater effect on local communities than any other type of business decision, the board should require management to prepare a "community impact statement." This public report would be similar to the environmental impact statements presently required by the National Environmental Policy Act. It would require the corporation to state the purpose of a relocation decision; to compare feasible alternative means; to quantify the costs to the local community; and to consider methods to mitigate these costs. Although it would not prevent a corporation from making a profit-maximizing decision, it would require the corporation to minimize the costs of relocation decisions to local communities.

To accomplish this restructuring of the board requires the institutionalization of a new profession: the full-time "professional" director. Corporate scholar frequently identify William O. Douglas' 1940 proposal for "salaried, professional experts [who] would bring a new responsibility and authority to directorates and a new safety to stockholders" as the origin of the professional director idea. More recently, corporations including Westinghouse and Texas Instruments have established slots on their boards to be filled by full-time directors. Individuals such as Harvard Business School's Myles Mace and former Federal Reserve Board chairman William McChesney Martin consider their own thoroughgoing approach to boardroom responsibilities to be that of a "professional" director.

To succeed, professional directors must put in the substantial time necessary to get the job done. One cannot monitor the performance of Chrysler's or Gulf's management at a once-a-month meeting; those firms' activities are too sweeping and complicated for such ritual oversight. The obvious minimum here is an adequate salary to attract competent persons to work as full-time directors and to maintain the independence of the board from executive management.

The board must also be sufficiently staffed. A few board members alone cannot oversee the activities of thousands of executives. To be able to appraise operating management, the board needs a trim group of attorneys, economists, and labor and consumer advisors who can analyze complex business proposals, investigate complaints, spot-check accountability, and frame pertinent inquiries.

The board also needs timely access to relevant corporate data. To insure this, the board should be empowered to nominate the corporate financial auditor, select the corporation's counsel, compel the forwarding and preservation of corporate records, require all corporate executives or representatives to answer fully all board questions respecting corporate operations, and dismiss any executive or representative who fails to do so.

This proposed redesign for corporate democracy attempts to make executive management accountable to the law and shareholders without diminishing its operating efficiency. Like a judi-

ciary within the corporation, the board has ultimate powers to judge and sanction. Like a legislature, it oversees executive activity. Yet executive management substantially retains its powers to initiate and administer business operations. The chief executive officer retains control over the organization of the executive hierarchy and the allocation of the corporate budget. The directors are given ultimate control over a narrow jurisdiction: Does the corporation obey the law, avoid exploiting consumers or communities, and protect the shareholders' investment? The executive contingent retains general authority for all corporate operations.

No doubt there will be objections that this structure is too expensive or that it will disturb the "harmony" of executive management. But it is unclear that there would be any increased cost in adopting an effective board. The true cost to the corporation could only be determined by comparing the expense of a fully paid and staffed board with the savings resulting from the elimination of conflicts of interest and corporate waste. In addition, if this should result in a slightly increased corporate expense, the appropriateness must be assessed within a broader social context: should federal and state governments or the corporations themselves bear the primary expense of keeping corporations honest? In our view, this cost should be placed on the corporations as far as reasonably possible.

It is true that an effective board will reduce the "harmony" of executive management in the sense that the power of the chief executive or senior executives will be subject to knowledgeable review. But a board which monitors rather than rubber-stamps management is exactly what is necessary to diminish the unfettered authority of the corporate chief executive or ruling clique. The autocratic power these individuals presently possess has proven unacceptably dangerous: it has led to recurring violations of law, conflicts of interest, productive inefficiency, and pervasive harm to consumers, workers, and the community environment. Under normal circumstances there should be a healthy friction between operating executives and the board to assure that the wisest possible use is made of corporate resources. When corporate executives are breaking the law, there should be no "harmony" whatsoever.

ELECTION OF THE BOARD

Restructuring the board is hardly likely to succeed if boards remain as homogeneously white, male, and narrowly oriented as they are today. Dissatisfaction with current selection of directors is so intense that analysts of corporate governance, including Harvard Law School's Abram Chayes, Yale political scientist Robert Dahl, and University of Southern California Law School Professor Christopher Stone, have each separately urged that the starting point of corporate reform should be to change the way in which the board is elected.

Professor Chayes, echoing John Locke's principle that no authority is legitimate except that granted "the consent of the governed," argues that employees and other groups substantially affected by corporate operations should have a say in its governance:

> Shareholder democracy, so-called, is misconceived because the shareholders are not the governed of the corporations whose consent must be sought. . . . Their interests are protected if financial information is made available, fraud and overreaching are prevented, and a market is maintained in which their shares may be sold. A priori, there is no reason for them to have any voice, direct or representational, in [corporate decision making]. They are no more affected than nonshareholding neighbors by these decisions. . . .
>
> A more spacious conception of 'membership,' and one closer to the facts of corporate life, would include all those having a relation of sufficient intimacy with the corporation or subject to its power in a sufficiently specialized way. Their rightful share in decisions and the exercise of corporate power would be exercised through an institutional arrangement appropriately designed to represent the interests of a constituency of members having a significant common relation to the corporation and its power.

Professor Dahl holds a similar view: "[W]hy should people who own shares be given the privileges of citizenship in the government of the firm when citizenship is denied to other people who also make vital contributions to the firm?" he asks rhetorically. "The people I have in mind are, of course, employees and customers, without whom the firm could not exist, and the general

public, without whose support for (or acquiescence in) the myriad protections and services of the state the firm would instantly disappear. . . ." Yet Dahl finds proposals for interest group representation less desirable than those for worker self-management. He also suggests consideration of codetermination statutes such as those enacted by West Germany and ten other European and South American countries under which shareholders and employees separately elect designated portions of the board.

From a different perspective, Professor Stone has recommended that a federal agency appoint "general public directors" to serve on the boards of all the largest industrial and financial firms. In certain extreme cases such as where a corporation repeatedly violates the law, Stone recommends that the federal courts appoint "special public directors" to prevent further delinquency.

There are substantial problems with each of these proposals. It seems impossible to design a general "interest group" formula which will assure that all affected constituencies of large industrial corporations will be represented and that all constituencies will be given appropriate weight. Even if such a formula could be designed, however, there is the danger that consumer or community or minority or franchisee representatives would become only special pleaders for their constituents and otherwise lack the loyalty or interest to direct generally. This defect has emerged in West Germany under codetermination. Labor representatives apparently are indifferent to most problems of corporate management that do not directly affect labor. They seem as deferential to operating executive management as present American directors are. Alternatively, federally appointed public directors might be frozen out of critical decision-making by a majority of "privately" elected directors, or the appointing agency itself might be biased.

Nonetheless, the essence of the Chayes-Dahl-Stone argument is well taken. The boards of directors of most major corporations are, as CBS's Dan Rather criticized the original Nixon cabinet, too much like "twelve grey-haired guys named George." The quiescence of the board has resulted in important public and, for that matter, shareholder concerns being ignored.

An important answer is structural. The homogeneity of the board can only be ended by giving to each director, in addition to a general duty to see that the corporation is profitably administered, a separate oversight responsibility, a separate expertise, and a separate constituency so that each important public concern would be guaranteed at least one informed representative on the board. There might be nine corporate directors, each of whom is elected to a board position with one of the following oversight responsibilities:

1. Employee welfare
2. Consumer protection
3. Environmental protection and community relations
4. Shareholder rights
5. Compliance with law
6. Finances
7. Purchasing and marketing
8. Management efficiency
9. Planning and research

By requiring each director to balance responsibility for representing a particular social concern against responsibility for the overall health of the enterprise, the problem of isolated "public" directors would be avoided. No individual director is likely to be "frozen out" of collegial decision-making because all directors would be of the same character. Each director would spend the greater part of his or her time developing expertise in a different area; each director would have a motivation to insist that a different aspect of a business decision be considered. Yet each would simultaneously be responsible for participating in all board decisions, as directors now are. So the specialized area of each director would supplement but not supplant the director's general duties.

Although not a symmetrical analogy, the most successful precedent for dividing the representative responsibilities and constituencies is, of course, the Constitution of the United States. There, too, a basic question was one of motivation: How to design a political administration which would retain an equal respect for the rights of all of its citizens. Only by arranging "ambition . . . to counteract ambition" did the Federalists believe such respect would endure. By granting the President, the two houses of Congress, and the judiciary different geographic constituencies, different

terms, and different duties, the various factions of the nation's citizens were most likely to be insured some representation within the government. "Hence a double security arises to the rights of the people. The different governments will control each other, at the same time that each will be controlled by itself," explained Madison in *Federalist No. 51*.

In recent years, some business corporations have also perceived the advantages of creating constitutent voices within the structure of the firm. Reverend Leon Sullivan, the only black director on General Motors' board, has made plain that he considers it his special responsibility to advance the interests of GM's black employees and dealers. His representation, among other things, has led to an increase in the number of blacks being trained to be GM executives. Gillette's Vice President for Product Integrity, Robert Giovacchini, is said to perform a similar role. Although not a member of the board, Mr. Giovacchini has been given the authority to recall any Gillette product, quash any advertising claim, or order any packaging change he feels is necessary to protect the company's consumers.

Only by institutionalizing the duties and power that individuals like Reverend Sullivan and Robert Giovacchini hold can responsible corporate government be brought to each large firm.

For in most giant corporations, no specific executive official or board member is responsible for protecting the interests of employees, consumers, the environment, or local communities. No one outside of senior management reviews the most important business decisions to assure their compliance with law, financial integrity, efficiency or long-term corporate goals. Because these concerns become everybody's general interest, they become nobody's particular interest—and often go unattended.

To maintain the independence of the board from the operating management it reviews also requires that each federally chartered corporation shall be directed by a purely "outside" board. No executive, attorney, representative, or agent of a corporation should be allowed to serve simultaneously as a director of the same corporation. Directorial and executive loyalty should be furthered by an absolute prohibition of interlocks. No director, executive, general counsel, or company agent should be allowed to serve more than one corporation subject to the Federal Corporate Chartering Act.

Several objections may be raised. First, how can we be sure that completely outside boards will be competent? As elaborated subsequently, corporate campaign rules will be redesigned to emphasize qualifications. This will allow shareholder voters to make rational decisions based on information clearly presented to them. It is also a fair assumption that shareholders, given an actual choice and role in corporate governance, will want to elect the men and women most likely to safeguard their investments.

A second objection is that once all interlocks are proscribed and a full-time outside board required, there will not be enough qualified directors to staff all major firms. This complaint springs from that corporate mentality which, accustomed to 60-year-old white male bankers and businessmen as directors, makes the norm a virtue. In fact, if we loosen the reins on our imagination, America has a large, rich, and diverse pool of possible directorial talent from academics and public administrators and community leaders to corporate and public interest lawyers.

But directors should be limited to four two-year terms so that boards do not become stale. And no director should be allowed to serve on more than one board at any one time. Although simultaneous service on two or three boards might allow key directors to "pollinize" directorates by comparing their different experiences, this would reduce their loyalty to any one board, jeopardize their ability to fully perform their new directorial responsibilities, and undermine the goal of opening up major boardrooms to as varied a new membership as is reasonable.

The shareholder electoral process should be made more democratic as well. Any shareholder or allied shareholder group which owns 1 percent of the common voting stock in the corporation or comprises 100 or more individuals and does not include a present executive of the corporation, nor act for a present executive, may nominate up to three persons to serve as directors. This will exclude executive management from the nomination process. It also increases the likelihood of a diverse board by preventing any one or

two sources from proposing all nominees. To prevent frivolous use of the nominating power this proposal establishes a minimum shareownership condition.

Six weeks prior to the shareholders' meeting to elect directors, each shareholder should receive a ballot and a written statement on which each candidate for the board sets forth his or her qualifications to hold office and purposes for seeking office. All campaign costs would be borne by the corporation. These strict campaign and funding rules will assure that all nominees will have an equal opportunity to be judged by the shareholders. By preventing directorates from being bought, these provisions will require board elections to be conducted solely on the merit of the candidates.

Only the actual or "beneficial" owners of stock should be eligible to vote. Financial intermediaries shall be required to "pass through" voting rights in approximately the same manner that present New York and American Stock Exchange rules require broker-dealers to "pass through" proxies and corporate reports to shareholders owning stock in street name accounts. Already a number of major firms, including Sears, Roebuck, General Motors, McDonnell Douglas, and United States Steel, "pass through" voting rights to hundreds of thousands of employees holding stock in joint pension funds.

Finally, additional provisions will require cumulative voting and forbid "staggered" board elections. Thus any shareholder faction capable of jointly voting approximately 10 percent of the total number of shares cast may elect a director.

A NEW ROLE FOR SHAREHOLDERS

The difficulty with this proposal is the one that troubled Juvenal two millennia ago: *Quis custodiet ipsos custodes*, or, Who shall watch the watchmen? Without a full-time body to discipline the board, it would be so easy for the board of directors and executive management to become friends. Active vigilance could become routinized into an uncritical partnership. The same board theoretically elected to protect shareholder equity and internalize law might instead become management's lobbyist.

Relying on shareholders to discipline directors may strike many as a dubious approach. Historically, the record of share-

holder participation in corporate governance has been an abysmal one. The monumental indifference of most shareholders is worse than that of sheep; sheep at least have some sense of what manner of ram they follow. But taken together, the earlier proposals—an outside, full-time board, nominated by rival shareholder groups and voted on by beneficial owners—will increase involvement by shareholders. And cumulative voting insures that an aroused minority of shareholders—even one as small as 9 or 10 percent of all shareholders—shall have the opportunity to elect at least one member of the board.

But that alone is hardly sufficient. At a corporation the size of General Motors an aggregation of 10 percent of all voting stock might require the allied action of over 200,000 invididuals—which probably could occur no more than once in a generation. To keep directors responsive to law and legitimate public concerns requires surer and more immediate mechanisms. In a word, it requires arming the victims of corporate abuses with the powers to swiftly respond to them. For only those employees, consumers, racial or sex minorities, and local communities harmed by corporate depradations can be depended upon to speedily complain. By allowing any victim to become a shareholder and by permitting any shareholder to have an effective voice, there will be the greatest likelihood of continuing scrutiny of the corporation's directorate. Shareholder involvement can be further enhanced by the disclosures discussed in the next chapter, by the opportunity to attend periodically scheduled directors' meetings to ask questions or present grievances, and by reform of the shareholder derivative action so that any investor who identifies a corporate violation of law may bring lawsuit without risk of financial loss.

For the purpose of motivating the board to perform its intended role, however, it is appropriate to inject shareholders further into corporate governance wherever they have a financial or other incentive to perform effectively.

Six weeks before a vote on any fundamental transaction—which can be defined as executive proposals involving the purchase, sale, lease, merger, consolidation, financing, refinancing, dissolution, or liquidation of assets equal to, say, 10 percent of the corporation's total assets or over $100 million, or the authorization

of corporate securities in any amount—the board should forward a written statement to the shareholders explaining the transaction, the vote by which the transaction was approved by the board, the reasons why members of the board approved the transaction, the reasons why other members opposed it, and the foreseeable costs and risks of implementing the proposal. This provision would provide for shareholder votes on all business decisions above a certain minimum size, however named. By requiring directors to publicly elaborate their reasoning—reasoning which may be judged not only during this vote but also during subsequent board elections or mismanagement suits—there would be a powerful incentive for directors to police themselves.

A complementary provision should allow any shareholder or allied shareholder group holding stock equal to a minimum of one percent of all outstanding stock to simultaneously publish a dissenting view or, at any time, to propose amendments to the corporate charter or bylaws.

AFFECTED COMMUNITIES

Shareholders are not the only ones with an incentive to review decisions of corporate management; nor, as Professors Chayes and Dahl argue, are shareholders the only persons who should be accorded corporate voting rights. The increasing use by American corporations of technologies and materials that pose direct and serious threats to the health of communities surrounding their plants requires the creation of a new form of corporate voting right. When a federally chartered corporation engages, for example, in production or distribution of nuclear fuels or the emission of toxic air, water, or solid waste pollutants, citizens whose health is endangered should not be left, at best, with receiving money damages after a time-consuming trial to compensate them for damaged property, impaired health, or even death.

Instead, upon finding of a public health hazard by three members of the board of directors or 3 percent of the shareholders, a corporate referendum should be held in the political jurisdiction affected by the health hazard. The referendum would be called by the unit triggering it—either the three board members or a designate of the shareholders. The affected citizens by majority vote will then decide whether the hazardous practice shall be allowed to continue. This form of direct democracy has obvious parallels to the initiative and referendum procedures familiar to many states—except that the election will be paid for by a business corporation and will not necessarily occur at a regular election.

What would happen to the local community if it voted to close a dangerous plant? Three answers seem reasonable. First, the board of directors should have the opportunity to modify the local plant to reduce the health hazard. If the board chooses to do so, it should be allowed to submit its modification plan as a subsequent referendum for community approval. Second, if the corporation chooses to leave after the vote, it should be required to immediately repay the local community for all damages to its health and property by the outlawed activity. This valuation proceeding should occur in federal district court. If the corporation chooses to leave before the referendum vote, it should additionally be required to pay its local employees salaries for a reasonable interim period. Third, the referendum voting procedure should be flexible. Local communities should be given the opportunity to vote upon an initiative calling for the corporation to remedy a specific health hazard by a designated date as an alternative to one calling for immediate closing of a plant. Similarly, the board should be given the opportunity to submit a plan of modification simultaneously with the initial referendum vote.

This type of election procedure is necessary to give enduring meaning to the democratic concept of "consent of the governed." To be sure, this proposal goes beyond the traditional assumption that the only affected or relevant constituents of the corporation are the shareholders. But no longer can we accept the Faustian bargain that the continued toleration of corporate destruction of local health and property is the cost to the public of doing business. In an equitable system of governance, the perpetrators should answer to their victims.

WORKING PAPER ON

DIVIDEND DISPERSAL PROGRAMS

By Governor Jay S. Hammond

There is increasing interest in providing Alaskans with a "piece of the action" through some method of distributing "dividends."

I am encouraged by this for I believe it appropriate that all Alaskans receive some direct benefits from their resource wealth rather than simply receiving whatever more government we politicians think they should have.

-- ALASKA INC.

Some few years ago, I proposed a means by which a portion of income earned from investments of the public's resource wealth would be distributed in direct dividends to all "shareholders". This proposal became known as Alaska, Inc. I introduced a modified form of Alaska, Inc. again this year, as has Senator Sumner.

-- AGSOC

Another means of granting Alaskans a "piece of the action" has been proposed by Senator Gravel. This is known as "Alaskan General Stock Ownership Corporation" or AGSOC. Unlike Alaska, Inc. which disperses a portion of earnings from investments of citizen-owned resource wealth, an AGSOC would permit citizens to own shares of development programs which might relate - but not necessarily exclusively - to the manner in which that resource wealth was transported, refined or manufactured. The necessary capital to acquire ownership in such endeavor could come either from the sale of tax free revenue bonds, private financing or State guaranteed funds.

-- MUTUALLY EXCLUSIVE OR COMPATIBLE?

While the intent of both programs is similar, there are important distinctions. Moreover, while they are by no means mutually exclusive, I am increasingly convinced that insofar as the State's long term best interest is concerned, an AGSOC can best work only if an Alaska, Inc. program is first put into place and, as well, certain amendments are made to both bills now before us.

In order to discuss my reasons for so concluding, it is necessary first to explain how, ideally, I believe an Alaska, Inc. program should work.

-- MECHANICS OF ALASKA, INC

Each Alaskan would receive, annually, one share of 1/2 the earnings of Permanent Fund investments for every year they have resided in "an area where cost of living was recognized by the Federal government as warranting a 25 percent cost of living pay differential for its employees." While nothing is said about residency versus nonresidency, all Alaskans, of course, would qualify. Those with longer tenure would accrue more shares. Shares would not be transferable. However, new Alaskans, upon qualification, would as well receive shares.

Application for annual dividends could be made upon filing an income tax form attesting to ones having resided during most of the previous year in such a high C.O.L. area. Thus, persons who leave the state would no longer qualify after one year.

In a bill I presented to the Legislature this year, House Bill 99, such "dividends" would come only in the form of tax credits. Moreover, no one would qualify for more than one share for each year during which the applicant had paid State income taxes up to a total of five shares. This five-year limitation was proposed since Department of Revenue tax records are held for only five or six years.

While this approach was taken to curry support from those who wanted tax relief as well as for administrative convenience in checking an applicant's eligibility, it raises serious questions.

For example, all citizens, whether they're taxpayers or not, are impacted by Alaska's high cost of living. Moreover, if you truly believe, as I do, that Alaskans collectively own such resource wealth as their royalty oil, how can we justify dispersing income investments of collectively owned Alaskan wealth selectively to only those who make enough money to have to pay taxes? Accordingly, I would prefer that dividends go to all otherwise qualified citizens either in the form of tax credits or as a negative income tax return.

Additionally, since the rationale for dispersing dividends is based on the belief that with all their energy wealth Alaskans should receive at least some direct relief from the exceptionally high price they've had to pay for energy, then there is little rationale to compensate them for but 5 years of such impact. Compensation should be for each year so impacted.

Though determining the number of years for which each applicant is qualified may seem difficult, it is less difficult than obtaining similar data required for proof of eligibility for receipt of the longevity bonus, guide licenses, limited entry permits, or entry into a pioneer home.

To minimize administrative costs and the likelihood of perjury, we could require an affidavit from the applicant with two other "shareholders" as witnesses. If all parties were to lose eligibility should they perjure themselves, it is unlikely many would falsify claims. In those cases where no witnesses will come forward, shares could be confined to the number of years the applicant can provide documentation to prove his case, i.e., tax records, etc.

The conclusion that an Alaska, Inc. type program should be established before an AGSOC proposal was reached primarily because of the potentials of an AGSOC to place the shareholders' interests precisely at odds with State interests. For example, one AGSOC proposal involves partial purchase of the trans-Alaska oil pipeline. Should all shareholders then get dividends based on the profitability of that purchase, it is to the shareholders' benefit to get the highest possible price - i.e. tariff - for transporting oil. However, the State treasury, including the Permanent Fund, gets more money the lower the tariff. Thus, the AGSOC's interest would be precisely opposite those of the State in regard to the level of tariff. On the other hand, in the case of an Alaska, Inc. type distribution of Permanent Fund earnings, the interests of the State and the shareholders would be precisely the same.

Similarly, if an AGSOC were to invest in a petrochemical plant, its shareholders would benefit if we sold that plant our royalty oil at a cut rate. This too would be a loss to the State's Permanent Fund and to those who did not hold shares of that AGSOC.

Only by passing an Alaska, Inc. type program first could we likely establish conditions where the State and all Alaskans' interests were compatible insofar as maximizing the return from the citizens' resource wealth. Once in place, such programs reduce the likelihood of conflicting AGSOC proposals being undertaken.

In its present form, proposed AGSOC legislation has other problems:

1. Since only one share of stock goes to each person here in Alaska at the time each AGSOC is formed, ultimately there would be two types of Alaskans: those who were shareholders, and those who were not.

Remedy:
One way to remedy this is to amend the bill to provide one share of stock for each year the shareholder has resided in a locale where the government recognizes cost of living impact sufficient to warrant their payment of a 25 percent cost of living differential to government workers. Then all Alaskans would be shareholders.

2. AGSOC shares would be transferable, permitting money to leave Alaska. This should be amended since the prime objective and rationale is to insure that Alaskans get a "piece of the action" to compensate them, in part, for the exceptionally high cost of living impact here in Alaska. Accordingly, persons who have moved to Hawaii or California have no justification for receiving such cost of living offset.

Remedy:
A remedy would be to require that persons make application for their annual dividends on an Alaskan income tax filing form attesting to their having resided during most of the previous year in an area of qualifying high cost of living differential.

3. Another problem is, what if the AGSOC loses money? Who then pays off the bonds or other debt obligations? I am opposed to State guarantees. Would the AGSOC shareholders then become liable?

Remedy:
To offset this concern, were the Alaska, Inc. concept in place first, guarantees or collateral could be an AGSOC shareholder's prospective Alaska, Inc. dividends. Far better to use the AGSOC shareholder's prospective Alaska, Inc. dividends as such than use, as guarantees, Permanent Fund principle or general fund monies which belong to all Alaskans, not just AGSOC shareholders.

4. Under an AGSOC proposal some shareholders may be unwilling participants in programs to which they are philosophically or otherwise ill disposed.

Remedy:
If one is already a shareholder in an Alaska, Inc. program, they should be able to elect whether or not they wish to become an AGSOC shareholder. By so doing, they would not be compelled to participate in some development program they may not favor in order to get any "piece of the action" whatsoever.

Another reason why the Alaska, Inc. program should go in place first is because it would motivate placement of more oil wealth behind the Permanent Fund "rope" where it could not be used for more government or as guarantees for some shakey AGSOC proposal. Since Alaska, Inc. shareholder "dividends" are directly dependent upon the amounts of money placed in the Permanent Fund, there would be a countering pressure to those political pressures which create bigger government.

Because the Alaska, Inc. approach would provide "dividends" from an "enterprise" already returning revenues which belong to all Alaskans, the charge of "improper involvement of government into private sector affairs" is absent. Of course, since AGSOC's are not truly government functions the traditional "undue involvement" charge does not really wash. However, because of the potential impact on government funds to bail out ailing AGSOCs, a reverse concern may be valid: "undue involvement by the private sector in the affairs of government."

Other advantages recommending prior implementation of Alaska, Inc. are its comparative simplicity and the fact that unlike the speculative nature of any AGSOC, we would be betting on a "sure thing." For example, we know that we have a fully capitalized, debt free enterprise in the Permanent Fund which can immediately start paying "dividends". No loans must be made; bonds sold; speculation engaged in. We are already functioning "in the black." Surely if we're going to condition the public to feel comfortable with any "dividend distribution' system at all, we should start with a simplistic "sure" winner.

A major benefit of increasing contributions to the Permanent Fund is that the other half of the resultant increased recurring income from Permanent Fund investments would flow into the General Fund where it could supplant these non-recurring oil wealth dollars now improperly funding our day to day government operations. Such reduction of our dangerous dependence upon principle dollars for funding operations - which should be funded with income dollars - is imperative.

If the AGSOC program goes on the line first, the chances of finding surplus State dollars to place into the Permanent Fund would likely diminish.

Thus, while I favor both the Alaska, Inc. and AGSOC concepts for insuring all citizens a "piece of the action," I believe it imperative that the Alaska, Inc. program be placed on line before an AGSOC be established. Meanwhile, I would like the enabling AGSOC legislation amended to deal with those problems I've previously outlined.

Buy In-State, Adviser Tells AGSOC Backers

By LAURA ZAHN
Empire Staff Reporter

An investment banker hired by the Legislature says a proposed resident owned general stock ownership corporation, AGSOC, should only invest in projects within the state, not operate them.

John A. Miskimen, senior vice president of Kelso and Co. of San Francisco, Calif. concluded a 10-day visit to Fairbanks, Anchorage and Juneau today, after talking with business, governmental and Native leaders in those cities. Miskimen has been hired to study the economy of the state and investment possibilities for the Alaska General Stock Ownership Corp., (AGSOC), proposed by U.S. Sen. Mike Gravel and Kelso and Co.

Under the proposed plan, residents would receive one share of stock and control the corporation's investment decisions. The state would back the corporation with a $5 million loan guarantee, but it would make no investment in the corporation, according to Dale Staley, legislative aide to Juneau Rep. J n Duncan.

Staley and another Duncan aide, Commissioner of Commerce and Economic Development Charles Webber, Juneau Mayor Bill Overstreet and other local business and government leaders heard Miskimen say this morning that "public opinion on this issue has not jelled one way or another."

Miskimen recommended that AGSOC "get involved in a situation where the supplier needs capital to get off the ground," but stay away from being an operating company.

"There's no reason to get involved where there's already plenty of investment capital," he said. The corporation could remain small, with about 25 employees, for instance, and manage to return 90 percent of its profits to shareholders. Under federal laws it would have to make that size return to be within IRS codes.

Good investment possibilities include becoming involved in leasing equipment to companies operating in Alaska.

Also AGSOC should consider building a large generating facility at the mouth of a Fairbanks coal mine, and selling the electricity to Fairbanks. "The mining company does not seem to be able to make the investment to put together a generator of that size," Miskimen said.

Another good investment would be to buy British Petroleum's Inc., 15 percent share of the Trans-Alaska oil pipeline for about $1.3 billion. That investment alone would bring about $200 a year in dividends to Alaskans owning one share of AGSOC, he said.

Possible drawbacks of the BP investment would be the large expenditure required, and the fact that the already established pipeline would not add jobs to the economy.

If the organizers are careful about the initial loan guarantee and its terms with the state, "10 years from now, you won't recognize AGSOC from XYZ corporation...except that it's owned by Alaskans," he said.

An amendment may be necessary to insure that the Board of Directors, at first appointed but then elected by stockholders, are not from one area of the state, Miskimen said.

AGSOC will have to "diversify the investments across the state," so that in 10 years there will be investments in each part of Alaska, he said.

The original board under the proposal would be appointed by the house speaker, senate president and governor, who are presently from Southeast and Southcentral.

"The management is all-important—whoever selects the board is going to be under public scrutiny, which (should) tend to create a higher quality board," Miskimen said.

Large blocks of stock ownership would not be possible because no corporations can buy it, it can only be transferred when someone dies or leaves the state, and no individual can own more than 10 shares, he said.

Although "you can't regulate people against cheating," Miskimen said he thinks penalties for cheating are "fairly substantial" to deter residents from doing so.

He recommended subsequent issues of stock or provisions for new residents or new births so that "two classes of residents" don't result.

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Labor Department Mov

By Empire Staff

Attorney General Avrum Gr this week issued an opinion discounting the objections of some Southcentral Alaska lawmakers with plans for the Department of Labor to move into a new building in Juneau.

Ten Anchorage-area lawmakers, plus Matanuska-Susitna Borough Mayor Ron Larson, last week wrote Gov. Jay Hammond charging that state plans to lease a new facility for the Labor Department violates the wording of the FRANK initiative passed by

capital site to another capital site, and that it has no relevance on moving from one building to another within the same capital site," he said.

The federal government, which picks up the bulk of Department of Labor's cost for rental of office space, late this summer said it would stop paying rent for the department's main offices, currently at Fourth and Harris streets in the downtown area. The government said the two-story building violates its rules for access for the handicapped.

ing sought for the project.

Anchorage lawmakers l however, wrote Hammond FRANK initiative, which requ approve the full bondable cost move before it can start also for relocation of a central facility in Juneau. Gross dispu

"Carried to the extreme, o have to get a renewal of the costs of moving people from

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A UNIT IN THE ORIGINAL FILE.

THE RELATIONSHIP

BETWEEN

CASH FLOW AND TAXABLE INCOME

IN

GENERAL STOCK OWNERSHIP CORPORATIONS

Senator Mike Gravel

CONTENTS

Executive Summary	(a)
The Potential Problem	1
When Can the Problem Occur	2
Non-deductible Expenditures	3
Taxable Income Without Cash Flow	5
Depreciation Recapture	5
Investment Credit Recapture	7
Installment Sales	9
Protection for Shareholders	10
The Election	10
Management	13
Termination of Election	14
Revocation of Charter	16
Conclusion	17

EXECUTIVE SUMMARY

The Potential Problem

The law governing GSOCs attributes GSOC taxable income to GSOC shareholders raising the possibility of shareholder tax liability on attributed GSOC income in excess of GSOC cash distributions. This could present hardships for the shareholders who might not have sufficient funds to pay the taxes due.

When Can It Occur

Shareholder tax liability in excess of cash available for distribution can occur when the corporation has (1) cash flow expenditures which are non-deductible for tax purposes or (2) items included in taxable income which do not represent cash flow income.

Examples of non-deductible cash flow expenditures include principal amortization on installment debt, some political and charitable contributions, the excess portion of unreasonably high salaries, illegal payments and contributions to non-qualified or disqualified retirement plans. Examples of items included in taxable income which do not represent cash flow income include depreciation and investment tax credit recapture income and income from installment sales with excessive down payments.

Shareholder Protection

The special tax treatment for GSOCs must be elected. If no election is filed the GSOC is taxed as a regular business corporation. To qualify for the election the corporation must meet the requirements of a GSOC which include limitations desireable in any state chartered broadly owned corporation.

GSOC management is the shareholders' first line of defense. Potential problems can be avoided with careful planning. However, since corporate management may err the law provides for termination of the special tax treatment voluntarily upon request of the corporation or involuntarily by operation of law. Termination closes off the attribution of corporate taxable income to the shareholders and the corporation is taxed as a normal business corporation. As a last resort the state legislature can revoke the GSOC corporate charter terminating its existence.

Conclusion

GSOC management has the tools to prevent shareholder tax liability in excess of GSOC distributions. Failing this the law allows the termination of special tax status in a number of ways closing off the attribution of income to the shareholders and protecting them regardless of management decisions.

The General Stock Ownership Corporation (GSOC) provisions of the Internal Revenue Code (Subchapter U, Sections 1391-1397) present an interesting question regarding the relationship between taxable income and cash flow of the corporation and distributions to its shareholders. Several witnesses before the State Affairs Committee have commented upon this issue during consideration of HB 240. This paper analyses the potential problem and the protections for the shareholders buil' into t!e statutes.

THE POTENTIAL PROBLEM

Subchapter U of the Internal Revenue Code (Code) provides that the taxable income of a GSOC is attributed annually to its shareholders. With minor exceptions taxable income of a GSOC is computed in a manner similar to other corporations. Shareholders must include in income for tax purposes their share of GSOC income for the year. The tax liability of a GSOC shareholder arising because of his share ownership is determined by multiplying the income attributed to him from the GSOC by his marginal tax rate. This tax is increased by the shareholder's portion of any net investment recapture tax and reduced by his share of any net investment credit.

To provide shareholders cash sufficient to meet the tax liability created by the attribution of GSOC income the Code requires a GSOC to distribute annually to its shareholders an amount equal to at least 90 percent of its taxable income. This distribution requirement applys irrespective of orporate

cash flow. However, if the GSOC fails to make the required distribution the only penalty is a 20 percent deficiency tax assessed against the corporation. Application of this tax does not absolve GSOC shareholders from the obligation to pay tax on the income attributed to them from the corporation.

Taxable income does not necessarily reflect cash flow available for distribution to shareholders. It is an artificial number arrived at in an effort to determine on an annual basis the average earnings of a company or individual over a lifetime. Some items such as depreciation on capital assets reduce taxable income without affecting cash flow while other items which are actual cash flow expenses, such as the repayment of debt principal, do not reduce taxable income. Thus, cash flow after expenses may be either more or less than taxable income.

Concerns have been expressed that GSOC cash flow could be insufficient to meet the distribution requirements and perhaps so low that no distributions occur at all. In such a case GSOC shareholders might have income tax liability as a result of income attributed to them from the GSOC and yet have no cash distributions from the corporation with which to pay the taxes. We shall attempt to analyse the risks presented by this scenario and the protections afforded the shareholders.

WHEN CAN THE PROBLEM OCCUR

Two general types of situations can cause taxable income to exceed cash flow. Taxable income can exceed cash flow where (1) cash flow expenditures are non-deductible for tax purposes

and (2) items of taxable income do not represent cash flow income. The first category of transactions includes the amortization of debt principal, illegal payments and unreasonably high salaries. The second category includes recapture of depreciation and investment tax credits and installment sales with excessive down payments.

Non-deductible Expenditures

Non-deductible expenditures reduce GSOC cash flow available for distribution to the shareholders without reducing taxable income attributed to shareholders for income tax purposes. Carried to an extreme these expenditures could eliminate all the cash in a corporation, but still not reduce the taxable income. The taxable income would be attributed to the shareholders who would incur tax liability based on the attributed income, but the corporation would have no cash to distribute and the shareholders would be required to finance the additional tax liability out of other income. This could work considerable hardship upon many shareholders.

There are many expenses which do not reduce taxable income. The more common of these include contributions to disqualified retirement plans, some charitable and political contributions and the excess portion of unreasonably high salaries. Amortization of debt principal is also a very common non-deductible cash flow expense. Although interest payments on a loan are deductible for Federal income tax purposes payments which reduce the principal amount due on the loan are not. In many cases the non-deductible principal portion of a loan payment may

represent the lion's share of the annual loan amortization cash flow. Since this principal amortization component of debt service requires cash payments from the corporation it is the type of non-deductible expenditure which could cause problems for the shareholders of a GSOC.

Other non-deductible corporate expenses can result in GSOC expenditures which do not reduce taxable income. Generally all ordinary and necessary business expenses are deductible in computing taxable income. However, some political and charitable contributions, the excess portion of unreasonably high salaries, illegal payments and contributions to non-qualified or disqualified retirement plans are not deductible. While this list of items is not exclusive these are the more common non-deductible corporate expenses. The common thread through all of these transactions is that they are avoidable with careful planning by management. There is no event which could involuntarily trigger large increases in taxable income without a corresponding increase in cash flow. The problem presented by loan amortization principal can be avoided through the installment purchase solely of depreciable assets with depreciation schedules carefully arranged to provide tax protection for principal amortization cash flow. This solution is workable becasue, over the life of an asset, depreciation and principal amortization will be the same. Thus, if a problem should occur in this area it will almost certainly be the result of bad management.

Taxable Income Without Cash Flow

The other situation in which cash flow available for distribution may not be adequate to cover the additional shareholder tax liability occurs where items which are included in taxable income do not represent cash flow income to the corporation. Generally, this occurs where a taxpayer has receive cash flow income in the past which was non-taxable at the time of receipt. The inclusion of this cash flow in taxable income occurs at a later date when recognition for tax purposes is triggered by some event. The most common of this income type is recapture income. The law "recaptures" the tax on income which avoided tax at the time it was earned. This prevents the permanent deferral of tax on certain types of income. There are two major kinds of recapture income, depreciation recapture and recapture of investment credits.

Depreciation Recapture

Tax law allows the owner of a capital asset used in a trade or business to recover his initial investment tax free over the life of the asset. The mechanism used to provide this recovery of investment is depreciation. The depreciation deduction reduces taxable income sheltering income from tax. If a taxpayer holds a capital asset for its full useful life he is allowed depreciation deductions equal to its initial cost and can shelter that amount of income from tax.

Depreciation recapture may occur where a taxpayer elects to use accellerated depreciation. Accellerated depreciation

allows additional depreciation deductions protecting from tax income which would otherwise be taxed currently. Accellerated depreciation provides deductions larger in the early years than straight line depreciation. It allows rapid capital cost recovery on depreciable assets in an effort to encourage modernization of capital stocks.

To prevent additional income sheltered by accellerated depreciation from permanently escaping taxation when the asset is disposed of taxable income is increased by the amount by which accellerated depreciation on the asset exceeded straight line depreciation. When this occurs taxpayers may have taxable income without cash flow and other income will be required to pay off the tax liability. Planning can save taxpayers in these situations. Accellerated depreciation shelters cash flow from tax which would otherwise be taxable at the time of receipt. If the taxpayer sets aside this income or a portion of it into a fund for depreciation recapture taxes at the time the asset is disposed of he will have sufficient funds available to pay the tax generated by the recapture income. An example might help to clarify the operation of the depreciation recapture provisions.

> John owns a rental apartment for which he paid $100,000. The unit will last for 20 years. John takes a depreciation deduction each year equal to one-twentieth of his investment or $5,000. This uniform annual depreciation deduction is known as straight line depreciation. After 20 years John will have taken depreciation deductions equal to the $100,000 he paid for the apartment. He will have recovered his investment through income on which he paid no tax.
>
> To encourage investment in rental housing the law allows John to recover his investment in a shorter period of time through accellerated depreciation. In some cases John can elect to take twice the normal depreciation deduction. If he takes a $10,000 depreciation deduction in the first year he will shelter $10,000 from tax. If he then sells the property

for $100,000 he will have a captial gain of $10,000 because he has been allowed to recover $10,000 of his investment tax free. The $10,000 depreciation deduction reduces his basis in the property for capital gains purposes resulting in a basis of $90,000 at the time of the sale.

If John had taken straight line depreciation on the apartment he would have had a capital gain of only $5,000 upon the sale because his basis would have been $95,000 at the end of the first year due to depreciation deductions of $5,000. The additional $5,000 deduction in year one has sheltered from tax $5,000 of additional income for John. However, as we have seen, this $5,000 which is sheltered by accellerated depreciation appears upon the sale of the property as a capital gain receiving special favorable tax treatment.

Through accellerated depreciation John has converted ordinary income into capital gain income taxed at 40% of ordinary income rates. To prevent this conversion of ordinary income into capital gains, or the permanent sheltering of ordinary income, the depreciation recapture provisions step in and require that $5,000 of John's $10,000 gain on the sale be taxed as ordinary income.

This description of one transaction subject to the depreciation recapture rules is for illustration purposes only. These rules are complex and many of the ramifications of these provisions have been excluded from the example in the interests of simplicity.

Investment Tax Credit Recapture

The Code allows an investment tax credit equal to ten percent of the purchase price of certain types of new and used property. This ten percent credit reduces taxes rather than reducing gross income as does a deduction. The property eligible for the investment tax credit is generally depreciable tangible personal property, excluding buildings and structural components, used by an individual or corporation engaged in a trade or business and having a useful life of at least three years.

The investment tax credit may be taken for the year in which the taxpayer places the asset into use in his trade or business.

To prevent the sheltering of income through the investment tax credit Congress provided recapture provisions similar to the depreciation recapture rules. If a taxpayer disposes prematurely of an asset on which he has received an investment tax credit the disposition triggers the recognition of investment tax credit recapture income to the taxpayer in an amount designed to generate tax liability equal to the credit which he earlier received. This investment tax credit recapture income is included in income for the year of disposition and may increase the taxpayer's liability. The recapture income is income only in the tax sense and may or may not represent cash flow. It is an effort to recover tax on income which was earlier sheltered by the investment tax credit. Planning for investment tax credit recapture income involves steps similar to those followed in planning for depreciation recapture income. It can be avoided entirely by not disposing of the asset or it can be funded through a reserve set aside from the income sheltered by the credit

The law sets up special rules for the treatment of investment tax credits and investment credit recapture in GSOCs. The investment tax credit is not allowed to GSOCs. The investment tax credit to which a GSOC would be entitled if it were taxable flows through to the shareholders in much the same manner as income. The credit and any recapture of investment credit are netted at the corporate level. Thus, if a GSOC has both

investment credits and investment credit recapture income in the same year these items will be set off against each other and only the net credit or recapture will flow out to the shareholders. If there is a net investment tax credit, that amount will be prorated to the shareholders in the same manner as income. The credit will reduce the shareholders' tax liability. Net investment credit recapture is prorated to the shareholders and characterized as additional tax liability. Net investment credit recapture is not treated by the shareholders as additional taxable income, but as a direct addition to tax liability. It is different than depreciation recapture income which is treated as an addition to shareholder income. Investment credit recapture presents a more serious problem for the corporation and its shareholders because it increases tax liability rather than income. However, in nearly every case the generation of net investment credit recapture is avoidable or can be anticipated at the time the asset is acquired.

Installment Sales

The installment sale of an asset can generate taxable income without cash flow. The law allows a taxpayer to defer reporting income on an installment sale until the time payments are made. This allows the income from such a sale to be spread out over the life of the sales contract. However, if the seller receives more than 30 percent of the total contract price in the year of sale the entire gain is taxed as income in the year of sale ins spite of the fact that the seller did not receive

the full sales price at that time and may not do so for several years. this can mean that a seller has tax liability on gains from the sale in excess of the cash he received in the year of sale from the buyer. GSOCs, like other sellers, must operate within these rules.

PROTECTION FOR SHAREHOLDERS

GSOCs must elect to be subject to the flow through character and distribution requirements of subchapter U. Although the GSOC charter must provide "that such corporation shall qualify as a GSOC under the Internal Revenue Code," election of special tax treatment is not mandatory. If no election is filed a GSOC is taxed as a regular business corporation. GSOCs can qualify as such without making the election, however, in such a situation the primary advantage of GSOC status would be foregone.

The Election

There may be good reasons why a corporation might want to qualify as a GSOC and forego the election. If a corporation expected cash flow problems in the early years of operation or invested in projects with high reinvestment requirements it might desire to delay making the election until a more appropriate time. Comparable situations occur in closely held corporations where the owners may elect during loss years to be taxed under subchapter S, a provision allowing flow through of corporate losses and income to the shareholders of small corporations. But, when the corporation begins to turn a profit the election may be revoked and the income taxed to the corporation

rather than the shareholders. This is standard tax planning for high income shareholders of closely held corporations whose personal income tax rates may reach 70 percent. Since the maximum Federal corporate income tax rate is 46 percent, these individuals want losses to flow through to their personal returns and income to be taxed to the corporation. The subchapter S election allows such an outcome in certain cases.

Just as the subchapter S election provides flexibility in tax planning for high income shareholders of closely held corporations the subchapter U election provides flexibility for GSOC tax planning. The special tax treatment provided by subchapter U is not automatic. Election must be made by the GSOC or it will be treated as an ordinary business corporation subject to tax under the provisions of subchapter C, the general corporate tax provisions. The determination of whether or not to elect subchapter U treatment is one of the most important decisions to be made by the board of directors of a GSOC. The election need not be filed immediately upon formation of the corporation.

If the GSOC upon creation does not file an election one might ask why create a GSOC at all. Why not simply create a broadly owned conventional corporation not subject to the strictures of subchapter U? To answer this question we must separate those aspects of subchapter U required to qualify as a GSOC and those which flow from making the election. In so doing we find that the elements necessary to qualify as a GSOC are relatively innocuous. They include:

1. Chartered after 12/31/78 and before 1/1/84,

2. Chartered by legislation or initiative,

3. Charter providing-

   - Only one class of stock
   - Issuance of at least one share to each resident
   - Issuance of shares only to "eligible individuals"
   - Election to reject shares
   - Transfer restrictions
   - Intent to qualify as a GSOC

4. Limitations on use of state's condemation powers, and

5. Affiliated group limitations.

Most of these limitations might be appropriate to any broadly owned corporation initiated by a state. The affiliated group limitation is applicable only at the time an election is filed and a defect here could be cured by a reduction in GSOC subsidiary share ownership below the 20 percent limit prior to filing.

The special tax and distribution provisions of subchapter U apply only to those corporations making the election. In some cases inadequate drafting left ambiguities in this regard which are being clarified by a bill, S.2275, currently pending in the United States Senate. Thus, a corporation can qualify as a GSOC and be taxed as a normal buisness corporation leaving open the option to be taxed under subchapter U if it becomes appropriate at a later date. However, if a corporation does not meet the requirements of a GSOC upon creation it will be difficult to cure the defect if, at some point, the special tax treatment becomes attractive. In fact, if the defect were not cured prior to January 1, 1984, it is likely that attempts to cure the defect and elect subchapter U status for tax purposes would fail. However, if the corporation qualifies as a GSOC prior to January 1, 1984, the statute does not preclude election of

the special tax status subsequent to that date.

Management

The first and most important protection for GSOC shareholders is good management. GSOCs are not follproof. Like any corporation they can be successful only if carefully managed. This is true with respect to investment decisions and day to day operations as well as tax planning. Timing by GSOCs of an election for special tax status is an important management responsibility, but in order to analyse the protections for shareholders from tax liability in excess of cash distributions, we shall assume that the decision to be taxed under subchapter U has been made an a timely election filed.

GSOC management has a responsibility to protect the shareholders from tax liability on GSOC income in excess of distributions from the corporation. It would appear to be a violation of the shareholders' trust to allow any substantial amount of tax liability to befall them without providing distributions adequate, at least, to cover the liability for tax. If the management of a GSOC allowed such an event to occur without a vote of the shareholders it would seem appropriate for the shareholders to replace that management at the next opportunity.

Most of the events which could generate tax liability in excess of cash distributions involve discretionary acts by the corporation. Careful planning and attention to detail can avoid this undesireable result. In some cases the planning must occur at the time an asset is acquired to assure that principal amortization is accompained by depreciation deductions to preclude

mandatory distributions and taxable income in excess of cash flow. So long as management carefully plans its acquisitions and views each transaction with an eye toward its tax consequences problems can be avoided.

It is difficult to visualize an instance where tax liability in excess of cash flow for distribution cannot be avoided by responsible management. Every situation in which such an event could occur would require either an intentional decisions or gross negligence by corporate management. There does not appear to be any involuntary event which could result in this undesireable outcome. Thus, the GSOC management is the shareholders' best protection. However, since negligent management does occur at times in corporations additional protections for the shareholders are built into subchapter U.

Termination of Election

If GSOC management should fail to protect the shareholders from tax liability in excess of cash distributions termination of the subchapter U election may be undertaken either voluntarily or involuntarily. Termination of the election should be used as a last resort since once terminated the special tax status may not be regained by subsequent election. Upon termination of the election the GSOC is treated as an ordinary business corporation for tax purposes. The flow through of taxable income to the shareholders is eliminated and the corporation becomes subject to the corporate income tax.

Voluntary termination may be undertaken with the consent of the Secretary of Treasury. This safety valve was designed to

be available in the very situations which are contemplated in this paper. The provision was included with the concurrance of the Department of Treasury which has no interest in audits involving all the shareholders of a GSOC and preferred a statutory escape clause in the situation where shareholders might be faced with large tax liability and insufficient cash flow. The voluntary termination is effective for the first year to which the Secretary consents. It is effective for the entire year and, if significant tax liability in excess of cash available for distribution is anticipated, the Secretary can be expected to make his consent effective for the year in which the problems arose, thereby protecting the shareholders. Even if management is so negligent that the problem is not discovered until after the close of the taxable year for which it exists the Secretary has authority to grant the revocation of election for any taxable year, even those which have gone by. Thus, the shareholders are protected even if the problem is not discovered until after the close of the corporation's taxable year.

Subchapter U elections may also be terminated without the consent of the Secretary of Treasury in a manner which we shall refer to here as an involuntary termination. The Secretary has no control over whether an involuntary termination occurs. Once certain events occur the corporation ceases to be a GSOC and is removed from the provisions of subchapter U by operation of law.

Involuntary terminations can occur by accident and management must plan carefully to assure that involuntary termination does not occur unintentionally. An involuntary termination occurs whenever an electing corporation fails to meet the

definition of a GSOC under subchapter U. Events which would trigger an involuntary termination of subchapter U status include revocation of the corporation's charter by the sponsoring state, acquisition of more than 20 percent of the stock of another corporation, and amendment of the corporation's charter permitting the issue of a second class of stock.

An involuntary termination of subchapter U status is retroactive to the beginning of the year during which it occurs. Thus, subchapter U status could be terminated involuntarily on the last day of the corporation's taxable year and the flow through of corporate taxable income to the shareholders would be terminated retroactively to the beginning of the corporation's taxable year, 364 days earlier. For the entire year the corporation would be taxed as an ordinary business corporation and the shareholders would have no liability beyond tax on dividends actually distributed by the corporation.

Revocation of Charter

If all of the protections which have been examined should fail the ultimate power over the corporation continues to lie with the legislature of the authorizing state. The corporate charter granted by the state can be revoked by the state. This revocation might be made retroactive to the date on which the legislation was introduced or earlier, perhaps as early as the date on which the GSOC was created. The revocation of the charter terminates the subchapter U status effective the first day of the year for which the revocation is effective. In a charter

revocation all existing contracts of the GSOC would have to be honored, but a receiver could be appointed to handle this task along with liquidation of the corporation. The important aspect of the revocation is that it cuts off the flow through of corporate income tax consequences to the shareholders. Revocation of the corporate charter and liquidation of the corporation is a drastic measure and, with careful management and the other protections afforded under subchapter U, should never be required to protect shareholders from tax liability due to GSOC taxable income in excess of cash distributed to the shareholders by the GSOC.

CONCLUSION

The possibility of GSOC taxable income attributed to the shareholders resulting in shareholder tax liability in excess of cash distributions from the corporation warrants careful consideration by the management of any GSOC. Without careful planning it can occur and could have serious consequences for the shareholders. However, it is the responsibility of the GSOC management to assure that the decisions which are made with respect to the operations of the corporation do not result in shareholder tax liability in excess of cash distributions. However, if the management of a GSOC fails to adequately protect the shareholders the law allows the termination of the subchapter U election in a number of ways in order to close off the flow through of corporate tax consequences to the shareholders. This assures that are protected regardless of management decisions.

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

BCRIC
1979 ANNUAL REPORT
BRITISH COLUMBIA RESOURCES INVESTMENT CORPORATION

THE ANNUAL REPORT IN SUMMARY

- Consolidated net earnings were $40,757,000 on total revenues of $359,465,000 for 1979.
- Drilling on gas and oil lands resulted in the discovery of four gas wells and one oil well.
- Forest products performed reasonably well, and all three forestry companies have embarked on long-range strategic planning to improve their positions within the industry.
- The Company's short term investment portfolio, which consisted primarily of the $487.5 million raised during the public share offering, benefited from high interest rates.
- BCRIC plans to participate actively in energy exploration and expects to commit $170 million to this sector over the next five years. Other investment areas are also being closely examined.

BCRIC has an estimated 2 million shareholders, of which 136,143 were registered shareholders at December 31, 1979. The geographical distribution of registered shareholders and the number of shares held was as follows:

	Number of registered shareholders	Number of shares held
British Columbia	129,728	74,292,744
Alberta	3,600	2,437,206
Saskatchewan	287	132,860
Manitoba	295	790,344
Ontario	1,619	5,822,711
Quebec	412	570,837
New Brunswick	47	20,700
P.E.I.	6	6,900
Nova Scotia	54	28,945
Newfoundland	7	2,800
N.W.T. and Yukon	33	19,692
Other Canadians residing elsewhere	55	40,891
	136,143	84,166,630
Bearer shares		12,076,605
Total shares outstanding		96,243,235

INDEX

	Page
Highlights	1
President's Letter	2
Review of Operations	5
Financial Statements	10
Corporate Information	inside back cover

ANNUAL GENERAL MEETING

The annual meeting will be held at the Orpheum theatre, Vancouver, B.C. at 10 a.m., March 27, 1980 unless adjourned automatically to the Pacific Coliseum, Exhibition Park, Vancouver, B.C. at 10 a.m., April 7, 1980.

FINANCIAL AND OTHER HIGHLIGHTS

		1979	1978
Consolidated net earnings		**$ 40,757,000**	$ 15,922,000
Consolidated financial position at year end:	short term investments	**$517,505,000**	$ 9,787,000
	working capital	**559,719,000**	77,822,000
	shareholders' equity	**683,161,000**	15,922,000
	total assets	**940,720,000**	425,068,000
Additional Company information:	cash from issue of common shares	**$487,459,000**	—
	interest income from short term investments	**$ 32,511,000**	$ 155,000
	expenditure on petroleum and natural gas rights and exploration	**$ 7,527,000**	$ 63,000
	number of employees at year end	**42**	22
Common share data:	price (August 7 to December 31, 1979):		
	HIGH	**$9.25**	
	LOW	**$5.87**	
	CLOSE	**$7.10**	
	trading volume:	**VANCOUVER**	**TORONTO**
	number of shares	**18,055,964**	**7,003,774**
	dollar value	**$130,325,018**	**$ 51,934,743**

Certain 1978 comparative figures are not for a full year. See Note 10 to the financial statements for details.

These Highlights, the President's Letter and the Review of Operations and Activities constitute the Directors' Report to the shareholders for the year 1979.

TO OUR SHAREHOLDERS

1979 has been an exciting year for British Columbia Resources Investment Corporation. This, our first annual report as a public company, highlights the activities of 1979 and, where possible, indicates our direction for 1980. You should be aware that a real difficulty for us in this report is that the information as written is two months old by the time it is released, and two months is a long time in the short history of BCRIC.

At the start of 1979, BCRIC was a wholly government-owned corporation controlling some resource oriented activities with little resultant cash flow and relatively modest investment plans. As a result of the overwhelming desire of British Columbians to participate in direct ownership of BCRIC, the Company has been transformed during the year into a major Canadian public company with new share capital of $487.5 million and a consequent requirement to completely reassess investment plans.

The response for shares by nearly 2,000,000 citizens who applied for their 5 free shares from the British Columbia Government and by the 200,000 who purchased additional shares from BCRIC, was far beyond any expectation. It clearly demonstrates the desire of most individuals to have a chance to share directly in the ownership of the present and future holdings of the Company by a method that was made as easy as possible for that participation. At the same time, that response vastly changed the horizons and possibilities for BCRIC and dictated the need for more time to develop strategic objectives in keeping with the new circumstances.

Establishing these objectives must be done thoroughly and it is not easily undertaken nor quickly accomplished. In fact, it has already taken longer than we had anticipated. This work is still in progress as we enter 1980 and we recognize that the delay might cause some shareholders to become impatient as they await major investment announcements from BCRIC. Compounding the difficulties is the fact that BCRIC has come into being at a time when more rapid and dramatic fluctuations than ever before are occurring in such important areas as interest rates, stock prices and commodity values. Furthermore, the outlooks for the economies of Canada and the United States are more uncertain than they have been for many years due to high inflation, recessionary influences and international political conflicts. Turbulent periods such as these are frequently followed by a period of hindsight when one is tempted to question the need for long term investment planning because short term trading gains might have appeared a more profitable objective. However attractive short term speculation may appear, it is our firm conviction that the long term interests of our shareholders will best be served by prudent deliberation in developing an effective, long term investment strategy. Shareholders must be convinced that their investment in this Company is not a short term proposition and be prepared to allow the Directors and management the necessary time to make prudent decisions for the future of the Company.

BCRIC has a number of general objectives upon which its investment strategy is being built. Foremost among these is our original objective to operate profitably and to maximize the value of BCRIC for the benefit of its shareholders, through growth in earnings and asset values.

The Company intends to achieve this growth through long term investment, primarily in the natural resource industries of Western Canada. Pending such long term investment, the Company's funds have been invested in quality short term money market securities which, in addition to very attractive interest returns, provide the Company with the liquidity necessary for long term investment activities.

In assessing various long term opportunities, the criteria against which investments are being measured include current income, potential future asset values, participation with partners who have expertise in a given field, use of BCRIC's own financial and other expertise, and the opportunity for a degree of participation sufficient for profits and cash to flow directly to BCRIC.

Within the framework of these objectives, the Company has been focusing attention on all natural resource areas, but because of our existing holdings in the gas and oil and forestry sectors we felt you would be particularly interested in our conclusions in those areas.

Following acquisition of the Licenced Lands as one of our founding assets, the initial strategy for BCRIC's gas and oil division was to obtain agreements with operating and drilling firms for exploration on these Lands and to pursue on its own a modest level of exploration expenditure and commitment. The program prior to the share offering was to acquire further land and undertake exploration totaling $8 million for 1979 and $55 million for the five year period ending in 1983.

After completion of the share offering, it was obvious that BCRIC had the capacity to increase its expenditures in the gas and oil sector. About the same time, the gas and oil division had achieved its initial objective of farming out virtually all of the Licenced Lands.

It also expanded programs to pursue exploration prospects through farmins with partners and through the purchase of additional lands to partially offset the dilution of the land inventory which resulted from farmout agreements on the Licenced Lands.

In mid October, the Board of Directors approved a $30 million exploration budget for the gas and oil division for 1980. Accompanying this budget was a preliminary estimate that exploration expenditures for the five year period ending in 1984 would total $170 million. The attainment of this five year estimate would result in a minimum total investment by BCRIC in the gas and oil sector of approximately $220 million to the end of 1984. These expenditure levels were proposed in the context of the following strategy statement for the gas and oil division:

> "To maximize expected return on investment by committing future investment into 'grass roots' exploration and development based upon acquisition of land, primarily wildcat acreage, and the expansion of in-house geological and geophysical skills and capacity in order to orginate and manage plays on these lands."

It is a strategy which involves a high level of risk and deferred returns. The degree of success which may be achieved may not be measurable for several years and realized returns on funds committed most likely will not be significant for at least five years. This is a long term strategy which, once initiated, will involve additional expenditures over future years due to continuing participation commitments with partners and the desire to preserve full returns on our investment in successful ventures.

In the forestry sector, BCRIC already has substantial investments through its initial ownership positions in Canadian Cellulose, Kootenay Forest Products and Plateau Mills. In 1979, a major effort was made to encourage the development of long-range strategic planning within these subsidiary companies, so they can plot where they are going relative to their position within the British Columbia forest industry. The initial efforts are encouraging though the profit results may not be seen for several years and all three companies have been committing a high proportion of recent earnings to expenditures aimed at future benefits. Examples of this are the sawmill modernizations at both Kootenay and Plateau and the purchase by Canadian Cellulose of Price-Skeena Forest Products Ltd. which owns a sawmill in Terrace, B.C.

At CanCel, 81% owned by BCRIC, a number of organizational changes were made during the year and a number of senior employees added, which should considerably strengthen the management team.

At both Kootenay and Plateau, which are wholly owned, much more detailed assessments were undertaken of both management and general business and marketing practices. A number of changes were made and we are confident that both organizations are now better positioned and organized to capitalize on future opportunity.

In the broader forestry sector context, BCRIC has been assessing the optimum balance of a forest products position in terms of fibre supply, conversion facilities and markets. Some improvements are needed in our present balance and BCRIC will make additional investments in the forest products industry to achieve a stronger position.

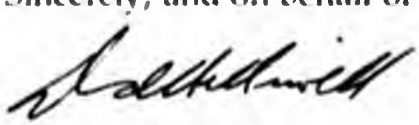
Our investment plans concerning Westcoast Transmission Company Limited are still undetermined largely due to the uncertainty surrounding the 36% control block position held by Petro-Canada. Because of this we continue to regard this holding as part of our investment portfolio. The future outlook for Westcoast is good and we are pleased with the capital appreciation potential and dividend income received.

In any company, but particularly in a new and emerging company, the role of its employees is critical to its well-being. I want to pay tribute to our employees for their determination and effort in getting the Company successfully launched and into business.

In conclusion, it is most fitting to pay tribute to our founding shareholders for their support not only of BCRIC itself, but for the concept of BCRIC and the individual ownership that it represents. Our registered shareholders have increased from the original 128,346 to 136,143 and we continue to be delighted at the expressed interest of shareholders through telephone calls and letters. Testimony of that interest is that our Shareholder Information Service responded to 11,817 telephone enquiries between August 7 and December 31.

It is our commitment to make ownership in BCRIC both a profitable and proud experience.

Sincerely, and on behalf of the Board,



David L. Helliwell
President and
Chief Executive Officer

Vancouver, B.C.
January, 1980.

REVIEW OF OPERATIONS AND ACTIVITIES

Forest Products

BCRIC forest products holdings include: Canadian Cellulose Company, Limited, (CanCel) (81 per cent), which operates two kraft pulp mills, at Prince Rupert and Castlegar, B.C., and logging divisions and lumber mills in the northwest and southern interior of British Columbia; Kootenay Forest Products Ltd. (100 per cent), a lumber and plywood manufacturer at Nelson, B.C.; and Plateau Mills Ltd. (100 per cent), a lumber manufacturer near Vanderhoof, B.C.

The Company's forest products interests are an important component of its current holdings. In 1979, forest products consolidated earnings of BCRIC totalled $21.8 million, representing 53.5 per cent of the Company's consolidated earnings for the year.

In 1979, CanCel had net earnings of $15,832,000 on net sales of $263,213,000 compared to $6,774,000 and $175,490,000, respectively, in 1978.

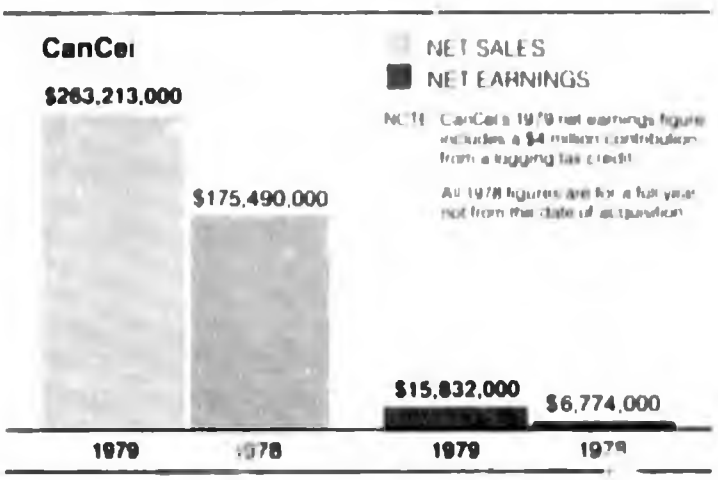
The significant improvement in earnings over 1978 largely reflects improved prices for bleached softwood kraft pulp, higher pulp sales volume and a higher foreign exchange premium on sales in U.S. dollars. These factors were partially offset by inflationary cost increases, interest costs for a full 12 months for capital borrowed to finance the sulphite-to-kraft mill modification project completed late in 1978, and production lost at the Prince Rupert pulp mill as a result of labour disputes.

The price of bleached softwood kraft pulp continued to strengthen in 1979 from about the U.S. $400 per tonne level prevailing in the first quarter of the year to U.S. $465 per tonne in most markets by year end. On January 1, 1980, the price of kraft pulp was increased to U.S. $490 per tonne. Lumber prices, on average, were also higher in 1979, notwithstanding a decline in the latter part of the year.

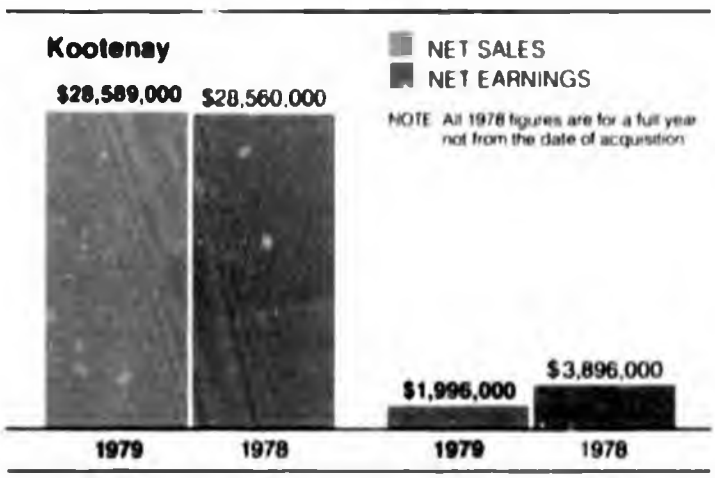
Capital spending by CanCel on property, plant and equipment totalled $15.6 million in 1979. Early in the year the company completed the re-construction of its lumber facilities at Castlegar that were partially destroyed by fire in June, 1978.

For 1980, CanCel plans significant capital expenditures for additions to property, plant and equipment, including approximately $14 million for the purchase of Price-Skeena Forest Products Ltd. which owns a sawmill in Terrace, B.C. and holds related Crown timber rights.

CanCel's modified Prince Rupert, B.C. kraft pulp mill.



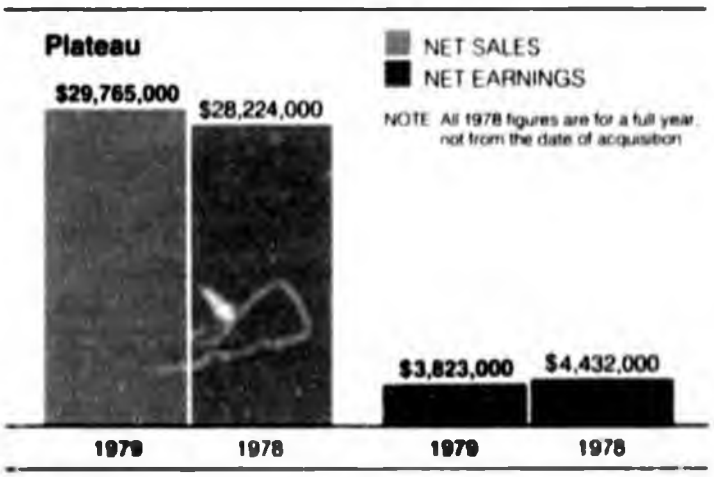
Kootenay Forest Products recorded net earnings of $1,996,000 on net sales of $28,589,000 in 1979 compared to $3,896,000 and $28,560,000, respectively, in 1978. 1979 earnings were lower than those of 1978 largely due to reduced shipments of lumber and plywood and higher manufacturing costs, partly offset by improved lumber prices. The lower volume of shipments resulted from lower product demand in the last half of the year. Lower production volume, inflationary cost increases and higher stumpage expenses contributed to the higher production costs.



In 1979, capital spending by Kootenay totalled $7.2 million, including $5.7 million for the new log infeed and debarking systems for both the plywood mill and adjacent sawmill, and for major electrical upgrading. For 1980, Kootenay plans capital expenditures of approximately $4 million for additions to property, plant and equipment, including $1.2 million for the completion of the log infeed systems.

At Plateau, 1979 earnings amounted to $3,823,000 on net sales of $29,765,000 compared to $4,432,000 and $28,224,000, respectively, in 1978. The reduction from 1978 earnings largely reflects lower production and sales volumes and higher manufacturing costs, offset, in part, by higher sales prices for lumber and a higher foreign exchange premium on U.S. sales. The lower production volume and higher manufacturing costs resulted from the protracted start-up difficulties of the new sawmill combined with inflationary cost increases and higher stumpage expenses.

Plateau completed a major expansion program during the year involving one of its two sawmills. In mid May, the older mill was shut down. Although the new mill encountered major start-up problems, the project has now enabled Plateau to improve timber utilization and productivity.

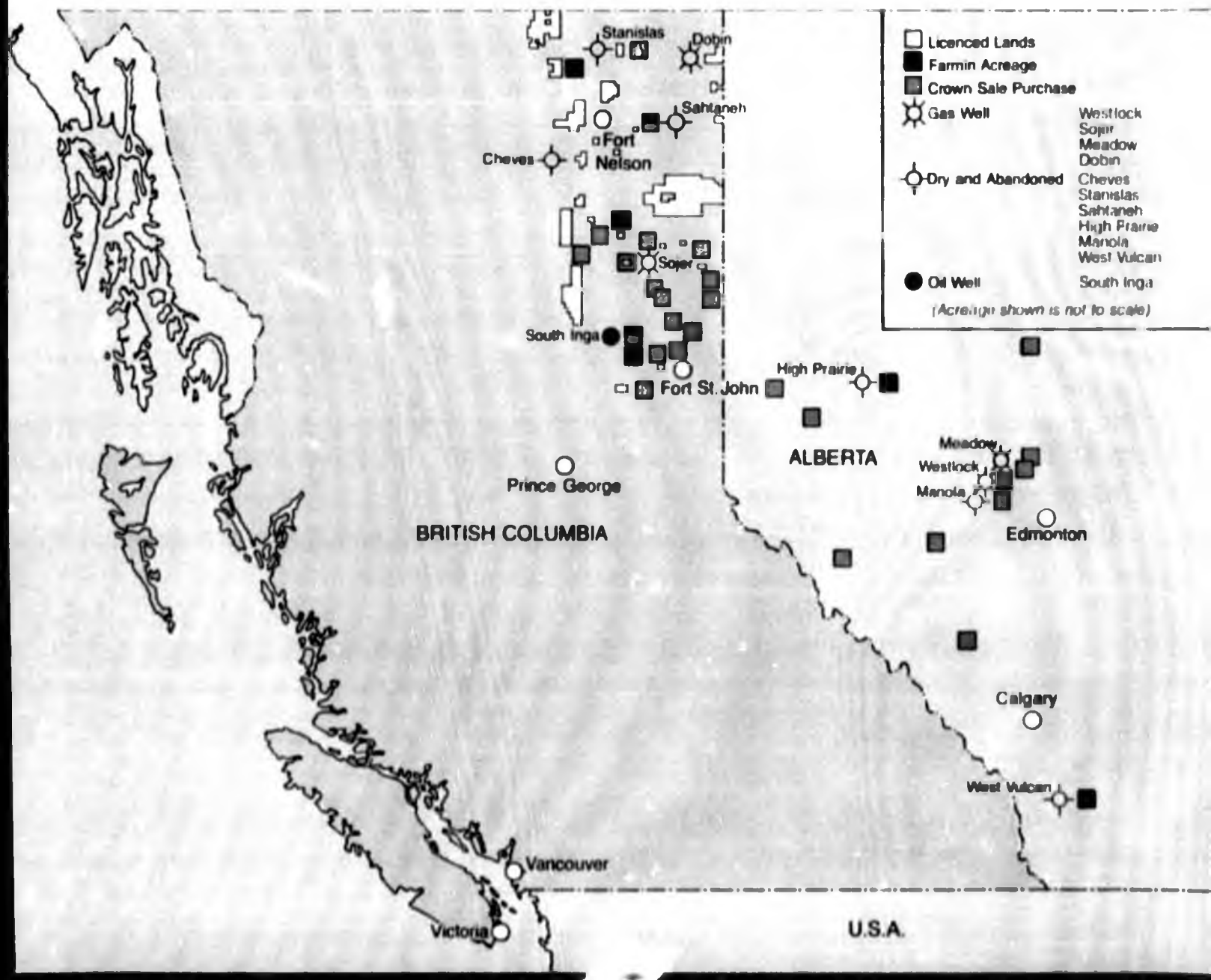


In 1980, Plateau plans to spend $5 million on capital projects, including $1.7 million for a new wastewood burner which would provide heat for all six lumber drying kilns and mill buildings. Some additional engineering improvements are required to the current pilot model before going ahead with this project. Pioneered by Plateau, the current pilot model has enabled the Company to significantly reduce natural gas purchases, thereby conserving hydrocarbon energy and reducing costs.

Gas and Oil

BCRIC's gas and oil interests include: Petroleum and natural gas licence to explore 948,500 gross hectares (2.3 million gross acres) of Crown land in north-eastern British Columbia; other land holdings involving 43,635 gross hectares (13,577 net hectares) in British Columbia and 21,412 gross hectares (7,686 net hectares) in Alberta.
(1 hectare = 2.471 acres and 1 kilometre = 0.621 miles)

During 1979 BCRIC successfully entered into exploration agreements with a wide range of exploration companies on the original Licenced Lands acquired from the Province of British Columbia. Exploration consisted of 2,147 kilometres (km) of seismic programs, purchasing and reprocessing 236 km of seismic data, a 400 km gravity survey program and 8,564 metres of hole drilled. Of the four wells drilled on these lands during the 1978-1979



exploration program, there were two natural gas discoveries.

The extensive seismic programs completed in 1979 have provided a preliminary basis for determining the gas and oil potential of these Licenced Lands. Exploration commitments for 1980 include a possible 595 km of seismic programs and a concentration on drilling of prospects determined from the evaluations of the 1979 geophysical data. Twelve wells will be drilled on the Licenced Lands in 1980, triple that of 1979. Depending on the election of rights in 1980 of the exploration companies involved, 18 wells may be drilled on the Licenced Lands in 1981.

Energy exploration drilling in northeastern British Columbia

As a result of the Company's decision to expand its activities beyond the Licenced Lands beginning at a basic grass roots exploration level, BCRIC entered into a land acquisition program in 1979. This involved spending $6.2 million at Crown land sales. Including farmin agreements with other companies, BCRIC acquired additional gas and oil rights totalling 13,577 net hectares in British Columbia and 7,686 net hectares in Alberta.

The exploration programs undertaken on these lands during 1979 amounted to $1.3 million and consisted of 87 km of seismic surveys, 613 km of seismic data purchased and reprocessed and 10,590 metres drilled in one development well and six exploration wells. Of the seven wells drilled, two were gas wells, one was an oil well, and four proved unsuccessful. During 1980 the Company will be participating in the drilling of 15-20 wells on these lands and approximately 500 km of seismic work.

The total established reserves resulting from the discoveries to-date can only be determined through the drilling of additional delineation wells and further technical testing. Gas discoveries will not generate current revenue until sales contracts are concluded.

The gas and oil division has expanded its professional staff and budgeted $30 million for an aggressive land acquisition and exploration program in 1980 on its own and in conjunction with partners. Such a program involves financial commitments over several years and BCRIC estimates that such exploration expenditures to the end of 1984 could approximate $170 million.

Investments

At December 31, 1979, BCRIC's investments consisted of $517 million placed in various short term money market securities and 3,471,375 common shares of Westcoast Transmission Company Limited.

The Company's strategy in managing the $487.5 million in gross proceeds invested by its founding shareholders, as a result of the successful public issue completed in June, 1979, has been to achieve maximum short term returns. Consequently, BCRIC's interest income in 1979 on these and other funds totalled $32,511,000. Cash dividends of $2,777,000 were received in 1979 from Westcoast Transmission.

The short term investment policy established by the Company for its cash resources has been designed to ensure maximum returns and a high degree of liquidity so that funds are available when required for long term investments and projects. In keeping with this policy, BCRIC's short term investments at December 31, 1979 consisted of the following:

- $12 million (2 per cent) Government of Canada and Crown corporation obligations.
- $20 million (4 per cent) deposit securities of credit unions.
- $149 million (29 per cent) deposit securities of Canadian chartered banks.
- $336 million (65 per cent) short term notes of Canadian financial and industrial corporations.

The Company's short term investment transactions are executed in financial centres across Canada, with the majority taking place in Vancouver and Toronto.

With the rapid rise in interest rates in the latter half of 1979, the rate of return on the short term investment portfolio increased from about 11.1 per cent in June to 13.8 per cent in December as maturing investments were reinvested at higher rates. As a result, the Company achieved an over-all yield of 11.9 per cent on its short term investment portfolio over the period from June to December, 1979.

While short term interest rates remained at historically high levels at the end of 1979, the outlook for 1980 remains uncertain.

Westcoast Transmission pipeline is laid in northern British Columbia.

CONSOLIDATED STATEMENT OF EARNINGS

For the year ended December 31, 1979

(Comparative figures — see Note 10)

	1979	1978
	(Thousands of dollars)	
Revenue		
Sale of forest products	$321,567	$202,659
Interest on short term investments	33,114	303
Other (Note 8)	4,784	10,657
	359,465	213,619
Expenditure		
Cost of forest products sold	256,634	184,130
Selling and administration	16,023	9,603
Interest on long term debt	16,048	4,715
Other	3,215	1,694
	291,920	200,142
Earnings before the undernoted	67,545	13,477
Provision for income taxes (Note 9)	23,780	303
Earnings before minority interest and extraordinary item	43,765	13,174
Minority interest in earnings of a subsidiary	3,008	494
Earnings before extraordinary item	40,757	12,680
Recovery of logging taxes (net of minority interest of $758,000)	—	3,242
Net earnings	$ 40,757	$ 15,922
Weighted average shares outstanding (Note 7)	59.2 million	
Net earnings per share	$0.69	

See accompanying notes

CONSOLIDATED STATEMENT OF RETAINED EARNINGS

For the year ended December 31, 1979

(Comparative figures — see Note 10)

	1979	1978
	(Thousands of dollars)	
Retained earnings at beginning of the year	$ 15,922	$ —
Net earnings	40,757	15,922
	56,679	15,922
Share issue expenses (net of $9,320,000 income tax reduction)	12,510	—
Retained earnings at end of the year	$ 44,169	$ 15,922

See accompanying notes

CONSOLIDATED BALANCE SHEET

December 31 1979

(With prior year's figures for comparison)

	1979	1978
	(Thousands of dollars)	
Assets		
Current		
Short term investments	**$517,505**	$ 9,787
Accounts receivable (Note 2)	**39,641**	52,040
Inventories (Note 3)	**83,513**	75,475
Other	**1,387**	1,328
	642,046	138,630
Investments and advances (Note 4)	**41,877**	41,067
Property, plant and equipment (Note 5)	**252,981**	239,732
Other	**3,816**	5,639
	$940,720	$425,068
Liabilities and Shareholders' Equity		
Current		
Bank demand loans	**$ 12,357**	$ 7,017
Accounts payable and accrued charges	**59,006**	44,507
Current portion of long term debt	**8,264**	9,284
Deferred income taxes	**2,700**	—
	82,327	60,808
Long term debt (Note 6)	**132,591**	168,247
Promissory note payable to the Province of British Columbia	**—**	151,533
Deferred income taxes	**17,213**	5,492
Minority interest in a subsidiary	**25,428**	23,066
	257,559	409,146
Shareholders' equity		
Share capital (Note 7)	**638,992**	—
Retained earnings	**44,169**	15,922
	683,161	15,922
	$940,720	$425,068

See accompanying notes

Approved by the Directors: Director

Director

CONSOLIDATED STATEMENT OF CHANGES IN FINANCIAL POSITION

For the year ended December 31, 1979

(Comparative figures — see Note 10)

	1979	1978
	(Thousands of dollars)	
Source of funds		
From operations	**$ 76,217**	$ 24,552
Share subscriptions received	**487,459**	—
Issue of shares on conversion of promissory note	**151,533**	—
Working capital of subsidiary companies acquired	**—**	51,551
Issue of long term debt	**—**	79,998
Recovery of logging taxes	**—**	4,000
Other	**1,335**	1,162
	716,544	161,263
Application of funds		
Conversion of promissory note to share capital	**151,533**	—
Additions to property, plant and equipment	**27,694**	77,606
Investment in petroleum and natural gas rights and exploration	**7,527**	63
Long term debt reduction	**34,636**	5,031
Share issue expenses (net of income tax reduction)	**12,510**	—
Other	**747**	741
	234,647	83,441
Increase in working capital	**481,897**	77,822
Working capital at beginning of the year	**77,822**	—
Working capital at end of the year	**$559,719**	$ 77,822

See accompanying notes

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS December 31, 1979

1. SIGNIFICANT ACCOUNTING POLICIES

The financial statements have been prepared within the framework of the accounting policies summarized below:

CONSOLIDATION

The consolidated financial statements include the accounts of the Corporation and its subsidiaries (see Note 13).

TRANSLATION OF FOREIGN CURRENCIES

Transactions in foreign currencies are translated at rates in effect on the dates of the transactions. Assets and liabilities, principally receivables and long term debt, carried at current prices are translated at the year end rate. Unrealized gains or losses are included in income except for those related to long term debt which are amortized over the remaining term of the debt.

INVENTORIES

Logs, wood chips and other raw materials are valued at the lower of average cost and replacement cost. Finished products (pulp, lumber and plywood) are valued at the lower of average cost and net realizable value.

INVESTMENTS AND ADVANCES

Investments and advances are stated at cost.

PROPERTY, PLANT AND EQUIPMENT

These assets are stated at cost less accumulated depreciation, amortization and depletion. Depreciation, amortization and depletion are computed as follows:

Asset	Rate and Method
Pulp mills	4% composite rate straight-line
Sawmills	4% to 6% composite rate straight-line on certain mills and 4% to 20% diminishing balance on others
Logging equipment	10% to 20% rate diminishing balance
Timber cutting rights, roads and related facilities	Unit of production method, using current log production as a percentage of estimated total log production available from such assets

Petroleum and natural gas properties are accounted for using a form of the full cost method of accounting whereby all acquisition, exploration and development costs are capitalized as incurred. Costs related to the petroleum and natural gas rights over 2.3 million gross acres, originally acquired under agreement with the Province of British Columbia, are being amortized over the periods during which exploration activity in each area of interest is expected to continue.

INCOME TAXES

Earnings are charged with income taxes at the effective rates applicable to the Company and its subsidiaries. Differences between this provision for income taxes and the amounts currently payable are reflected in deferred income taxes.

2. ACCOUNTS RECEIVABLE

	(Thousands) 1979	1978
Trade	$33,823	$40,700
Insurance claims	985	5,112
Other	4,833	6,228
	$39,641	$52,040

3. INVENTORIES

	(Thousands) 1979	1978
Logs, wood chips and other raw materials	$55,151	$48,877
Pulp, lumber and plywood	18,536	18,106
Supplies	9,826	8,492
	$83,513	$75,475

4. INVESTMENTS AND ADVANCES

	(Thousands) 1979	1978
Investment in Westcoast Transmission Company Limited (quoted market value of $49,901,000 which does not necessarily reflect the realizable value of this investment)	$37,364	$37,364
Investment in an associated company, at cost plus equity in earnings less dividends received	3,101	2,117
Other	1,412	1,586
	$41,877	$41,067

5. PROPERTY, PLANT AND EQUIPMENT

	(Thousands) 1979	1978
Forest Products:		
Pulp mills	**$331,474**	$325,876
Sawmills	**77,475**	64,466
Timber cutting rights, roads and related facilities	**65,120**	58,722
Logging equipment and other facilities	**21,097**	21,369
	495,166	470,433
Less accumulated depreciation, amortization and depletion	**290,465**	272,956
	204,701	197,477
Land	**1,280**	1,296
	205,981	198,773
Petroleum and Natural Gas:		
Property rights	**47,173**	40,959
Exploration and development costs	**1,313**	—
	48,486	40,959
Less accumulated amortization	**1,486**	—
	47,000	40,959
	$252,981	$239,732

Depreciation, amortization and depletion charged to earnings during the year amounted to $21,653,000 (1978: $12,207,000). This amount has been reduced by $2,735,000 (1978: $2,300,000) for the amortization of the excess of the book value of net assets of Canadian Cellulose Company, Limited, Kootenay Forest Products Ltd., and Plateau Mills Ltd. over the consideration paid for these subsidiaries.

6. LONG TERM DEBT

	(Thousands) 1979	1978
Canadian Cellulose Company, Limited		
6⅛% Bonds due January 2, 1981 with annual principal payments (U.S. $8,000,000)	$ **9,372**	$ 14,202
5⅜% Bonds due July 1, 1995 with annual principal payments (U.S. $20,000,000)	**23,430**	26,664
10½% Promissory notes due December 15, 1992 with annual principal payments commencing December 15, 1983 (U.S. $50,000,000)	**58,575**	59,288
11½% Promissory notes due December 15, 1992 with annual principal payments commencing December 15, 1983	**20,000**	20,000
Bank loans on revolving credit facilities, with interest at various rates	**25,000**	50,000
Other	**448**	527
	136,825	170,681
Other Subsidiaries		
Term bank loan	**—**	2,200
Term loan with quarterly principal payments to 1986 with interest at bank prime plus ½%	**4,030**	4,650
	140,855	177,531
Less amounts due within one year	**8,264**	9,284
	$132,591	$168,247

Canadian Cellulose Company, Limited (CanCel) has bank lines of credit of $45,000,000 on a revolving credit facility with any loans at June 30, 1981 converting into term loans, repayable over periods of up to nine years, in equal semi-annual or annual instalments, and, subject to certain restrictions, an additional $20,000,000 on a revolving credit facility

repayable by December 15, 1980. At December 31, 1979 the outstanding loans under these facilities totalled $25,000,000.

The bonds, pro nissory notes and bank loans on revolving credit facilities are unsecured. Certain assets have been pledged as collateral for the term loan.

CanCel's trust deed relating to its bonds and the agreements relating to its promissory notes, in general terms, restrict dividends and certain other payments by CanCel to a maximum of $4,000,000 plus 50% of its net earnings after December 31, 1976. The amount available for payment of dividends at December 31, 1979 was $10,281,000.

Principal payments required on long term debt in each of the next five years, with the United States dollar component translated at the December 31, 1979 rate of exchange, are:

1980	$ 8,264,000
1981	$ 9,436,000
1982	$ 7,512,000
1983	$15,390,000
1984	$15,390,000

7. SHARE CAPITAL

During the year the Company increased its authorized common shares without par value to 100,000,000. The Province of British Columbia received 15,000,000 common shares in exchange for the promissory note of $151,532,930. In addition 81,243,230 common shares were issued at a price of $6 per share for a total cash consideration of $487,459,380, resulting in 96,243,235 shares outstanding at December 31, 1979 (1978: 5 shares).

The weighted average of shares outstanding was calculated on the basis of 15 million shares outstanding January 1, 1979, with the balance assumed to be outstanding on the dates the Company received the share subscriptions.

8. OTHER REVENUE

	(Thousands) 1979	1978
Insurance proceeds relating to loss of earnings due to a fire at the Castlegar sawmill	$ 774	$ 3,570
Income related to cancellation of a sales contract	—	3,370
Equity in earnings of an associated company	1,070	1,104
Dividends from Westcoast Transmission	2,777	2,394
Other	163	219
	$ 4,784	$10,657

9. INCOME TAXES

The Corporation and two of its subsidiaries were exempt from income taxes during 1978 and part of 1979 because not less than 90% of their outstanding shares were owned by the Province of British Columbia. Effective April 25, 1979 the companies became taxable and commenced providing for income taxes on earnings from that date.

The consolidated effective income tax rate for the year was 35.2%. A reconciliation between income taxes provided at that rate and at the basic rate of 51% for Canadian federal and provincial income taxes is as follows:

	(Thousands)
Tax on reported income at 51%	$34,448
Less reduction in income taxes due to:	
Tax exempt period	(4,466)
Nontaxable dividends received	(1,416)
Manufacturing and processing credits and inventory allowances	(2,574)
Other	(2,212)
Deferred income taxes provided	$23,780

CanCel has made fixed asset acquisitions qualifying for federal investment tax credits which will enable it to reduce income tax expense by approximately $7,000,000 if sufficient income taxes become payable prior to December 31, 1984. The benefits will be recorded as and when they are realized.

10. COMPARATIVE FIGURES

The figures provided for comparison in the Consolidated Statement of Earnings, the Consolidated Statement of Retained Earnings and in the Consolidated Statement of Changes in Financial Position are those for the period from incorporation, February 22, 1978 to December 31, 1978.

11. COMMITMENTS

Rental obligations under long term leases amount to approximately $3,500,000 in each of the years 1980 and 1981, $2,800,000 in 1982, $1,900,000 in 1983 and $1,800,000 in 1984.

12. REMUNERATION OF DIRECTORS AND SENIOR OFFICERS

The aggregate direct remuneration paid or payable by the Company and its subsidiaries to directors and senior officers of the Company amounted to $522,892 (1978: $262,684).

13. SUBSIDIARY COMPANIES

Canadian Cellulose Company, Limited
(81% owned)
- Calum Lumber Limited
- Canadian Cellulose International S. A.
- Celgar Properties Limited
- Celtran Equipment Limited
- High Arrow Limited
- Pohle Lumber Co. Ltd.
- Twinriver Timber Limited

Kootenay Forest Products Ltd. (100% owned)
Plateau Mills Ltd. (100% owned)
- Plateau Timber Ltd.
- Nechako Valley Pulp Mill Ltd.

14. SUBSEQUENT EVENT

On January 10, 1980, CanCel agreed to purchase Price-Skeena Forest Products Ltd., which owns a sawmill in Terrace, British Columbia and holds related Crown timber rights, for approximately $14,000,000.

AUDITORS' REPORT

TO THE SHAREHOLDERS OF
BRITISH COLUMBIA RESOURCES
INVESTMENT CORPORATION:

We have examined the consolidated balance sheet of British Columbia Resources Investment Corporation as at December 31, 1979 and the consolidated statements of earnings, retained earnings and changes in financial position for the year then ended. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

In our opinion, these consolidated financial statements present fairly the financial position of the Corporation as at December 31, 1979 and the results of its operations and the changes in its financial position for the year then ended in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period.

Vancouver, Canada
January 21, 1980

Clarkson Gordon
Chartered Accountants

CORPORATE INFORMATION

Board of Directors

John W. Pitts
Chairman, President and
Chief Executive Officer
Okanagan Helicopters Ltd.

* David L. Helliwell
President and Chief Executive Officer
British Columbia Resources Investment
Corporation

* Trevor W. Pilley
Chairman and Chief Executive Officer
Bank of British Columbia

John W. Poole
President and Chief Executive Officer
Daon Development Corporation

Charles N. W. Woodward
Chairman and Chief Executive Officer
Woodward Stores Limited

* W. Maurice Young
Chairman and Chief Executive Officer
Finning Tractor & Equipment
Company Limited

* Member of Audit Committee — Chairman, W. Maurice Young

Officers

Richard A. D. Commerford
Vice President

Robert G. S. Currie
Vice President, Gas and Oil Division

David L. Helliwell
President and Chief Executive Officer

G. Buchan McIntosh
Secretary

Michael G. McKibbin
Vice President

Dougal M. Meekison
Treasurer

David J. R. Petitpierre
Assistant Secretary

John W. Pitts
Chairman

John R. Redworth
Controller

Shareholder Information Service

WRITE: British Columbia Resources Investment Corporation, 2600-1177 West Hastings Street, Vancouver, B.C. V6E 3Y3

PHONE: Within Greater Vancouver area 669-4443. Outside Greater Vancouver and within B.C. call toll free (112) 800 663-9123. North of Stewart and Wonowon, B.C. call collect 669-4443.

Share Transfer Agent and Registrar

Montreal Trust Company, 466 Howe Street, Vancouver, B.C. V6E 2A8
Telephone (604) 688-4411
Also in Calgary, Winnipeg, Toronto, Montreal.

Shares Listed

Vancouver Stock Exchange
The Toronto Stock Exchange

Duplicate Reports

While every effort is made to avoid sending more than one copy of the annual and interim reports to each shareholder, duplicate mailings will occur when shares are listed under different first names or initials. Shareholders who do receive more than one report are asked to contact Montreal Trust Company to have their shares registered under the exact same name to avoid the cost of duplicate mailings.

BCRIC

Printed in British Columbia

AGSOC proposal near collapse → Good

y Ray Tyson
...s Juneau Bureau

Juneau — U.S. Sen. Mike Gra...l's proposed Alaska General Stock ...nership Corporation is on the ...nk of collapse in the Legislature.

GRAVEL

Lawmakers ...e looking on ...GSOC with in...reasing skepti...ism and it faces ...onstitutional ...estions.

House Speaker ...erry Gardiner, ...-Ketchikan, an ...riginal sponsor of ...he AGSOC House ...ill, and other key ...gislators now question whether the ...lan can stand on its own without ...massive state financial commit...nents.

Senate President Clem Tillion, ...-Halibut Cove, has his suspicions, too.

TILLION

"The bill needs some changes," Tillion said. "Unless the House makes the changes, why should the Senate bleed?"

Sen. Bettye Fahrenkamp, D-Fairbanks, a major backer of an initiative drive ...o place AGSOC on the ballot in No...ember should it fail in the Legisla...ure, agrees the proposal has little ...hance of making it through the Leg...slature this year.

"That's the reason I worked as ...ard as I did last summer," Sen. ...Fahrenkamp said. "I knew the lead...rship was against it and I wanted to ...et it to the people for a vote."

The lieutenant governor's office ...Monday certified the AGSOC initia...ive, sponsored by Gravel, for the ...November ballot.

But even if it is approved by vot...rs, AGSOC might face trouble in the ...Legislature when it comes back for ...appropriation of startup money.

And it could be shot down in court ...on issues of constitutionality.

...on the Legislature if the voters ap...proved it (the initiative), but it still ...has the constitutional question," Gardiner said.

Identical AGSOC bills are locked in committees in both houses, although the House State Affairs Committee is expected to decide Friday whether to move the bill out.

AGSOC is billed by its advocates as a private corporation that would invest in major development projects on behalf of all Alaskans, who in turn would receive dividend checks.

Its major feature is that it would be separated from state government, although proponents are asking for a $5 million state loan for startup costs.

Rep. Mike Miller, D-Juneau, chairman of the State Affairs Committee, said economists testifying before his panel question "whether AGSOC can get 100 percent private financing (for projects) unless it gets state guarantees."

As Gardiner put it: "Then it becomes a whole different beast, if the government winds up owning it."

FAHRENKAMP

One proposal is that AGSOC could buy into the trans-Alaska oil pipeline.

"There's no doubt it would take a vote of the public if not a constitutional amendment to permit the state to invest in AGSOC," Gardiner said.

State law prohibits the state from indebting itself without a vote of the people. Bonds can only be used to finance capital improvement projects.

It is doubtful whether AGSOC constitutes a capital improvement project, the attorney general's office says.

"There's no question there are serious constitutional questions," said Rod Pegues, an assistant attorney general. "A loan guarantee is a conditional debt. And the state cannot have a constitutional debt except for capital improvement projects."

AGSOC would have to stand on its own financially. "There's no hint in the plan that the state would finance AGSOC. If the AGSOC portfolio could not stand in the bond market, naturally the bonds wouldn't sell."

GARDINER

Even if the bill moves out of Miller's committee, it would face tough sledding in the House Finance Committee, said Rep. Russ Meekins Jr., D-Anchorage, the committee chairman.

If AGSOC makes it to the House floor, Gardiner said, it doesn't stand much chance of passing "unless Gravel starts strong-arming people."

Gardiner questions Gravel's motives regarding the proposal. "The Legislature gave him every consideration, and when the Legislature didn't do what he wanted he got an initiative" to put on the ballot. "A lot of legislators feel abused."

Gardiner said Gravel, who is up for re-election this year, is using AGSOC as a campaign tool. "I don't really think he cares about the issue."

Yukon Territory is expected to become Canada's 11th province by ...83.

3/1/80 Note:

Now here's another grandiose scheme to "get something for nothing". Why? Well, first each Alaskan gets a "free" share of stock in AGSOC, and second AGSOC's profits and bonds are both tax free (Wow!), and third a $5 million State "loan" (non- repayable?) is required for startup costs, and fourth AGSOC's borrowing will probably require State guarantees (which means if AGSOC can't pay it's debts, the State must-and who's going to oppose that with every Alaskan a stockholder) and fifth grandstander Gravel desperately needs a give-a-way proposal to soothe the voters - Right?

With a tax-free, State backed set up like that [redacted], how can private enterprize (the large corporations who put the daily bread on our table), co-exist in Alaska with a monster like AGSOC? Well, the majority of freeloading Alaskans will probably approve it by referendum anyway, while they're in the present mood to "get all you can for nothing", but I hope our state Supreme Court has the good sense to shoot it down afterward.

Cheers from the richest, greediest, and most socialistic State in the Unio

Charlie Parker

Charlie Parker, Box 349, Soldotna, Ak.

C.C. to others to use as they see fit.

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

Dear Fellow Legislator:

Attached is some information that I have put together regarding the issue of ACSOC. I think you will find it both interesting and pertinent.

Regards,

Dick Randolph

Alaska State Legislature

Libertarian
Representative
RICHARD (DICK) L. RANDOLPH
1105 Cushman St.
Fairbanks, Alaska, 99701

While in Juneau
POUCH V
Juneau, Alaska
99801

House of Representatives

Dear concerned Alaskans,

Senator Gravel is energetically promoting his AGSOC proposal. In typical Gravel fashion he is employing every technique of professional "con-ism" available. Please do not swallow his big lie. AGSOC is not free enterprise! It is not capitalism of any kind! It is complete and total collectivism and it must be stopped!! I can appreciate the appeal of something-for-nothing "professta-tions," but it's full of holes, it won't work, and it will commit at least one and maybe many generations of Alaskans to its cruel hoax.

Gravel's altar-ego, Louis O. Kelso, has been promoting this "economic idiocy" for over 20 years and in Gravel he has finally found a politician who is politically oriented enough to promote it. It is a scheme completely void of any redeeming values to a free society.

I appreciate that this is a harsh indictment, but one which is completely defensible. I will, between now and however long it takes to expose and defeat this sham, provide information and leadership to those who agree with this indictment.

To begin with, it is important that we understand Kelso's so-called "economic theories" from which AGSOC is derived. Toward that understanding I have enclosed two critiques of his book, The New Capitalists.

The first critique was recently produced by Robert Shelley, a life-long Alaskan, attorney, and presently my adminis-trative aide in Juneau. Bob does an excellent job of tying Kelso, Gravel and AGSOC together and pointing out their fallacies.

Percy L. Greaves, a free-market economist, in his critical analysis of this work comments: "This small book contains more economic fallacies than it does pages. The basic assumptions upon which it is built cannot withstand the light of careful scrutiny. Furthermore, the alleged facts are not documented and the logic employed is extremely loose. Its strong effect on the casual reader rests largely upon the repeated assertion of seemingly plausible statements

which, upon close analysis turn out to mean almost the exact opposite of what they first seemed to say.

Any attempt to put the book's proposals into effect would immediately reduce the incentive to produce and result in a rapid paring down of the American standard of living. At the same time, it would set up an economic dictatorship which would select the management of the nation's industries and determine all production goals. In short, it is an unwitting blueprint for the extablishment of a Socialist America."

Please carefully read both, and then compare the AGSOC proposal in detail against this background. I am convinced that anyone who understands and believes in true free enterprise and capitalism will agree that this sham does not qualify in any aspect!

I would not dignify this proposal with a response if it were not apparent that many fine and normally right-thinking Alaskans are being drawn in by the insidious lure of this bankrupt proposal.'

It is my commitment to provide a well studied, articulate defense of the free market as opposed to this vicous, fraudulent misrepresentation of the facts! I am absolutely convinced that the adoption of the AGSOC proposal would have the most negative economic and social impact on the traditional Alaskan lifestyle conceivable.

I sincerely and emphatically request that you study the enclosed material and the other information which I will provide you from time to time. If you agree and want to help, let me know. Together we can expose and defeat this fraud and save 450,000 Alaskans from inadvertently creating a socialist Alaska!!

Freedom is the issue,

Dick Randolph
Alaska's Libertarian Legislator

AGSOC -- A FOOL'S PARADISE

prepared for

Representative Dick Randolph (L)

by

Robert Reed Shelley

AGSOC - A FOOL'S PARADISE

by

Robert Reed Shelley

In order to understand the meaning of the Alaska General Stock Ownership proposal presently before the legislature and the people of Alaska, it is necesary to become more familiar with the philosophy of its creator and to test some of the premises upon which its foundation is built.

Certainly any discriminating thinker who has encountered the AGSOC concept has realized that there must be more to the proposal than meets the eye. This is primarily because rarely in human experience does one get something for nothing. Try to picture Senator Gravel performing his political song and dance version of Jiminy Cricket's "Oh the World Owes Me a Living" on the Gong Show. Then compare The Sound of Music in which Julie Andrews sings, "Nothing comes from nothing, nothing ever could." Which one would you believe?

The creator of this attractive sounding 'horn of plenty' is a man named Louis O. Kelso who, along with myself, has combined the two professions of which the discriminating thinker is most skeptical, Economist and Lawyer, to form his background. From that point on, however, Mr. Kelso and I seem to diverge in our approach to human nature and the application of human nature to the economics of man.

Among Mr. Kelso's publications are two books with rather deceiving titles. The first in order is one entitled The Capitalist Manifesto, and its sequel is one called The New Captalists. This paper is primarily con-

cerned with The New Capitalists, with references made therein to The Capitalist Manifesto. It's the inclusion of the term 'capitalist' which makes these titles so deceiving. Upon close scrutiny it is clear that Mr. Kelso is to capitalism what Benedict Arnold was to the American revolution.

Webster's Dictionary (1979 Ed) defines 'capitalism' as: "the form of economic, industrial, and social organization of society involving ownership, control, and direction of production by privately owned business organizations" (as opposed to the government). In other words, capitalism means free enterprise without government interference in the economy. Mr. Kelso, on the other hand, has the audacity to try to pawn off his plan for governmental direction of the economy to unsuspecting readers as 'capitalism.' If he and Senator Gravel (Kelso's political promoter) are successful, they should be named the flim-flam men of the century.

Basically, Mr. Kelso sees only two factors in production: 1) Physical labor and 2) Capital goods (those goods which produce other goods). It is his contention that capital produces 90 percent of the gross national product in our economy, and that all but a small fraction of the capital instruments are owned by 5 percent of the households of the economy. In addition, he claims that despite this "concentration of ownership of capital, "70 percent of income produced is distributed through labor.

It is important to critically examine these contentions because they are the basic assumptions upon which his entire theory rests.

Any reasonably astute person knows that the initial factor in any kind of production is an 'idea.' While ideas are not exactly physical labor, they are essential to production. When physical labor and capital are added

to ideas, we may have production. Mr. Kelso seems to practically ignore ideas as the factor of production which is uniquely human. Instead, he classifies the factors of production into physical labor (his "human" factor) and capital (his "nonhuman" factor). One might wonder how capital can be termed "nonhuman" since it is only by human conception, creation, and operation that capital exists.

At any rate, contrary to Kelso's views, each factor of production is not mutually exclusive. Neither ideas, physical labor, nor capital can produce anything by itself. It is ludicrous to attempt to determine what percentage of any finished product was the result of the idea, the physical labor, or the capital goods used to produce it. We could argue forever as to how much of the production of the Wright Brothers' first plane at Kitty Hawk was the result of their idea, their physical labor, or their capital. For each item of capital produced, it takes ideas and labor to put it together, to operate it and to maintain it. Then, once the capital produces something, it takes ideas and labor to distribute and market the product. Mr. Kelso has conveniently determined, in an effort to support his theories, that 'capital' is responsible for 90% of all production. So much for the first of Mr. Kelso's premises.

Next, Mr. Kelso claims that this 'capital' is almost totally owned by only 5% of the households in America. While it is undoubtedly true that some Americans own more capital than others, Mr. Kelso's estimate is obviously misleading. The number of stockholders of publicly held corporations listed on the New York Stock Exchange now exceeds 20 million, or one out of every six adults in the United States. In addition, Kelso seems to ignore the multitude of privately owned closed corporations, partnerships, sole proprietorships, house ownership, real

estate holdings, life insurance and other forms of capital. The most important point to make is that a large extent of what capital concentration does exist in the United States is the result of government control of the economy, which results in political rather than economic allocation of available resources. In other words, through subsidies, regulation, and huge government spending, government, through politics, helps some wealthy people to unjustly remain wealthy and even become wealthier. In any case, it is the divergence in wealth between people in a free society that has given the world its highest standard of living and which makes life interesting. It is the opportunity to better one's well-being that stimulates all production. The extent of that opportunity should not be limited. Variance in wealth should not be disdained in itself as Mr. Kelso seems to do.

The third 'statistic' which Mr. Kelso uses to further his plans is that 70% of all income produced is distributed through labor. While one might be able to come up with such an estimate, careful thinking would certainly question the accuracy of such a figure. For instance, is the board member of a large corporation really earning $500,000 worth of labor in his salary, or is this a payment in lieu of dividends which could be taxed as high as 70%, whereas earned income has a 50% maximum tax rate? Even assuming Kelso's 70% of all income being distributed through labor, one could argue that this refutes his previous assumption

that capital produces 90% of all production, since one would assume that each factor would be rewarded in relation to its worth. Kelso, however, argues that this disparity between 10% of production being caused by labor and 70% of income being distributed to it proves that American labor is composed of primarily lazy people who just take up space and time but don't really produce anything. Kelso says that unemployment in a capitalist system is both desirable and inevitable. He supposes that soon machinery will do everything and humans will do nothing. This concept is so naive that it barely rates refuting. While it is true that capital equipment may eventually produce more products which were produced previously by labor, so far no machine can replace man's unique ability to reason and create new ideas. In addition, it will always take human physical labor to get the resources, to build the new capital equipment, to operate it, to maintain it and to distribute the product which it produces. In addition, it will be a long time before machines totally replace humans in the service industries. Perhaps technology has allowed mankind to concentrate on mental labor rather than physical labor, but even physical labor will never be totally eliminated. Kelso says his plan would cast out the irrational doctrine of full employment, indicating the people wouldn't have to work. As he says, "unemployment is natural and desirable in a technically advanced economy." Until human needs are totally satisfied, there will always be a demand for new and better products at a lower price, and this will keep most of us employed (if we so choose) through the next major evolution of man.

From these "statistics" as to production and the distribution of income, Mr. Kelso comes up with some incredible conclusions and recommendations.

One such conclusion is that the rich get richer and the poor get poorer. Mr. Kelso reasons that since "labor is being replaced by capital as the total factor of production," soon those who currently own capital will be the only ones who will survive economically. He further argues that it's nearly impossible to accumulate capital unless you already have capital. This, he says, is causing an increasing concentration of wealth in the country. Then Kelso wonders what these wealthy capitalists do with all of their extra capital. He comes to the conclusion that they just make themselves wealthier by reinvesting it, with no benefit to anyone else. This is a distorted conclusion indeed. Because when that 'extra' capital is reinvested, many people become employed, and we can assume that somebody's need will be fulfilled if the product sells. On top of that, it is <u>true</u> capitalist economic theory to believe that because of the increased supply of products on the market, the added competition by the new business venture, and the added growth to the wealth of the economy, both the particular price of <u>that</u> product and the general price level of the economy would fall to some extent. In turn, this lowering of prices and increased availability of goods on the market make almost everyone else in the economy better off (wealthier). It is clear, then, that Mr. Kelso's conclusion <u>should</u> have been that the rich get richer (assuming they make productive investments) and so do the poor. Everyone is made better off by the reinvestment of the capital which the wealthy man did not consume himself.

What's wrong with some rich people getting richer in relation to some poor people? In my view, nothing. In Mr. Kelso's view, however, it is somehow unfair, and he claims it will soon lead to socialism since the relatively less rich will use government to control the economy, and redistribute the wealth. The incredible inconsistency

in Mr. Kelso's thinking occurs when in the next breath he suggests the creation of a new governmental agency that would virtually take over the banking system and control the entire economy. This he calls the Capital Diffusion Insurance Corporation (CDIC).

Although Kelso doesn't like his plan to be associated with the redistribution of wealth, he believes that the government needs to take an active role in redistributing wealth so that there are many little "capitalists" rather than just a few. It shows his lack of understanding of capitalism that he should use the concepts of redistribution of wealth and capitalism in the same breath. In addition, Kelso defines a capitalist as "a member of a household which derives not less than half the amount the household spends on consumption from the ownership of capital." Under this definition, Leonid Breznev would be one of the biggest capitalists in the world (although he steals it) and an average American with a business, a house, a retirement system, and a small portfolio of common stock probably would not qualify (although he probably earned it honestly). Of course, when this average American retires and lives off the return on his investment rather than labor related income, he can suddenly call himself a capitalist even though he might do virtually nothing.

Kelso says government's objective should be to make sure that technological unemployment falls on those who can afford it (the wealthy). Does he actually advocate government retirement of successful people so that others can take their place?

The Capital Diffusion Insurance Corporation (CDIC) is the governmental mechanism by which Kelso plans to "create" lots of little "capitalists" out of nothing. In Kelso's view, the only thing that is preventing more

little "capitalists" from popping up is the present free market system of capital formation financing. Under the current system, someone who doesn't own capital can only get it in one of two ways: 1) forego consumption and accumulate savings (capital), or 2) find someone who will lend you money (capital) so that you can reinvest it and make a higher return. Kelso argues that most people can't afford to forego consumption so as to accumulate capital, and that this wouldn't be good anyway because it would cause a decrease in the demand for consumer goods and the economy would collapse. Again, Kelso fails to see that as the economy expands because of capital investment, the entire populace benefits due to more and better products at lower prices. If the average American of today was compared to the average American of 100 years ago, there is little doubt that today's subject is much better off economically than yesterday's. As the man of today rises higher and higher above a subsistence living, he ends up having more wealth to spend on both consumption and capital investment, thereby both keeping up the demand in the economy and giving himself more opportunity to own capital. Again, Kelso leaves out the Human idea factor of production. He almost assumes that an investment is just an investment. The truth is that a man with a big idea and little capital can make more wealth than a man with a small idea and lots of capital. Therefore, Kelso's view that there is no upward mobility in our society and that one can only acquire capital if he already has capital, is not entirely correct.

Kelso astutely observes that those lending capital to others want some insurance that they will be repaid. Under the current system of financing, this means that the lender will want collateral in the form of a claim upon the currently held assets of the borrower. Kelso claims those without currently held capital will then not

be able to get a loan to acquire their own capital. He fails to see that at some point all of us must forego some consumption (save) in order to borrow to accumulate capital. (Unless it's given to us, of course.)

In order to provide those who lack collateral with capital-producing potential, Kelso's CDIC would guarantee, in the name of the government, loans by commercial banks to borrowers who would otherwise be poor credit risks. These loans would not even provide for the personal liability of the borrower. Responsibility is totally removed for the borrower. Kelso compares his plan to the federal FHA program, which is noted for its bankrupt failings.

By the government becoming involved in capital financing, all of us, including those who make successful investments, would be paying for the mistakes of those who didn't deserve a guarantee in the first place and who would go belly up in their investment. There are only two ways the government could pay off such guarantees. 1) raise taxes on everyone else; or 2) start up the printing presses and pay the claims off in phony dollars thereby feeding fuel to inflation. Neither method is fair or honest.

But the fact that such a government program is not fair because it would force innocent people to pay for others' mistakes is only a small part of the real evils that such a scheme would create. In describing CDIC still further, Kelso discusses what 'policy' factors should go into the manner in which CDIC decides who should get the guarantee and in what business ventures these borrowers should be able to invest.

Included in these proposed policies are the following:

1. Anti-Monopoly Policy: This would be left to the political whim of bureaucrats who would likely insure through government power that the rich and powerful were well protected. Still Kelso calls

his plan capitalism.

2. Promotion of technological improvement policy: There could be no more detrimental effect on technological change than to misallocate resources for such change by political (government) means rather than by the free market. Leave it to competition! Still Kelso writes of capitalism?

3. Increase the number of capital owning households policy: This basically means redistribution of wealth by transferring opportunity and risk from those who deserve it to those who don't. The New Capitalists?

4. Investment preferences for new capital estates policy: Another form of the redistribution of wealth. Capitalist?

5. Prevention of speculation in stocks policy: Let's say goodby to the New York Stock Exchange. Kelso fails to see that stock speculation is the incentive for persons to first put money into a proposed development. He still refers to his plan as capitalist!

6. Coordination of consumer demand and new capital formation policy: This is plain and simply a planned economy proposal. Kelso the capitalist?

7. Inflation control and reduction of consumer credit policy: There are several reasons why Kelso's plan would in fact be inflationary. First, the misallocation of resources from the free market to borrowers with a poor credit risk will adversely affect economic expansion while the money supply either remains constant or expands. Second, it is likely that the government would honor guarantees made by CDIC by printing dollars (a hidden tax) rather than by raising actual taxes.

Additionally, once the government, through CDIC has guaranteed a major portion of outstanding loans

in the economy, it will have even a more vested interest in promoting inflation as a way to make the loans easier to repay.

8. Personal aptitudes and education requirements policy: This is perhaps the most appalling of the powers Kelso wants to place in government hands. Under this policy, a bureaucrat would direct the economy by giving preferences on loans to only those with a particular level of education or background. This would be a very hard part of Kelso's planned economy to swallow. I can just see a father telling his son that he must become an artist in order to get started in the world because that's what the CDIC decided he should be.

It is inconceivable to me that any reasonable person after reading Kelso's proposed policies could not see his plan as pure socialism -- governmental control of the means of production. This is definitely not capitalism.

A good rule of thumbis that any government policy means govenment control -- unless that government policy is freedom. Kelso's "new capitalism" is in fact a blueprint for a totally socialist society. The most incredible thing is that he claims to propose his plan to avoid socialism.

The CDIC would have to make countless arbitrary rules about who was eligible for the program and who wasn't. By Kelso's own description, bankers would basically become govenment agents interpreting regulations and helping to operate a government program. Their decisions would be based on political governmental edict rather than good solid business factors.

Only a fool would believe that CDIC guaranteed loans would not soon permeate the capital market, drying up available capital to non-government approved enterprise. Eventually, anyone not qualifying for the CDIC program would be at a tremendous competitive disadvantage to those using

the program. Why should anyone strive for financial well being if government programs will eventually discriminate against them?

Creating the CDIC would substitute a political economy for a free market economy. It would open the whole system up to graft and corruption both in terms of bureaucrats wielding undeserved power and in terms of crafty entrepreneurs ripping off a shoddily run government program.

Eventually, the government, through CDIC, will literally be controlling the economy by deciding who's going to get loans, and for what purpose. No better plan could be conceived to destroy free enterprise and substitute socialism in the name of "capitalism."

Even beyond Kelso's CDIC blueprint for socialism, he advocates several changes in free market corporate operations. For instance, Kelso wants some kind of legal requirement that all earnings of corporations be paid out in dividends rather than allow investment for future expansion. This goes right along with his plans to eliminate speculation on resale of stock certificates. He wants an end to consumer credit so that people will be forced to become capitalists by foregoing consumption. (This is despite his fear that less consumption will hurt the economy.) Even if all corporate earnings were paid out in dividends, there is no assurance that people would spend the money on capital investment rather than consumption. The fact is that the government would get a larger part of it since dividends are taxed as non-earned income, and the sale of speculated stock is taxed at capital gains rates.

As an additional tool for the redistribution of wealth (which Kelso claims he does <u>not</u> advocate) he suggests major increases in inheritance tax rates. This proposal would give even less incentive for a man to build up his capital estate.

So as to not let Mr. Kelso off the hook too easily, let's look at some additional inconsistent remarks made by him which indicate a lack of understanding about capitalism and the free market.

At one point Kelso remarks that in Russia, industrialization is achieved at the cost of totalitarianism. Actually, industrialization isn't achieved very well in Russia, and even then only by almost completely foregoing consumption. In addition, Kelso is promoting totalitarianism here by creating an economy based on politics rather than the free market.

Kelso also claims that "conventional business financing falls far short of satisfying the basic principles of economic justice." The truth is that the free market finance system is the only one which does create economic justice. Justice means no more nor less than one deserves. Kelso's plan would, through government intervention, give some more than they deserve at the expense of others. At another point, Kelso says wealth should be distributed to those who produce, yet he comes up with plans like CDIC, and increased inheritance taxes.

Consistent with Kelso's something for nothing theory, he attempts to create capital wealth for those who he thinks don't have it by bookkeeping entries brought about by government guarantees without any abstaining from consumption. This is economically ridiculous and amounts to government increasing the money supply without additional wealth, thereby fueling inflation.

Placing his personal value judgment on everyone else, Kelso states that "society's first economic duty to its citizens is to enable them to be or become productive." True capitalism, meaning economic freedom, is the only way that individuals will have the opportunity to be or become productive. "Society" is a group of individuals, and individuals should have no duty to anyone other than

those they choose to contract with. It is individual freedom that sparks economic growth even for less productive people. Kelso's meddling in the economy is nothing but anti-productive.

Elsewhere, Kelso states that we "need even more intensive efforts by government and government supported power blocs to divert the wealth produced by capital to those who do not own capital." If this isn't a proposal for the redistribution of wealth and socialism, then neither was the Communist Manifesto.

Later Kelso states "every major increase in new capital formation that is not accompanied by an increase in the number of new 'capitalists' is a leap in the direction of socialism." Not only is this an untrue statement in itself, but if there is any leap to socialism, it would be to adopt Kelso's proposals.

While Kelso indicates that it's impossible for those without capital to become capitalists, he complains that "today owners of a hotel suddenly become owners of a chain of hotels" and says the same about restaurants and warehouses. This only points out the fallacy of his theory. If someone has a good idea, and foregoes a little consumption, then there's no reason why he couldn't become a wealthy capitalist. If someone doesn't do that, it's primarily because they don't have the qualities necessary to be capitalists. One of the most dangerous aspects of Kelso's theory is that he wants to make the government the insurer for people who probably don't have the qualities to be capitalists, are poor credit risks, and don't deserve loans.

At another point, while speaking woefully about inevitable socialism if we don't adopt his plan, Kelso states "socialist methods of new capital formation are more efficient and quicker than traditional methods of business finance now employed by the free world." This

is called talking out of both sides of your mouth.

Kelso virtually ignores that there is a skill involved in choosing good capital investment which should be rewarded. Instead, he figures that by putting capital into anyone's hands, benefit will result.

In short, Kelso's theory closely follows that of another economist who advocated, 'from each according to his ability, to each according to his need.' Kelso further admits the failure of his theory by stating that, with it in effect, "the government would wield considerable power."

It is unfortunate indeed that so many pages of words need to be produced describing Kelso's illogical economic theory, but when the legislature and the people of Alaska are asked to swallow the demagogic AGSOC proposal of Senator Gravel, they should know what the ultimate theory is behind the AGSOC plan. After examining Kelso's inconsistent and illogical reasoning, it would be incredible that any legislator could lend their support to AGSOC. Let's look at how the AGSOC proposal fits into Kelso's overall plan, and why certain parts of Kelso's plan are conveniently being left out at the initial stages of AGSOC.

In brief, AGSOC would hand out shares of stock "free" to most every Alaskan. The corporation would be formed by the initial appropriation of millions of your tax dollars by the government, with no guarantee or liability by the state or the stockholders (at least for the time being). One indicator of the deception built into AGSOC is that while its initiative literature only mentions initial government aid to the project, the Alaska House State Affairs Committee and Senate Finance Committee plans call for the likely guaranteeing of loans to AGSOC by the state. Ownership of the "free" shares would have all kinds of restrictions including the number of shares, how and when they could be sold, and who could own them. Then, this paper corporation would supposedly be able to

to borrow all kinds of capital to invest in money-making projects that would make us all wealthy since it would be required to pay all hoped-for earnings out in dividends without investing in itself. Even though there is talk of AGSOC buying various companies, one might wonder at the viability of such companies if they're willing to sell to AGSOC.

Comparing such a plan to Kelso's theory, it's easy to see what essential feature of Kelso's plan is missing from AGSOC. That missing piece is CDIC and the government guarantee of any part of the operation.

The question might be asked how could such a plan work when even Kelso admitted that some kind of a guarantee or collateral is absolutely essential to the formation and acquisition of capital? The answer is that it won't.

For AGSOC to go begging to a lender for money would be ridiculous. Can you imagine yourself, or any other intelligent person, readily lending huge amounts of capital to some immature youngster with no experience, no well-formed ideas, no collateral, no guarantee, and no strong sense of direction? Of course not. And this is exactly what AGSOC will be when it attempts to get a loan.

The only reason anyone would lend money to such a scheme would be if there were some hidden factors involved. I can immediately see at least one possibility of such a hidden factor.

The most dangerous of such hidden factors would be the unwritten assumption that based on political experience, the government, (State of Alaska) would eventually step in and guarantee, loan, or subsidize to AGSOC if it should ever find itself in bad finances (which it is doomed to from the outset). Any astute political observer (such as Senator Gravel) knows very well that if the state had already invested millions into AGSOC's start-up costs, had

perhaps lent money to AGSOC, if powerful legislative political figures had supported the AGSOC concept, and if politically appointed 'leading citizens' had been appointed to its directorship -- then the State of Alaska would politically be forced into saving the sinking ship of AGSOC before it went totally under. Such a bail-out of AGSOC by the state would be inevitable, and would complete Kelso's blueprint for socialism. There is no way that those demagogic promoters of AGSOC would allow AGSOC to go under, and if there's one attribute which politicians like to maintain, it's the characteristic of infallibility. Senator Gravel's primary concern is getting re-elected in 1980. The AGSOC 'something for nothing' appeal might get him over that hurdle and set him up for another six years, by which time he would find another distraction with which to attempt to fool the voters.

It would be this unwritten, but politically sound assumption of bail-out by the wealthy state of Alaska that might actually find someone willing to 'risk' a loan to AGSOC. An analogous situation would be a child's (AGSOC's) first loan, with the father (politicians) winking in the background that he will actually guarantee the loan even though it's not on paper. Such a risky loan would particularly be possible by the application of political pressure or offer of political gain by a powerful promoter of AGSOC to some government protected holder of extra capital which could be loaned to AGSOC (political payoff).

The next question to ask is, why wouldn't the AGSOC proposal include government subsidy, loans, and guarantees right from the beginning? The answer is simple. It would be easier for Kelso and Gravel to hold AGSOC up as "capitalistic" and not socialistic if they can minimize the aspect of government involvement. They may also be clever enough to realize that it wouldn't be necessary to include government guarantees at the outset. If they just feed

AGSOC to the people a little at a time, they'll be hooked by the time it's too late to do anything about it. Promoters of AGSOC would know that once the corporation was created on paper, and stock was issued to all Alaskans, it will be easy to get the missing government guarantees and subsidies worked into the picture later on. When those subsidies and bail-outs occur later on, individual owners of AGSOC shares may not be personally liable as stockholders, but they would certainly be liable as taxpayers.

In addition to the possible devious scheme behind AGSOC, there are many other aspects of it which make it undesirable. For instance, promoters claim that the fact that AGSOC would not be subject to taxes on its earnings (even though shareholders would be on their dividends) will make it attractive enough for investors to lend to it. That not only points out the ridiculous level to which taxation has risen in this country, but it should be obvious to the observer that by exempting AGSOC from taxation, the government is actually subsidizing it, since all of us will probably have to make up the revenue lost by tax exemption.

Another aspect of AGSOC is its political control from the outset. Politicians would be appointed to its board of directors at the beginning, and because of its diversified ownership, those directors would be nearly impossible to dislodge. These political directors would have AGSOC competing with other businesses in the Alaskan economy with the competitive edge of no taxation and no capital requirements. Through a slow process, this politician's boondoggle would begin to control and affect more and more of the Alaskan economy, with government's help.

Since AGSOC would be prohibited from retaining earnings for reinvestment, it couldn't help itself grow even when reinvestment might be economically feasible.

Even if the claimed purpose of AGSOC is to somehow return wealth to the people, there is no question that there are many better ways to do so. The people of Alaska are already in a dangerous situation with a state government holding billions of dollars of surplus funds while individual Alaskans go without. The simplest, most reasonable, and most consistently capitalistic way to solve the problem is to take that dangerous surplus away from the government and give it to each individual to choose for himself whether to consume or invest with it. This can be achieved through the elimination of taxes, among other means. We must assume that each person knows his own happiness better than the government does.

I have laid out my observations about the theories promoted by Mr. Kelso and Senator Gravel. If you have been concerned enough to stay with me to this point, you may ask yourself, "What can I do?"

The thing that must be done is for all of us as individuals or in groups to oppose AGSOC now, before it's too late.

The most effective group to begin this effort is the hard-working, self-sufficient businessmen and businesswomen of Alaska. They are the ones who keep this economy limping along despite government interference, and they are among those who would be affected most adversely by the adoption of the AGSOC foolishness.

If Kelso's scheme is allowed to happen, capital accumulation, the source of our high American standard of living, would soon begin to dry up. Men do not save and invest when they know it will be confiscated from them.

Schemes like AGSOC would set up an economic dictatorship which, through the political application of capital, would select and manage the economy's industries and determine production goals. There is no more devious a plan for a socialist economy.

THE NEW CAPITALISTS

by

Louis O. Kelso and
Mortimer J. Adler

A CRITICAL ANALYSIS by Percy L. Greaves, Jr.

This small book contains more economic fallacies than it does pages. The basic assumptions upon which it is built cannot withstand the light of careful scrutiny. Furthermore, the alleged facts are not documented and the logic employed is extremely loose. Its strong effect on the casual reader rests largely upon the repeated assertion of seemingly plausible statements which, upon close analysis, turn out to mean almost the exact opposite of what they first seemed to say.

Any attempt to put the book's proposals into effect would immediately reduce the incentive to produce and result in a rapid paring down of the American standard of living. At the same time, it would set up an economicl dictatorship which, through the political allocation of capital, would select the management of the nation's industries and determine all production goals. In short, it is an unwitting blueprint for the establishment of a Soviet America.

A complete analysis of all the book's fallacies would necessitate a theoretical treatise of several large volumes. However, the following brief analysis of seven of the book's basic fallacies should be helpful in indicating why the book is unworthy of serious consideration. These seven basic fallacies are:

I. Capital produces at least 90 percent of the gross national product. (pp. 5, 6, 38-40, et al.)

II. A progressive concentration of the ownership of capital exists; the great bulk of capital is owned by 3 or 4 percent of the households (pp. 14-15, 28-37, et al.)

III. Savings are not required for capital accumulation. (pp. 53, 55, 59, et al.)

IV. No real shortages of labor and resources exist in Western nations. (pp. 4, 41, 46, 86, 101, 104 et al.)

V. Government redistribution of income is now necessary. (pp. 6, 31, 32, 41, 45, et al, ad infinitum.)

VI. Bank credit expansion can create wealth. (pp. 17-18, 55-56, 58-59, 60-63, 100-102, et al.)

VII. Proposals provide for a free society. (Implicit throughout and stated in conclusion, pp 108-109.)

I. Capital produces at least 90 percent of the gross national product.

The early classical economists and Karl Marx believed that human labor produced all economic values. Today, most labor union leaders, as well as those who write our laws, believe that human labor is responsible for producing almost all economic values and that employees, as employees, are entitled to all increases in production.

The authors of this book believe that capital is responsible for the production of almost all economic values and that the share attributable to capital is ever increasing with each addition to available capital. They assume that this is an apparent fact and make no attempt to document it or defend it logically. They apparently assume that because the increasing use of capital results in higher physical volume of goods, all the increased human satisfaction resulting from such increased quantities must be attributed to capital.

This neo-capital theory of value is just as indefensible as the labor or neo-labor theory of value. They both ignore the essential factors of time and abstinence as well as the factor of profit and loss which results from the uncertainty of future demand at the time businessmen commit their capital to the time-consuming process of producing particular goods. Attributing 90 percent or more of all production to any one essential factor and belittling the contributions of the other factors as insignificant and no longer needed is a little like attributing all football victories to the backs who score the touchdowns and thus implying that the linesmen are no longer necessary. Attention is concentrated on the sensational at the expense of other very essential contributions. No football game can be won without linesmen. Similarly, no economic production can take place without human foresight and the combination of capital and labor over a period of time. Each of the four factors is both important and essential.

Capital is always the result of human action. To obtain capital, men must first save, i.e., consume less than they produce. Only such savings can give them the time and ability needed to produce capital goods. Human ideas and foresight of future needs must also precede the introduction of every new capitalistic method. Then men must not only produce the capital goods but also direct and manage their use in production of other goods. Without the human factor, there would be no production, capitalistic or otherwise. Capital alone is incapable of producing anything.

Men do not value all labor or all capital. Men only value the specific units of labor or capital which they are considering in connection with a specific situation. Men think in terms of the value to them of one more, or one less, unit, that is the marginal unit. If they are buying, they compare the value to them of one more unit of labor or capital of a specific type and the price they must pay for it. They then buy until one more unit is no longer worth its market price to them. When they consider selling, they compare the value to them of one less specific unit with the value to them of the sum of money they receive in return ofr it. The market values of all types and units of both labor and capital are traceable to the values consumers are expected to place on their final products.

In the market place all identical units sold at the same time and place are sold at the same price. The market process thus tends to allocate every available unit of capital and labor to the production of those products which are expected to bring the highest prices from consumers. This means that each additional unit of capital tends to be used to produce something considered less valuable than what was produced with previously available capital. Otherwise, the previously available units of capital would have been used to make those products.

So, with any given population, each additional unit of capital is not only worth less than the units of the previously existing supply of capital units, but it also reduces the value of every other existing capital unit with which it competes. Thus, with any given population, every increase in the amount of available capital reduces the importance of every existing unit of capital. Man can then have more of the things he wants but the additional things are not as important to him as the things he desired when less capital was available. So more capital makes capital less important (valuable), rather than more important (valuable) to man.

Let us attack the problem in another way. As man is constituted, his desires are insatiable. As soon as some desires are satisfied, other unsatisfied desires arise to take their place. If they did not, man would stop eating and all his other acitons. He would, in fact, lie down and die.

As long as man lives, he has unsatisfied desires. This means there is always a demand for more of what labor can produce with available resources. There are always ores that are not mined, land that is not planted, waters that are not fished, and goods that are not made because there is an insufficiency of labor. Labor, a necessary factor of all economic production, is the limiting factor in almost all areas of production. Every new person born on this earth brings his own unsatisfied demands for more things than can be produced with available supplies of labor. There is no such thing as a sufficiency of all kinds of labor.

Some types of labor are always in short supply. The economic problem is how to use available supplies of labor so as to produce the highest valued possible products, that is, how to prevent the waste of available supplies in idleness or producing less valuable products than such types of labor are capable of producing. All men have a point at which they prefer rest or leisure to the results of more labor, but up to that point men desire more of the goods and services that they can obtain only by more of their own labor or by spending money they are paid for contributing more of their labor.

Millions are unemployed today because political conditions either make them unemployable or create a situation in which they prefer to be unemployed, even though there is a great unsatisfied demand for the things they could help to produce. These political conditions are the laws and customs which hinder or prohibit the employment of persons where they could be most productive in terms of what consumers want more of most. These laws and customs include those that permit unions

to raise wages above free market rates, thus reducing the number employable in unionized industries; minimum wage laws, which prohibit the employment of those for whose products consumers will not pay the equivalent of the minimum wage; unemployment benefits, which encourage men to remain unemployed; and employment taxes, including social security taxes, progressive income tax rates and higher rates for overtime, all of which increase the costs of labor to employers and thus to the ultimate consumers.

It must be remembered that businessmen are merely middlemen between the workers and consumers. They will always hire every possible person they can afford to pay, up to wage rates that raise costs above what they can expect to recover from consumers. If they can make a penny by hiring one man more and selling his product, they will do so. Businessmen constantly strive to hire all who are willing to work at the free market wages which are set at the point which it is expected can be recouped from the ultimate consumer. Laws and customs which interfere with such free market wages also interfere with employment. They either cause unemployment or shift men into poorer paid jobs where they compete with less skilled persons who are driven further down the economic ladder, some of them being pushed below the minimum wage and thus into compulsory unemployment. These interventions have produced mass unemployment but in a free market society there can be no surplus of labor as long as men have unsatisfied desires which the employment of labor could satisfy. As mentioned above, such unsatisfied desires are a fact of human life.

One of the values of owning capital is that it saves men time. If we have the capital, we do not have to take the time and trouble to produce it. The payment for capital is thus a payment for time saved as well as for the labor needed to produce it. The payment for time is called interest. The rate of interest is determined by man's time preference, that is, by how much he prefers to have some things now rather than a year from now. Businessmen devote time and labor to the production of specific types of capital goods when they foresee that the cost of producing such capital goods will be less than their expected market value at the time of their completion. Not even the best businessman can always foresee future market conditions perfectly. This imperfection of human foresight is responsible for the factor of profit and loss. A period of time must elapse between the time businessmen decide what to produce and its later availability for sale. Those who turn out to have been relatively the most proficient in foreseeing correctly future demands make a profit. Those who do not suffer a loss.

In this connection, it should be remembered that profits are the amounts they receive over and above their labor costs, expenses for supplies and raw materials, and interest charges on necessary capital for the necessary period of time. When businessmen recover only their expenses for labor, supplies and raw materials and do not recover sufficient funds to pay the interest rate they could have obtained by lending their capital funds, they have suffered a loss. No one goes into business without the hope of earning more than he could by lending his money out or putting it in a savings account. On the other hand, profit or loss is merely the relative difference in expected market values between the time production is started and when it is completed, that is the time when the producer can transfer its ownership to another who then assumes the responsibility for future changes in its value.

For the fallacy of this book, all this means that the contributions of capital to production must be traced back to the contributions of the four essential factors that are necessary for the creation of capital. These four factors are human foresight, scarce goods consumed (savings) human labor and time. The scarce goods consumed in producing capital are the tools, supplies, and raw materials which, in turn, represent savings produced by human labor over a preceding time period.

The more capital savings there are available, the more apt we are to undertake projects which take a long time to produce to the point of operation and which will last a long time before their value is fully consumed. This means that interest payments are likely to be a larger factor in the costs of such enterprises. Any profits above the basic interest rate will attract competition which will pare down and finally eliminate the profit item. However, with the passage of time and changes in consumer preferences, new opportunities constantly arise for the re-emergence of new profits and losses.

As men are constituted, human foresight in deciding what to produce is imperfect and always will be. Likewise, our time, labor and capital are in short supply and always will be. The competition of a free market will allocate available supplies so that in the long run they will be combined to produce the highest possible values known to mankind. Should any investment temporarily obtain profits over and above labor, material and interest charges, competition, if not politically prevented, will soon tend to eliminate the profits. All profits are at best only fleeting in character and must be re-earned if they are to reappear.

In this connection, it should be pointed out that every increase in capital permits the production of goods and services not previously produced. Each new addition to capital goes to work by bidding up wages and the prices of raw materials before it can obtain the factors needed to go into production. Then, the newly produced goods must compete with existing goods and services and offer consumers a better buy before the contributor of the capital can receive a cent back on his investment. Further, the capital goods and the products they make must continue to compete for their originally estimated life if the capitalist is to get back his full investment with interest and possibly a net profit.

Another popular fallacy, inherent in the logic of the book's authors, is that it is thought that if corporate income taxes are reduced or repealed, the present profits before taxes would continue to be about what they are now and that this would be a windfall for the owners of capital. This is a gross error.

As long as a market economy exists, competition will determine the allocation of the reduced taxes among the various market participants as each specific condition dictates. This means that the repeal of 50 percent corporate income taxes would not double available corporate income as the authors seem to think when they estimate the share of production they attribute to capital. Actually, market competition would rapidly force the sharing of the tax savings in lower prices, increased production and higher wages. No doubt such an event would affect interest rates (time preferences). It would also change the

pattern of goods and services produced and thus those on which the highest profits of the future would be made. However, these changes in the allocation of produced income would be determined by the existing market forces and not by corporations trying to maintain the same wages, prices and production pattern as prevailed before the reduction in corporate income taxes.

Corporate income taxes are indirect taxes levied on market operation. Such taxes tend to hide the real burden of government spending from the general public which in the long run must bear the full burden. Unfortunately, many high and low income people, as well as the authors of this book, tend to think that it is the capital stock holders who now bear the full burden of corporate income taxes. This is just not so. Investors still earn the market rate of interest plus profits or less losses, depending on the foresight of each company's management, under existing conditions, in supplying what consumers want most as shown by how they spend their money.

In the long run, those who accumulate capital by consuming less than they produce must receive interest on their savings. If they did not, they would not invest their savings in capitalistic production. No law short of a complete dictatorship can force a man to save and invest without payment of interest. Nor can any law eliminate the uncertainties of the future. Any attempt to reduce or eliminate profits from business enterprise would only result in reducing the efforts of business to provide more efficiently for the uncertain human wants of an unknowable future.

While laws can and do reduce the return on capital, they cannot do so without at the same time reducing real wages and increasing the costs of the goods and services people want. Every government tax, rule or regulation which is not for the purpose of protecting or defending life, health, property or the activities of the market place must be a burden on all market participants. What is more, it is the market and not the government that allocates that burden and it does not spare those with low incomes. Except for their proposal to remove all corporate income taxes, the proposals of this book would increase the present burdens of every American. Its authors have no real concept of how a capitalistic society functions and how the benefits from the increased use of capital are shared by all market participants.

II. A progressive concentration of the ownership of capital exists; the great bulk of capital is owned by 3 or 4 percent of the households.

There is a slight plausibility to this argument. However, such plausibility is entirely due to political interferences rather than free market operations. One little known result of the political interventions before, during and since the New Deal is that they have tended to protect the positions of those already at the top of the business heap by making it considerably more difficult for new and struggling new competitors to replace them.

This is particularly true of the tax laws. Under present tax laws, it would be impossible for any man or family to duplicate the contributions to society of Henry Ford. He raised wages and benefited millions by making autos available for a few hundred dollars because he was able to

plow back his profits into expansion of his original small plant. This process could not be duplicated on a similar scale today. In this connection, it should be further stressed that the benefits of his increased capital investment did not all go to him or his family. The market compelled him to share his gains with his workers, his suppliers and his customers.

Other laws also help to protect those who have arrived from the competition of newcomers. This is most apparent in the labor area where union members can keep the unemployed from competing for the highest paid jobs. This unfortunatley is the underlying cause of the economic distress and unrest among American negroes. However, all interventionary laws have this effect. It is quite evident where permits or licenses are required for the sole purpose of limiting competition. Laws which prevent the use of new materials or more economic methods or protect featherbedding are other instances. So also are the farm laws which curb the most efficient use of land. So also are oil import quotas, export licenses, interstate commerce regulations, certain food and drug regulations and many many more types of government owned and operated activities.

However, it is not such intrenchment of established business that the authors of this book have in mind. Nonetheless, it is the results of such interventions that opened the door to their approach. They build heavily on the results of government directed expansion of bank credit and the progressive income tax. They constantly stress the point that much present day capital accumulation is amassed by corporations plowing back their earnings rather than paying them out in dividends. They even admit that personal income taxes at higher rates than those on capital gains are a major factor.

However, they neglect to mention another contributing factor---that interest payments on corporate bonds entirely escape corporate income taxes. This fact, plus the effects of inflation, encourages the accumulation of capital in the form of corporate debts and capital gains upon the retirement of the bonds. They do not seem to realize that many of the conditions they deplore could be eliminated by simply removing the double taxation now levied on corporate dividends and levying the same tax rate on all personal and corporate income.

Unfortunately, the error in their reasoning is still greater. They assume that because a great part of capital accumulation takes place within existing corporations that almost all of it does and then as the proceed they not only assume that all capital accumulation happens in this manner but also that the owners of capital stock always remain the same persons. Actually, where corporations accumulate capital in order to provide their owners with capital gains rather than dividends, the stockholders must sell some of their holdings in order to realize their capital gains. The authors ought to visit the stock market some day, or at least read the figures on the turnover of stock ownership every business day. It runs into millions of shares.

While the authors with ever increasing emphasis proclaim the ever narrowing number of the nation's stockholders, the actual figures belie them. On June 24, 1965, the New York Times and Wall Street Journal

published figures of the New York Stock Exchange reporting that the number of stockholders of publicly held corporations has increased with every count made since 1952. The total figure now exceeds 20 millions and includes one out of every six adults in the United States. This is a far cry from the claim of the authors and this is only for the publicly owned corporations.

Many of our wealthiest men are owners of closely held privately owned corporations. So are many of our middle class citizens, including millions who place their savings in their own businesses with which they are more familiar than with the affairs and management of publicly owned corporations. The facts indicate that over the years the ownership of capital has become ever wider as has the resulting benefits to workers and consumers who use the many products made possible by the increase in capital. Many more than the Ford family are now benefiting from the existence of the Ford Motor Car Company. And so it is with every large corporation that earns profits.

The authors completely overlook the huge savings of the masses in many areas, including home ownership and other real estate. Take life insurance for example. There are now more than 120 million individual policy-holders insured with legal reserve life insurance companies holding more than $141 billions in assets. In 1960, 89 percent of all family heads were insured, including 71 percent of those with annual incomes under $3000. In 1963, American families received from life insurance companies payments amounting to 10 billion dollars. Such payments as well as the assets held by life insurance companies for their policy-holders are increasing with every passing year.

By the end of 1964, insured deposits in mutual savings banks had risen to more than 42 billion dollars, compared with only 10 billions at the end of 1945. This quadrupling was not done by any 3 or 4 percent of the nation's households. In the same period the savings capital of the savings and loan associations had increased from less than 8 billion dollars to almost 102 billion dollars. This is not where a few enormously wealthy capitalists are concentrating their savings. Individuals also now hold more than 49 billion dollars worth of the national government's baby bonds. This figure is up by more than 6 billion dollars since the end of World War II.

There is absolutely no evidence that there is a progressive concentration of capital in the United States. In fact, all the available evidence points in the opposite direction. Unfortunately, too much of the increasing savings have gone into forms that are hard hit by the inflationary policies of our national government.

There are two lesser points that should also be mentioned. First, the authors consider depreciation, amortization and depletion, along with withheld earnings, as "internally generated funds" which contribute "today almost three-fourths of new capital formation." Such funds are merely a replacement of capital consumed in production. While they may represent a demand for new capital goods, they are not an increase in capital, but merely a maintenance of prior capital accumulations.

Second, the book makes no mention of the effects of inflation on corporate earnings as figured by tax authorities, in general, a part of what is considered "taxable profits" is in fact only illusory profits. Under the tax laws, taxpayers are allowed to amortize or depreciate only the original costs and not the eventual replacement costs. Thus, when inflation increases the dollar costs for replacements, the government is actually taxing as a profit what is in fact a loss, or technically a consumption or depletion of previously accumulated capital assets. So the authors actually consider the mere replacement of such consumed capital as further evidence of their imagined concentration of the ownership of capital.

III. Savings are not required for capital accumulation.

This is one of the most idiotic ideas on which the entire book is based. The authors bluntly assume that capital can be created from scratch and without any abstinence by the application of the future earnings from capital created by the mere bookkeeping addition of sums to bank deposits. The only basis furnished for such illogical reasoning is a study that Harold G. Moulton made some thirty years ago. That study indicated that historically capital accumulations have on certain occasions increased most rapidly during periods of "high-level consumption."

Dr. Moulton made this study for Brookings Institution early in the New Deal. It was part of a four volume series in which each succeeding volume pyramided its own fallacies on top of those of the preceding volumes. However, Dr. Moulton and his Brookings associates, including Dr. Edwin G. Nourse, later, 1946-49, Chairman of President Truman's Council of Economic Advisors, are not to blame for the extreme interpretation placed on their findings by the authors of the book under review. In boom times, particularly those induced by expansion of bank credit, there are more dollars for both consumption and investment.

The fact remains: all capital accumulation must be the result of savings on the part of someone. Capital can only be amassed by abstaining from consuming all that is produced and available. Before goods can exist, they must be produced. Those who consume all that they produce have no savings or capital. Those who consume less than they produce have some savings. These savings are their capital. It is as simple as that.

Unfortunately, the authors of this book have been fooled, as have many others, by the illusion that the granting of bank loans by bookkeeping processes is a wealth creating process. This illusion will be dealt with under VI. Here, it is sufficient to state that physical capital goods, the only kind that can be used in production, can not be created by accounting manipulations. Capital accumulation requires abstinence on the part of the owners of wealth. They must first live on less wealth than they, their ancestors or other benefactors have produced.

In the market economy, people are paid in money for their contributions to the market. When they do not spend all their money income for consumption of goods and services, there must remain in the economy a portion of their contribution to society which is available as capital. They can use that capital themselves or transfer title to it by lending or investing that part of their money income. When one lends his savings, he merely transfers title temporarily to existing wealth.

This, of course, assumes no theft or manipulation of the money supply such as the authors of this book endorse when they propose making their proposed capital-creating bank loans redeemable in newly created Federal Reserve Notes. When one borrows or spends artificially created bank credit, one merely exercises a claim on previously existing wealth---wealth which in a free and moral society would be allocated to someone spending funds that were received in return for a contribution to society.

Capital cannot be created out of thin air or by the bookkeeping opening of a bank credit. The authors believe that capital can be so created. All that they ask is that the bank borrower pay an insurance premium to a government agency which will insure the bank against any entrepreneurial error by the user of such accounting-created-capital. They expect that such accounting created capital will earn sufficient profits and interest to pay off the original loan with interest. This is pure nonsense. Yet the entire plan of the book is based on it.

IV. No real shortage of labor and resources exist in Western nations.

If this were so, there would be no economic problem. A prime factor of life here on earth is that the things men want and can produce are in short supply. Where they are not in short supply they are free goods and there is no economic problem.

The top shortage is labor. As mentioned under number I, many resources are not fully developed to the extent of present technological knowledge because there is a shortage of labor. The usual expression is that labor costs would be too high, or that it would be uneconomic or simply that it would not pay. All of which means that there are better uses available for the labor on hand. Unfortunately, governments are not always guided by such economic logic. The present development of atomic power for peaceful uses is still uneconomic. The labor and capital so consumed could produce higher values if there were no government interference with market processes. This is true of almost every government activity except those of defense and the peaceful settlement of disputes. If this were not so, men would find it profitable to undertake such activities in a free market.

Nothing can have value in the market place unless the supply is less than the demand for it as a means for satisfying some human need or want.

It goes without saying that there are many resources around the world that men could and would exploit if governments did not hinder or prohibit such exploitation. However, there is a real shortage of labor and resources in the form that men find them useful and there always will be.

V. Government redistribution of income is now necessary.

The only justification for such a belief is that of Marx and Engels in the Communist Manifesto, where they state that every government intervention makes matters worse and creates a demand for further intervention until the point is reached where the whole capitalistic system is overthrown and replaced by a dictatorship of the proletariat.

A good argument might be made that because government spending, taxing and inflation policies have destroyed considerable private savings and potential private savings the government now has an obligation to those it has impoverished. However, that is not the argument of the book. The authors imply that all present deplorable conditions are the natural result of a free and unhampered capitalistic system which must be reformed by governmental action. They thus offer their plan for the political creation of capital with the promise that Congress will vote to give every person his fair share of the capital created by bank loans. The owners of such capital will then somehow be entitled to receive 90 percent or more of al. production.

It is true, of course, that there are people in this country who are in need of financial help. That this number is now large is due primarily to political interferences with the operations of a free market as well as uneconomic fiscal and monetary policies. However, it is still likely that private charity could and would take care of all cases of real need, particularly if political restraints on employment were lifted.

Present day political programs only serve to encourage and sustain poverty and unemployment by dampening the spirit and abil'ty of people to find self supporting jobs where they could contribute to society as they improve their own lot in life. Present programs lead people to believe that they are entitled to a living without any contribution on their part. In fact, they are even encouraged to think they are contributing when they are living on and distributing largesse obtained through taxes collected from the more successful citizens. The illusion that the bu den of such taxes fall entirely on the well-to-do is encouraged at every opportunity. It is popularly considered a form of economic j.stice. Actually, as explained previously, the market allocates the tax burden on every citizen of the land, even those with the least to spend.

This book encourages the popular fallacy that only a few own capital and if the government did not intervene, these few would receive 90 percent of the nation's production. This is pure nonsense. Market processes, if left free from government interferences, allocate all production to those responsible for its production. Everyone is then free to choose the most attractive opportunity open to him. Every worker is assured of the market value of his wages before those advancing his wages can get back a cent. The market processes thus see to it that the capitalists are the last to receive any of the gains from their contribution. This book encourages its readers to think otherwise. They declare that every person is entitled to become owners of capital w. hout any contribution or sacrifice on their part, except for the

payment of a small insurance fee to a government agency. Their plan is a plan for the redistribution of 90 percent of total production. It would rapidly reduce total wealth to the point where many would starve. They simply do not understand that every honest and moral person would attain his maximum possible income in a free and unhampered market economy.

VI. Bank credit can create wealth.

It would take a volume to present fully the monetary explanation of the trade cycle as expounded by Ludwig von Mises. However, Mises has clearly demonstrated that modern recession and depression problems are basically the result of political attempts to stimulate economic activity by the expansion of the money supply through the creation of circulating bank credit. Should the holders of such bank credit desire to convert their artificially created bank accounts into cash, the central banks, in our case the Federal Reserve Banks, are empowered to print legal tender paper money against evidences of debt owed to banks. In the United States, such printed money is in the form of Federal Reserve Notes.

The authors of this book would extend this disastrous principle still further. They propose the printing and issuance of Federal Reserve Notes against bank loans with no security except government insurance and the hope that the sum created will be put to work as capital in such a way that it will before too long repay the loan with interest. They blithely assume that such government insurance can be sold for a mere trifle just as the National Government now insures mortgages on real property.

Actually, banks perform a useful social function when they operate as middlemen between savers who want to lend money and borrowers who need and want funds they expect to be able to repay with interest at the maturity of the loan. Such loans are merely temporary transfers of monetary savings (purchasing power) from one person to another. They do not increase the available amount of spendable money in the economy. What the borrower can now spend, the lender can no longer spend. Such voluntary loans help all parties concerned, whether made through a bank or not.

However, when a bank makes a loan merely by adding the sum to the checking account of the borrower, it is not transferring to the borrower the title to someone's actual monetary savings (purchasing power). The bank is merely adding this sum to the available amount of spendable money in the economy. This addition to the money supply empowers the borrower to go out and buy something, leaving less available for all previous owners of money. Thus, those who have obtained their money in payment for their contributions to society find that they cannot buy as much as they could have bought if the bank had not issued an artificially created claim to its borrower. Such bank loans merely transfer a part of the existing wealth from those who helped create it to the borrower from the bank. Such bank loans add no wealth to that previously existing. They merely transfer titles to existing wealth at the expense of all those who have earned or saved their dollars which will now buy less.

Needless to say, such expansions of bank credit cannot create any useful capital goods. All that such bank credit, as these authors propose and endorse, can do is to transfer ownership of existing capital goods from their rightful owners to those receiving the proceeds of the bank loan. It is done by a process that probably not one in a million can detect, for each loan reduces each person's purchasing power only infinitesimally. However, over a period of time such loans have a tremendous effect. Any expansion on the scale proposed by these authors would quickly depreciate the already shaky value of the dollar.

The authors propose that their plan will make everyone a capitalist merely by the creation of such bank credits. They believe that future earnings from the capital so created will pay off the loans with interest and that thereafter the borrowers will be entitled to all further earnings for evermore. Such income is then supposed to make it possible to sustain millions without any further effort on their part.

Such a program is absolute nonsense. It could not work once people realized what it meant. It would certainly not encourage an increase in real savings, the only kind businessmen can use. The greatest incentive for the increase of capital is for people to believe that their savings are safe from either direct or indirect confiscation. The scheme proposed is an indirect confiscation of the wealth of others. It could not and would not increase wealth in any useful form. It would merely dilute titles to existing wealth until the point was reached when people no longer found it profitable to invest their savings in capitalistic production. They would then put their savings in gems, jewelry and precious metals that they could hide and quickly move should the authorities become too nosy.

VII. Proposals provide for a free society.

The first fifty or more pages of the book make no mention of the government controls involved. However, starting on about page 55, such controls are mentioned on almost every succeeding page. In short, the scheme provides that a governmental agency would insure all lending banks against all future human errors of their borrowers in investing their loans so they can be repaid by earnings without any further claim on the sum lent or what was bought with the sum so lent. A government agency would thus be forced to determine all future investments as well as the amounts banks might lend for the purpose of creating capitalists out of bank borrowers. By such a fantastic scheme of government controls of the very life-blood of business we would "start the process of industrialization without resort to past savings." (Pg. 55)

To get the plan started, they would force present corporations to pay out all earnings in dividends. To keep it going and put an end to uncontrolled investments, they would enact inheritance taxes which equalize the dividend income of the entire population, or so they think. They would prohibit those owning a certain amount of income from capital from working and thus competing for jobs. The government could control all monopolies by shutting off capital and creating competitors. The government would, of course, prevent all maltreatment.

"Each loan would be made in accordance with policies established by Congress and administered by the Federal Reserve System" or some other agency "as Congress might determine." (Pg. 61) If the politicians would decide which industries and which managements could have capital, pray tell where would any free enterprise exist??

On page 75 we learn that the government would impose "high standards for demonstrating feasibility of new enterprises or new expansions before their securities could qualify for CDIC-insured loans." Shades of Thomas A. Edison !!! Could he have gotten the capital for his inventions?

On page 69 we learn that American political history has been characterized by changes "required to increase its efficiency in the face of its large-scale tasks by eliminating much of its original decentralization." Shades of Adolf Hitler!!!

They do admit, "there is no doubt that government would exercise considerable power." However, they do not admit that it would exercise totalitarian power over the access to capital, without which no business could even exist. If men were not free in the economic realm, they would soon find that they had lost all that freedom had ever meant. Who could print books and papers? Those the politicians selected and allocated the needed capital. Who could build churches and schools? Those the politicians selected and allocated the needed capital. Who could work? Those the politicians decided were eligible.

One could go on and on but the reader who has read this far should easily see that it is merely another scheme for milking those who have produced, saved and invested wealth for the benefit of those who will keep the politicians in office. The book's authors would make everybody a capitalist by giving them a share of the wealth already produced by others.

If such a scheme were ever attempted, capital accumulation, the source of the ever higher American standard of living, would soon dry up. Men do not save and invest when they know their savings will be despoiled or confiscated. Workers and consumers alike are heavily indebted to those who have saved in the past. Without such additions to capital by every succeeding generation, our standard of living would have stood still. If the capital so carefully accumulated over the decades should be dissipated by any such illogical wild scheme as this proposal, Americans would be compelled to return to the living standard of the Indians. Our population would also have to shrink to that of a century or more ago.

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

Rep Russel 107

WARNING

A person who signs a name other than his own on the petition, or who knowingly signs his name more than once for the same proposition at one election or who signs the petition knowing he or she is not a qualified voter, upon conviction is punishable by a fine of not more than $1,000 or by imprisonment for not more than one year, or by both. (AS 15.45.100)

SUMMARY OF THE INITIATIVE

The proposed law will create a new private corporation, the Alaska General Stock Ownership Corporation (AGSOC), owned by Alaskans. AGSOC will invest in major projects within the state. It is required to distribute annually to its shareholders at least ninety percent of its income. The law creates a fund not to exceed $5 million subject to legislative appropriation to guarantee loans to AGSOC for startup expenses, but provides no other state support for the corporation.

One share of AGSOC stock will be distributed free of charge to each Alaskan who is a resident at the time of the law's effective date. Only individual Alaskans may own AGSOC shares, and no one may own more than ten shares. The public must be notified of stock availability, and residents may elect not to receive stock. Residents have one year in which to receive a share without charge and an additional year during which they may purchase their share at book value. The stock may not be sold for five years unless the shareholder permanently leaves the state, in which case he must sell his stock to the AGSOC at book value.

Each share of stock may be voted at annual shareholder meetings with one-third required for a quorum. A corporate ballot and shareholder pamphlet will be prepared by the AGSOC, under regulations insuring fairness, and mailed to each shareholder. Shareholders vote their ballot by mail. Shareholders may (1) amend the bylaws and articles of the AGSOC, (2) nominate directors and place issues on the ballot by petition, (3) remove the entire board or any director at any time, (4) sue to remove a director for fraud or abuse of authority and, (5) in limited circumstances sue on behalf of the AGSOC.

AGSOC will be organized by three people appointed one each by the Governor, Speaker of the Alaska House of Representatives, and President of the Alaska Senate. These three people will select nine people as the original board of directors, subject to disapproval by two of the three state officials named above. The directors form the governing board of AGSOC. The initial appointed directors serve only until the first shareholders meeting, when they must stand for election. The organizational documents of the AGSOC must be submitted to the legislature, which may disapprove any provision. Legislative disapproval may be overridden by a shareholder vote.

The directors have management responsibility for AGSOC. The chairman and at least three-fourths of the nine member board must be Alaskans. Members will serve for two years with half the board elected each year. Officers of the AGSOC are appointed by the board which also defines their duties.

AGSOC may not endorse political candidates or ballot issues nor lobby the legislature. The legislature may amend the AGSOC law so long as the creditors of AGSOC are protected. Carried over substantially intact from existing Alaska law are provisions regarding sales of assets, dissolution of AGSOC, restatement of articles, annual reports, filing fees, procedural provisions, and regulatory authority of the Commissioner of Commerce.

IT'S TIME TO TAKE STOCK IN ALASKA

ALASKA GENERAL STOCK OWNERSHIP CORPORATION

AGSOC

Everything You Always Wanted To Know About AGSOC...*

*...But Were Afraid To Ask.

1. **Q. What is AGSOC?**

   A. *AGSOC stands for "Alaska General Stock Ownership Corporation." It would be a private owning and operating enterprise in Alaska. Every resident of Alaska as of the date of incorporation would be given a share of stock in the AGSOC, and its profits would be distributed to them as dividends.*

2. **Q. Does AGSOC exist now?**

   A. *No. It must be created through law by the State Legislature or by popular vote.*

3. **Q. Why should we create an AGSOC?**

   A. *There are five main benefits:*
   A) AGSOC gives all Alaskans a second income. This second income derives from production and development in the state. So:
   B) It helps promote economic activity in Alaska. And just as important:
   C) It keeps the profits from that activity in Alaska, rather than enriching outside companies. Also:
   D) It puts the profit directly into the hands of Alaskans, without passing it through the state government and its costly bureaucracy. And:
   E) It can give a preference for local hire, despite recent court decisions, by establishing a corporation policy to hire shareholders first.
   AGSOC gives Alaskans a real stake in the free enterprise system because it allows them to participate in that system, as owners of capital.

4. **Q. How does AGSOC work?**

   A. *There are six steps:*
   A) AGSOC is created by the State.
   B) Each resident of the state on the date of incorporation gets one share in AGSOC. There is no cost to get the share.
   C) AGSOC management looks for sound investments in Alaska.
   D) Having decided on an investment, AGSOC borrows money and makes the investment.
   E) AGSOC operates the enterprise it has invested in, and this produces earnings for the AGSOC.
   F) The earnings are used to pay off the loan and to pay dividends to shareholders.

5. **Q. What kinds of investment would AGSOC make?**

   A. *AGSOC would probably look for large and relatively low-risk projects. One possibility would be to purchase a part ownership of the trans-Alaska pipeline, which would produce earnings immediately. Other energy or resource projects, communications, or similar large industries would be appropriate for AGSOC investment.*

6. **Q. How do we know this will work?**

   A. *It has the same chance, or better, as any sizable corporation dealing in sound investments. In fact, it has an extra safety valve—since it will operate entirely with borrowed money, it will benefit from the judgment of the lenders as to the soundness of its investments.*

7. **Q. How much will shareholders get?**

   A. *That depends on how much is invested and on the rate of return from each investment. As an example, AGSOC could purchase British Petroleum's share of TAPS. Last year, B.P.'s pre-tax profit from TAPS was $127.2 million. Divided among 405,000 Alaskans, that would come to $314 per person ($1,256 per family of four). This is an indication of the kind of opportunities that are available, although it should not be taken as a precise indication of what an AGSOC share would earn. Generally, AGSOC would aim at a 20 percent annual return on investment, as other corporations do. The more AGSOC invested, assuming sound investment, the more each share would eventually earn.*

8. **Q. Isn't this something for nothing, like a government handout?**

   A. *No, it isn't. What the AGSOC does is use a credit device, debt financing, to acquire capital tools to produce wealth. It's the capital tool itself that produces the wealth to pay for its cost. When that debt is satisfied or being satisfied the balance of the money, the profit, goes to the owner of the capital tool. This plan is to spread out the ownership of new productive wealth to more people, without taking one dime from the rich to give to the poor. The gift, and there is one, is from the genius of man in developing productive technology in our industrial society.*

9. **Q. If an investment turns sour, what liability do Alaskans have?**

A. *The individual shareho'ler has no liability. That's an important reason for forming any corporation.*

10. **Q. Why would anybody lend money to the AGSOC if the shareholders are not responsible for the debt?**

A. *Because the loan is made on the strength of the productive investments. This is not unlike the mortgage on a building. The loan is made on the value and productive capacity, rental income, of the building. Often they are 100% financed.*

11. **Q. Has anybody tried this before?**

A. *Not exactly. People have formed corporations before, of course. But this is a new idea for a state to form a private corporation on behalf of its citizens. It is made possible by a federal tax law written by Senator Mike Gravel and passed by Congress last year.*

12. **Q. Isn't this like socialism?**

A. *Not at all—in fact, just the opposite. AGSOC would be a private corporation owned by private individuals, like General Motors or U.S. Steel or any other large American corpor. ion. Under Socialism, corporations like these are run by the government. Socialism is a concentration of power by the state. AGSOC would operat- completely independently of the state, just like U.S. corporations that are involved in Alask i or the rest of the country today.*

13. **Q. But doesn't the state set up AGSOC?**

A. *Yes. But it's like the Alaska Native Regional Corporations. They were set up by the government. All of Alaska's natives were named by the government as shareholders. But then the corporations embarked on their own independent courses. They're not run by the government—they're private companies, a part of the normal free enterprise system. AGSOC would be the same: created by the State, but then cut loose to operate independently in the private market.*

14. **Q. But wouldn't there be a conflict of interests? The same people who would be voting in Alaska on state policy would be owners of the AGSOC?**

A. *Yes, there would be a conflict. It is a conflict which already exists between private enterprise and the State. And it already affects individual Alaskans like those who own Native Corporation stock, or those who own General Motors or Alaska Airlines stock or any other stock in corporations operating in Alaska who also vote on State policy. When all Alaskans see that they have a stake in the private market, through their ownership of AGSOC stock, they will probably consider much more thoughtfully the implications of state regulation and other state policies toward private business. So yes, this conflict will exist —just as it already exists. And that will be good, because it will give a stronger constituency to the needs of private enterprise, and it will make for better considered state policies.*

15. **Q. Since the AGSOC is statewide, won't a position on the board of directors be used as a stepping stone to higher political office?**

A. *No more so than other positions like the head of a statewide bank, an owner of hotels or the president of a statewide communications company. The test of those positions and that of being an AGSOC board member is success, competence and skill. There's nothing wrong with proving one's self in that manner. It's the best criteria for political and private leadership.*

AGSOC: OPERATION AND SUPERVISION

16. **Q. Would AGSOC get money from the state?**

A. *No. AGSOC would get a relatively small loan guarantee from the state for start-up costs, probably about $5 million. But there would not be a transfer of money to AGSOC like there was under the Native Claims Settlement Act.*

17. **Q. Where does AGSOC get its money?**

A. *AGSOC would borrow money to make its investments in Alaskan enterprises. This would be done by*

selling bonds, the same way other corporations do. The bonds would be purchased by traditional large lenders like banks and insurance companies.

18. **Q. Why would they be willing to lend to AGSOC?**

A. *Mostly on the strength of the investment to be made. An investment in the Trans-Alaskan pipeline, for example, would be looked at as a secure investment. In the first years, state guarantees of AGSOC loans might be desirable. Eventually the overall financial strength of the AGSOC would also help secure its borrowing.*

19. **Q. Who would be running AGSOC?**

A. *It would be run by a regular management team: President, Vice-presidents in charge of various areas, investment specialists and so on. The management would be accountable to the Board of Directors, and the Directors would be accountable to the shareholders (Alaska residents).*

20. **Q. Who appoints the directors.**

A. *At first, the nine directors would be appointed by a board which was selected by the Governor, the President of the State Senate and the Speaker of the State House of Representatives. But this appointed Board of Directors would stand for election by the shareholders at AGSOC's first annual meeting. And all directors would subsequently be elected by shareholders. The directors' terms would be staggered so that three seats would be up for election each year. The important point is that the directors are elected by the shareholders. The directors can be challenged and removed from the board by vote of the shareholders. This is the same as other corporations.*

21. **Q. What's to keep the directors or the management from making a killing on the money they handle?**

A. *The same laws which protect shareholders in other corporations: securities laws as well as state and federal laws on fraud, embezzlement, mismanagement and so on. In addition, the AGSOC cannot have retained earnings to reinvest or manipulate. All the money that comes in must be paid out by serving debt and paying dividends to shareholders except a small percentage of up to 10% to be used for paying the cost of operating the corporation.*

22. **Q. Who monitors AGSOC?**

A. *Again like other corporations: the Securities and Exchange Commission, the IRS, the State's Department of Commerce and most important, the shareholders themselves. In addition, several committees of the Congress will have a special interest in AGSOC.*

23. **Q. Who decides what investments AGSOC will make?**

A. *The management, subject to the approval of the Board of Directors, and ultimately a majority of the shareholders.*

24. **Q. Who hires AGSOC's staff?**

A. *The Board of Directors would appoint the corporation's officers, the officers would be responsible for hiring the rest of the AGSOC staff.*

25. **Q. How big would AGSOC's staff be?**

A. *AGSOC's start-up staff is estimated at about 25, from officers to secretaries. The number of AGSOC employees eventually depends on AGSOC's investments.*

26. **Q. What would AGSOC's budget be?**

A. *The budget for running AGSOC during the start-up period, 18 months to two years, has been estimated very roughly at about $5 million.*

27. **Q. What controls do Alaskans have over AGSOC?**

A. *As shareholders, they control the corporation. They elect the Board of Directors, and they can remove a director by vote at any time. At annual meetings, shareholders can place issues and candidates on the corporation ballot. They can vote to dissolve the corporation. Individual shareholders can sue the directors on behalf of the corporation. A majority of the Board of Directors must always be Alaskans.*

28. Q. What kind of reports will AGSOC make to the people?

A. *An annual report will go to each shareholder, detailing the operations and financial situation of the AGSOC. Semi-annual or quarterly reports will also be issued.*

29. Q. Will AGSOC financial records be available to the public?

A. *Yes.*

30. Q. What controls do the Governor and the legislature have over AGSOC?

A. *The same control they have over all other corporations chartered in Alaska.*

AGSOC STOCK OWNERSHIP

31. Q. Who is qualified to own AGSOC stock?

A. *Only residents of Alaska.*

32. Q. Who is going to be given shares of AGSOC stock?

A. *All those who are residents of Alaska as of a date set by law—in the case of the initiative petition, all those who are residents on the day 60 days after passage of the proposition.*

33. Q. What if an AGSOC shareholder moves out of Alaska?

A. *He or she must sell the stock to the AGSOC. The price of the stock would be set according to the book value of the AGSOC, as determined by independent accountants for the first five years.*

34. Q. What about people who move into the state (or who are born) after AGSOC is formed?

A. *They can buy the stock, or it can be bought for them, as it becomes available from AGSOC —first come, first-served. The price, again, would be based on book value. After five years, a market would probably develop in Alaska for the stock and people would be free to sell only as long as they are Alaskans. To take care of new births and new residents, additional AGSOC's could be formed or with a change in federal law, different classes of stock could be issued for different time frames or different investment portfolios.*

35. Q. What about share-holders who die?

A. *They can will their AGSOC stock to a qualified Alaskan, or it will be purchased at book value by the corporation for the first five years. Later, it could be sold for fair market value by the shareholders' estate to any Alaskan.*

36. Q. How many shares can one person own?

A. *No more than ten.*

37. Q. How often will dividends be paid?

A. *At least yearly.*

38. Q. Will dividends be taxed?

A. *Yes, like any other personal income.*

39. Q. Can an AGSOC shareholder sell his stock?

A. *During the first five years, it can be sold only to the AGSOC itself, at book value. After five years, the stock can be sold to any Alaskan so long as he doesn't end up with more than ten shares.*

40. Q. What about minors?

A. *A parent cannot sell his child's stock. Only the child can sell his or her stock upon reaching majority assuming the first five years have elapsed. Until majority, the dividends are paid to the parents.*

AGSOC HISTORY

41. Q. Where did the idea of AGSOC get started?

A. *You could say it started with Adam Smith, since his name and his Wealth of Nations, published in 1776, is often associated with the beginnings of a theory of the modern free-enterprise system. More to the point, though, it grew out of the nation's recent success with ESOPs (Employee Stock Ownership Plans). And it was made possible in 1978 when Congress adopted an amendment to the tax code outlined by Senator Mike Gravel.*

42. Q. What is ESOP?

A. *ESOP is a tax-assisted means for employees to buy the company they work for. In the words of ESOP organizer Louis Kelso, it's a way to "make everyone a capitalist." If the employees of a company also own the company, they have a bigger stake in how well the company performs. They get the rewards (i.e., the profits) when the company performs well, and they have a real stake in the free enterprise system. Many companies in Alaska are ESOPs now, including Yukon Office Supply, the Fairbanks Daily News-Miner, Alaska Northwest Publishing and Alaska Bank of the North.*

43 Q. How would AGSOC be like ESOPs?

A. *First, AGSOC has the same purpose: to make more people the owners of capital. As shareholders of AGSOC, each Alaskan would be part owner of a capital instrument, a corporation, that produces a profit for its owners. The ownership of capital is what constitutes wealth, because capital is what produces an income. So the main purpose of AGSOC, like that of ESOPs, is to gradually spread America's wealth among all the people.*
Second, AGSOC is given tax assistance, as ESOPs are, in order to help achieve that goal.

44. Q. What kind of tax assistance does AGSOC get?

A. *It does not pay corporation tax. It can therefore use all its earnings to pay back its lenders and to pay dividends to its shareholders, without having to pay the government first. Other corporations usually face taxes of about 45 percent.*

45. Q. Why should AGSOC get special tax treatment?

A. *Because the goal of spreading capital ownership is worth it. AGSOC will operate even more than most corporations on borrowed funds. The exemption from corporate tax is what makes it possible for AGSOC to pay its lenders and pay dividends at the same time.*

46. Q. Does the shareholder pay tax on his dividend income?

A. *Yes, it would be part of his or her personal income and would be taxed the same as other personal income.*

47. Q. Isn't wealth already pretty well spread among Americans?

A. *No. The income we earn for our work is spread more equally, but wealth, which is ownership of capital, is not. About 5 percent of Americans own some 50 percent of the nation's wealth. In fact, only 1 percent own about 25 percent of the wealth. And that has been the case since the beginning of this century. Without a deliberate effort to spread new wealth more fairly, it will remain concentrated in this way.*

48. Q. Is AGSOC taking money away from somebody to "spread capital ownership"?

A. *No. AGSOC would be a new corporation. Its profits would represent newly-created wealth, just as any corporation creates wealth through its successful enterprises. It's this newly-created wealth that is being distributed more fairly among a larger number of people by means of AGSOC and other general stock ownership corporations.*

49. Q. Is this the same as Governor Hammond's Alaska Inc.?

A. *No. Under Alaska Inc., the state would be in charge. It would decide how to distribute the wealth that was produced from Alaska's resources. Some of this money would inevitably be "creamed off" to pay for a growing state bureaucracy. AGSOC, on the other hand, is separate from the state. All its profits would go directly to its Alaskan shareholders.*

50. Q. I'm confused as to who owns this wealth of Alaska now.

A. *The Alaska state government owns the oil, gas and minerals. They are leased to permit these exploitations. The state receives royalties and taxes. That is the wealth that Hammond's Alaska Inc. would distribute.*

The taxes that exploit Alaska's resources like pipelines, refineries and communications systems, are generally owned by large outside companies. Gravel's AGSOC is a device to acquire ownership of some of those tools for Alaskans so that the profit from the productive capability of those tools will go to Alaskans. In other words, its getting hold of wealth we don't already have as opposed to passing out the wealth in the state treasury.

51. Q. **If AGSOC is such a good idea, why aren't other states starting their own general stock ownership corporations?**

A. *Other states are looking into GSOPs, just as Alaska is. But Alaska has many unusual advantages: investment possibilities that appear well-suited to AGSOC, a small population, the experience of a somewhat similar enterprise in the regional Native corporations and the fact that an Alaskan Senator, Mike Gravel, thought up the whole idea.*

52. Q. **Does Senator Gravel stand to benefit financially if AGSOC passes?**

A. *He and his family stand to get one share each in AGSOC just like other Alaskans.*

THE PETITION

53. Q. **What does this petition do?**

A. *It requires the state to submit to the voters the question of whether AGSOC should be formed. The question would be put on the November, 1980, ballot. If AGSOC were created by the legislature next year, the question would not be put on the ballot.*

54. Q. **Why is the petition needed?**

A. *There's a limited time during which AGSOC can be formed, under the tax amendment passed by Congress last year. Alaska has until 1983. The state Legislature failed to pass AGSOC legislation during the 1979 session, although a bill was created. The petition ensures that Alaskans will have the opportunity to create AGSOC if they want to, even if the Legislature fails to create it or the Governor vetos it.*

55. Q. **If I sign the petition, do I have to vote for AGSOC?**

A. *No. Signing the petition only means you're in favor of giving Alaskans the opportunity to decide for themselves about AGSOC.*

56. Q. **Won't placing the issue on the ballot in 1980 discourage the legislature from action next session, passing the buck to the '80 elections?**

A. *No, the legislature is sensitive to the decreasing time available to create an AGSOC. The House committee chaired by Representative Miller has done excellent work on a bill which will surely be brought to the full legislature.*

57. Q. **Again, why do we need the petition?**

A. *As a safety net—just in case. Also it's an educational device to inform all Alaskans on the proposition. Your signature, though not a vote, does show interest in the undertaking and serves to encourage the legislature.*

58. Q. **Who supports the petition?**

A. *Here are some legislators who have signed the petition, in the order they signed it: Jim Duncan (Juneau), Senator Bettye Fahrenkamp (Fairbanks), Senator Frank Ferguson (Kotzebue), Senator Mike Colletta (Anchorage), Senator Jalmar Kerttula (Palmer), Representative Oral Freeman (Ketchikan), Representative Al Osterback (Sand Point), Representative Dick Eliason (Sitka), Representative Leo P. Schaeffer (Kotzebue), Representative Vern Hurlbert (Sleetmute), Representative Terry Martin (Fairbanks), Representative Mike Beirne (Anchorage), Representative Joe McKinnon (Anchorage), Representative Sally Smith (Fairbanks), Senator Clem Tillion (Halibut Cove), Representative Pappy Moss (Delta Junction), Representative Fred Zharoff (Kodiak), Senator George Hohman (Bethel), Senator Bill Sumner (Anchorage), Representative Nels Anderson (Dillingham), Senator Terry Stimson (Anchorage), Representative Joyce Munson (Anchorage), Senator Pete Meland (Sitka).*

AGSOC file

KELSO & CO.
INCORPORATED
INVESTMENT BANKERS

GREENSBORO, N.C. SAN FRANCISCO LOS ANGELES

January 2, 1980

RECEIVED
JAN 07 1980
BUDGET/AUDIT
COMMITTEE

Hon. James Duncan
Chairman
Legislative Budget and
Audit Committee
State of Alaska
Pouch V
Juneau, Alaska 99811

Report 4
AGSOC Study

Dear Jim:

In this report we will update our report on TAPS, summarize our research into the potential of AGSOC engaging in the leasing business and report on the results of our research into other potential AGSOC investmen .

TAPS

During this past month we have reviewed the past year's performance of TAPS and the current status of the FERC hearings on TAPS rates. In addition, we have updated our files on the BP ownership interest in TAPS.

The FERC hearings are proceeding at a slow pace with current interim rates in effect at the operators' requested levels. However, there is still the possibility that carriers may have to refund revenues if permanent rates are set by FERC at a level lower than the current rates. It is expected that final rate determination will be made by mid 1980.

Although no new oil has been discovered and total proven reserves are still 9.1 billion barrels, expansion of TAPS capacity is under way. Current flow capacity has been raised to 1.36 million barrels per day (up from the initial capacity of 1.16 million barrels per day) and should reach 1.42 m.. .on barrels per day by the end of 1980. Most of the higher flow capacity has been achieved through use of a special chemical additive, without construction of new pump stations, although new pump stations are being completed.

To date, only Arco, Exxon, and BP are participating in the capital expansions and BP's share should increase to a 16.8% ownership of TAPS by the end of 1980. Other revenue and expense items are in line with past projections except for the high cost of the additive. However, profitable operations exist with the interim rates in effect.

LEASING

As we mentioned in our last report, leveraged leasing could offer some favorable tax advantages for AGSOC. Additionally, an AGSOC leasing program could stimulate many segments of the Alaskan economy which are currently restricted by lack of capital.

Although leasing is an alternative source of financing capital equipment, it offers advantages to both sides of the relationship. Both have some tax advantages, and although the leasing company assumes more risk, the lessee grants compensation for its diminished risk in higher rental payments.

There are many variables in the structure of a lease so that a single financial model would not cover all cases. However, for illustreative purposes, the following example shows the advantages to AGSOC:

> Suppose a company were to lease a $1,000,000 piece of equipment through AGSOC. If this equipment had a 20 year life, possible lease payments (under today's high interest rates) might be as high as $175,000 per year or higher if a short term lease were executed. On the other hand, AGSOC's principal and interest payment could be under $150,000 per year. Thus AGSOC could achieve a cash flow spread of at least 2-1/2% of the equipment value per year and under certain conditions this could be as much as 5%. However, the significant tax factors which would benefit AGSOC and its stockholders would be the investment tax credit and depreciation. In the first year of the investment, 10% of the value of the equipment could be claimed as a tax credit. Under the Federal legislation, Subchapter U to the Internal Revenue Code, this would be passed through directly to AGSOC's shareholders. The distribution of profits could be controlled by the depreciation schedule used so that up to the full value of the positive cash flow could be retained by AGSOC without tax penalty. This reserve could be used to offset future cash requirements or for new investment

A major attractiveness of leasing for AGSOC is that it could borrow nearly 100% of the purchase price of certain investments. Our recent discussions with major banks, indicate that the banks would loan to AGSOC at favorable rates assuming a reasonable AGSOC capitalization. Additionally, for large investments, most institutions will provide necessary expertise in structuring the lease and managing the asset through the lease term.

Leasing is a competitive business. Initially, we investigated AGSOC leasing aircraft to Alaska Air Lines, for example. However, Alaska Air Lines has multiple proposals for such leases and at much more favorable rates than could be offered by AGSOC. The reasons for strong competition, especially in aircraft, are the favorable tax advantages (increasing for those in higher than 50% tax brackets) and high resale residual values for aircraft after the initial lease terms. Many lessors will therefore sacrifice short term cash flow for current tax benefits and long term profits. The best

opportunities for AGSOC would seem to be areas of leasing where lease competition is not so high, e.g., for leasing to start-up business ventures, and in other situations where financing sources are difficult to obtain.

We have reviewed the component parts of the Alaskan economy outlined in our October 2, report and have identified some possible areas where leasing opportunities may be found. We will summarize these findings here.

MOTEL AND HOTEL

We are currently reviewing opportunities in sale and leasebacks of hotel/model sites and structures. This industry offers more favorable opportunities for AGSOC leasing since there are more favorable tax credits available in motel/hotel leasing than for other forms of commercial real estate.

FISHING

Currently, there are investment opportunities in Alaska for both processing vessels and on-shore processing plants. The vessels offer good opportunities since interim financing during construction would not be as big a handicap as construction of new plants. Leasing of fishing vessels, or sale and leasebacks of converted fishing vessels, also offer opportunities in the fishing industry. We are continuing to investigate these possibilities.

HARD ROCK MINERALS

There seems to be a potential for leasing mining equipment. We will investigate further.

OIL AND GAS

In gas pipeline construction, leasing opportunities exist in rolling stock used during construction. There also are opportunities for leasing drilling rigs or LNG storage tanks. The high value of storge tanks is attractive for an AGSOC investment.

PETROCHEMICALS

The development of a petrochemical industry using Alaskan resources has stimulated much interest in parts of Alaska. Construction financing is not an attractive leasing opportunity, but certain installed equipment may offer attractive opportunities.

AGRICULTURE

Agricultural equipment offers some lease opportunities although AGSOC might not want to compete in the financing for the leasing of relatively low value equipment.

ELECTRIC POWER

Potential for the leasing of prefabricated plants exists in Alaska. Major users of electric power or new hydroelectric plants may have financing difficulties. AGSOC may be able to lease a full plant to potential operators.

ALASKA RAILROAD

While we are studying the actual purchase of the ARR, there is also a potential lease opportunity in freight cars, locomotives and other equipment. As in the airline industry, rail car leasing is competitive with many players. We will analyze this further in our study of the Alaska Railroad.

TRANSPORTATION

We are currently investigating other surface transportation opportunities within which areas leasing potential is generally good.

FURTHER CANADIAN MOVES TO BROADEN OWNERSHIP OF INDUSTRY

The Federal Progressive Conservative Government of Canada has announced that if it is reelected in the forthcoming Federal election, it would offer five free shares in the $3.3 billion integrated petroleum corporation, Petro-Canada, to every Canadian adult and to young Canadians upon their becoming eighteen years of age. Individuals and institutions in Canada would be permitted to purchase up to a maximum of 3% of Petro-Canada shares, but one-third of the equity would be retained by the Federal Government.

This is further evidence that Canada is moving in the direction of encouraging broad ownership of basic industry and resources by Canadians.

Very truly yours,

KELSO & CO., INCORPORATED

By _____
Louis O. Kelso
Chairman of the Board

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Alaska State Legislature

House of Representatives

REPRESENTATIVE
JIM DUNCAN
DISTRICT 4
HAINES
JUNEAU-DOUGLAS
KLUKWAN
SKAGWAY

CHAIRMAN
BUDGET & AUDIT COMMITTEE
MEMBER
FINANCE COMMITTEE

M E M O R A N D U M

TO: ALL REPRESENTATIVES

FROM: Rep. Jim Duncan

SUBJECT: General Stock Ownership Corp. DATE: March 6, 1979

Attached herewith is a copy of the General Stock Ownership Corporation bill summary for your reference.

I hope this helps you in your considerations for House Bill No. 240.

JD:jp
Attachment

ALASKA
GENERAL STOCK OWNERSHIP CORPORATION

BILL SUMMARY

Federal law requies state authorization of general stock ownership corporations receiving special tax treatment under Subchapter "U" of the Internal Revenue Code. The bill creates the Alaska General Stock Ownership Corporation (AGSOC). This corporation is a completely private for profit corporation which will operate under the Alaska Business Corporations Act to the extent consistant with the AGSOC act. The shares of the AGSOC will be owned and voted by the citizens of Alaska with each resident holding a share of stock.

The bill directs the Governor to appoint incorporators to form the AGSOC and sets forth the following:

1) Board membership limitations assuring Alaskan control;
2) Federal requirements for corporate articles;
3) Stock distribution to all Alaska residents;
4) Penalties for fraudulent acquisition of AGSOC stock.
5) One year statute of limitations on AGSOC challenges;
6) Financing for AGSOC startup costs; and,
7) Technical amendments required to Alaska statutes.

The corporation is designed to have as its shareholders existing Alaskan residents. Stock will be distributed to eligible individuals without cost. Investments by the AGSOC will be made through the use of borrowed funds and the earnings from those investments used to retire the loan and distribute dividends to the shareholders. Except for minor exemptions the AGSOC will be subject to the same rules as all other Alaska corporations.

DETAILED EXPLANATION

The bill creates a new Chapter 50, entitled "Alaska General Stock Ownership Corporation", within Title 10, the Corporations and Associations title, of Alaska Statutes. The act contains nine sections which may be summaried as follows:

Section 1 sets forth those areas where the AGSOC differs from a typical Alaska business corporation organized under Chapter 5 of Title 10. To the extent that these provisions do not conflict with the provisions of Chapter 5, the Alaska Business Corporations Act, Chapter 5 will apply;

Section 2 includes the corporation among those organizations eligible to receive secured loans from the Permanent Fund;

Section 3 allows the investment of surplus state funds in bonds of the AGSOC;

Section 4 exempts the AGSOC from registration under the Alaska securities laws while providing protection from fraud;

Section 5 creates a one year statute of limitations on suits brought to challenge legality of the AGSOC;

Section 6 makes the provisions regarding eligibility for stock ownership "nonseverable" in order to assure that if this fundamental section is found unconstitutional the entire law will be voided;

Section 7 makes fraud or misrepresentation in obtaining or selling shares of the AGSOC a Class C felony; and,

Sections 8 and 9 provide effective dates immediately following the Governor's signature for most of the legislation.

ANALYSIS: SECTION 1

Section 1 of the bill constitutes the primary legislative section. It creates a new chapter, Chapter 50, of the Alaska Statutes, Title 10, setting forth technical requirements for the Alaska General Stock Ownership Corporation. The Chapter is divided into nine sections dealing with creation of the AGSOC, federally required charter limitations, board of directors, notification of shareholders' eligibility, limitations on corporate liability, restrictions on application for shares, fraud penalties, corporate dividends and definitions. A section by section analysis of Chapter 50 follows.

50.010. ALASKA GENERAL STOCK OWNERSHIP CORPORATION CREATED.

This section directs the Governor to appoint nine people as the incorporators and initial board members of the Alaska General Stock Ownership Corporation. These nine people, a majority of whom must be Alaskans, will adopt corporate articles and bylaws and file with the state to create the corporation as required under the Alaska Business Corporations Act. The bill allows the appointment of some non-Alaskan directors to provide flexibility in obtaining special expertise.

The status of the general stock ownership corporation is made clear by this section. AGSOC is not and may not be considered to be an agency, instrumentality or political subdivision of the State of Alaska. This parallels the federal statute which provides that a GSOC shall be treated as a private corporation and not as a governmental unit. The section also clarifys AGSOC status in relation to other statutes by requiring that it comply with the provisions of Subchapter U of the Internal Revenue Code and the Alaska Business Corporations Act. To the extent that the AGSOC authorizing legislation is not inconsistant with Chapter 5 of Alaska Statutes Title 10, AGSOC will be subject to all the rules applicable to any other Alaska business corporation.

50.020. ARTICLES OF INCORPORATION.

Federal law requires certain charter provisions for general stock ownership corporations and these are set out as requirements for the articles of incorporation of the Alaska General Stock Ownership Corporation. Each of the subsections in .020 set forth a different requirement which must be included in the AGSOC articles.

Subsection 1 provides that the AGSOC may issue only one class of stock which impliedly must be voting common stock.

Subsection 2 provides that stock may be issued only to a certain class of individuals. The group to whom stock may be issued, a closed class of original issue shareholders, are those people who fulfill two tests:

a) They were residents of Alaska, as defined by the definition Section .900, as of the effective date of the legislation which, under Section 8 of the bill, will be the day following the Governor's signing; and,
b) They remain residents of Alaska until the shares are issued.

50.900 defines resident as a person who lives in Alaska and intends to remain here permanently. The definition allows for temporary travel or employment outside without loss of residency. If a dispute arises over residency all of the facts and circumstances indicative of permanent residency must be considered.

Subsection 3 provides that at least one share of stock must be issued to each eligible resident unless that person elects within one year not to receive the stock. The legislation contemplates issuance of shares to eligible individuals free of charge with corporate investments financed entirely with borrowed funds. The one year period allows shareholders who do not wish to receive stock for whatever reason to reject their share, but this election not to receive stock is irrevocable and once made may not be changed.

Subsection 4 provides for limitations on the transferrability of the stock so that shares may not be sold or used as security for a loan during the first five years unless the shareholder dies or moves out of the state. Shares may only be transferred to another Alaska resident and then only if that person would not own more than ten shares of AGSOC stock after the transfer. Corporations and other artificial persons may not be shareholders. Finally, in order to protect minors, shares may not be transferred until the shareholder reaches 18.

Subsection 5 provides that the corporation shall qualify as a general stock ownership corporation subject to the special tax provisions of Subchapter U of the Internal Revenue Code.

Subsection 6 provides for a limitation on investments which the corporation may purchase. The corporation may not invest in assets acquired by it or for its benefit through the power of eminent domain. This is not to imply that the AGSOC has the power of condemnation since that power may be exercised only by the government. The limitation is designed to prevent the AGSOC from acting in collusion with an agency or local government to acquire a going business from an unwilling seller. It is not intended to prevent the purchase at arm's lenght of a business where a portion of the seller's assets may have been acquired by condemnation. The AGSOC would not be prevented from investing in a project where some minor portion of the assets must be acquired through eminent domain is the State or local government determines that the exercise of its condemnation power is appropriate. Such a situation might occur should the AGSOC become involved in the construction of a major pipeline.

Subsection 7 provides the AGSOC with a right of first option to purchase, at a price not less than book value, any stock offered for sale during the first five years of the corporation. The terms and conditions for exercise of this right will be set forth in detail in the corporate bylaws and a notice of the restriction will appear on the stock certificates or receipts.

The five year period for the right of first option parallels the time during which shareholders are prohibited from selling their stock. Only a limited number of shares will become available for sale during this period of time and it is unlikely that an organized market for AGSOC stock will develop during this period. Discretion is left with the corporation to pay prices higher than book value for the stock, but it is likely that the directors will determine that book value is the appropriate price.

Since shareholders who become non-residents during the five year period of transfer restrictions may be able to sell their stock at a high price in an uncontrolled market emigration might be encouraged. The option by the corporation provides a controlled market during the transfer restriction period and allows time to structure the full public market which will develop after the transfer restrictions lapse.

50.030. BOARD OF DIRECTORS.

This section sets out the provisions for AGSOC directors which differ from those applicable under Alaska Statutes Title 10, Chapter 5. The nine incorporators serve as the original board of directors and are divided into three groups in accordance with AS 10.05.186, except that only one-third of the directors will stand for election at the first annual meeting, one-third at the second annual meeting and one-third that the third annual meeting. Thereafter each director will serve for a term of three years as provided in AS 10..5.186. None of the other provisions of the Alaska Business Corporations Act regarding directors are changed and the normal rules of Chapter 5 apply to the AGSOC.

50.040. NOTIFICATION OF ELIGIBLE SHAREHOLDERS.

Since stock is to be distributed free of charge all Alaska residents must be notified of its availability. This section sets out the minimum notice requirements of weekly broadcast and publication for at least three months before stock distribution and monthly broadcast and publication for eleven months after distribution. These are minimum requirements only and the board of directors may determine that the corporation should take other steps to identify and notify potential shareholders. The AGSOC might want to compile mailing lists from various sources to develop a list of potential shareholders while in the bush it might be appropriate for it to hire census personel to locate and identify eligible Alaskans.

50.050. CORPORATION NOT LIABLE TO SHAREHOLDERS.

This section makes it clear that although the AGSOC is required to take reasonable steps to notify potential shareholders of their right to stock the burden of applying for stock lies with the resident and the corporation is not liable for failure to notify or issue stock to a potential shareholder. If a resident makes application for stock after the distribution of one or more dividends he looses his right to those dividends and is entitled to receive only those dividends declared and paid after the date upon which his stock was issued to him.

50.060. LATE APPLICATION FOR SHARES.

The legislation provides that stock is to be issued to all qualifying residents and the corporation directed to use reasonable efforts to identify potential shareholders. The burden of application is upon the resident. Those residents who are identified or who identify themselves will have one year in which to elect not to receive stock. To protect against those eligible residents who are not identified and fail to identify themselves hoping to see how the corporation fares before applying for their stock, a final cutoff date is provided after which distributions of stock will be made only upon payment to the corporation of book value.

50.070. PENALTIES FOR MISREPRESENTATION OF ELIGIBILITY AS SHAREHOLDER.

This section provides a civil right of action against individuals who obtain stock through fraud or misrepresentation and who sell stock on the same basis. It allows the stock to be voided, dividends to be recovered with interest and costs of the suit to be paid by the defendant.

50.080. DIVIDENDS OF THE CORPORATION.

Under the rules of the Alaska Business Corporations Act a corporation may pay dividends only out of earned surplus, the retained earnings of the corporation. Since the AGSOC is required by federal law to distribute 90% of its taxable income to its shareholders on an annual basis is may be necessary to distribute a dividend in excess of earned surplus. Such a situation can arise because accounting for tax purposes and for purposes of the corporation's books may not and are not required to be the same. For this reason an exception to the general rule of Chapter 5, Title 10, is required allowing the AGSOC to distribute dividends as required to meet the terms of Internal Revenue Code Subchapter U except where such distribution would cause the corporation to become bankrupt or when the corporation is already bankrupt. Bankruptcy in this situation means when the corporation is unable to meet its current obligations.

50.090. EXEMPTION FROM AS 10.05

This section exempts the AGSOC from the provisions of the Alaska Business Corporations Act which requires $1,000 of paid in capital before operation of the corporation commences.

50.100. LOAN GUARANTEE FUND.

This section establishes a fund within the Department of Revenue which is to be used to guarantee loans to the AGSOC by private lenders. This fund is intended to provide security for private credit to be used by the AGSOC for its startup expenses such as the costs of stock issue and the investigation of potential investments.

50.900. DEFINITIONS.

This section defines the terms used in Chapter 50. Especially important is the definition of resident since that definition will determine who is eligible to receive AGSOC stock without charge.

KELSO & CO.
INCORPORATED
INVESTMENT BANKERS

GREENSBORO, N.C. SAN FRANCISCO LOS ANGELES

July 24, 1979

The Honorable Jim Duncan
Chairman
Legislative Budget & Audit
Committee
State of Alaska
State Capitol
Pouch WF
Juneau, Alaska 99811

SUBJECT: Modification of Our Proposal to the Budget & Audit Committee of the State of Alaska dated June 12, 1979

Dear Mr. Chairman:

In conversations that have taken place between you and several of your colleagues and officers of this firm since our proposal letter to you of June 12, 1979, (the "Interim Work Proposal"), you have indicated to us that the budgetary funds available for interim work on the AGSOC project are of a smaller magnitude than those contemplated by our Interim Work Proposal; that the Budget & Audit Committee wishes to see the scope of our work limited to the three basic areas mentioned below, and that the Committee would like a more detailed description of the scope of work envisaged in each of these three specific areas. A reduction in our charges for the diminished scope of work would, of course, follow.

ALLOCATION OF SPECIFIC COST ESTIMATES TO SPECIFIC ITEMS IN THE WORK PROJECT

In our Interim Work Proposal, at Pages 9 and 10, we stated:

> "In our preliminary discussion of this proposal with members of the Alaskan Legislature and staff members on June 11-13, 1979, it was emphasized that it would be desirable for us to suggest separate fee amounts for each of the work items in the proposal. We think that this is not feasible because of the nature of the work proposed.
>
> None of the tasks specified herein is a finitely-bounded work project. Rather, each is in the nature of bridge work to connect the primary work done so far with the more advanced status of the project that can be presented to the next session of the Alaska Legislature. It is momentum-maintaining work; it is work that advances necessary preparations to the launching of AGSOC if the

pending legislation becomes law and by its very nature can save many times its cost in avoiding future AGSOC start-up delays."

On careful reexamination and discussion of this problem among the senior officers of our firm, we are still of the opinion that there is no way to identify particular steps in any of the areas of work proposed and to affix fee estimates to those steps. Rather, we propose controls in the nature of bi-weekly progress reports to the appropriate representative of the Alaska Legislature and its Budget & Audit Committee, with our commitment to respond to any suggested changes in direction or emphasis of the work, and, of course, implicitly the right of the Committee's representative to terminate our work on any payment date if it appears unsatisfactory.

We still believe these controls to be the only realistic ones that can be designed for the type of work involved. We could bill the Legislature retrospectively, following each bi-weekly report, but this would render the entire project excessively speculative, preventing our employing subcontractors or consultants, and placing burdens on our working capital which we are not prepared to assume.

We hope that the quality of our work under our previous contract has given the Legislature and the Budget & Audit Committee some measure of confidence in our integrity.

ADDITIONAL DETAILS -- ANALYSIS, CATALOGING AND EVALUATION OF FINANCING SOURCES

The research under this category must be correlated to the research under the category of "DEVELOPMENT OF TYPES OF POTENTIAL INVESTMENT OPPORTUNITIES TO AGSOC". For each type of potential investment, we would expect to identify the potential financing sources, to evaluate the feasibility of success in obtaining financing, or portions of the financing, from each such source, and to analyze the implications of reliance upon such financing sources.

We would include within the scope of our analysis each potential financing source and our estimate of the limits of funding available from each source for each particular type of investment. Political and economic side-effects of the use of each particular financing source would be studied and the conclusions and relevant observations would be included in our report.

All known conventional sources, including banks, insurance companies, and other private suppliers, as well as all public sources, both within and without the State of Alaska would be studied. Each of these would be analyzed in the light of potentially available collateral or security or guarantee arrangements, and the effects upon interes costs would be estimated.

Unless objected to by the Committee or its representative, we would explore the levels of resistance which might be encountered in seeking unprecedented sources for financing, such as arranging, through legislative changes if necessary, for the discount of AGSOC loan paper with the Federal Reserve Bank.

All tactical information developed in the course of these studies would be carefully cataloged for use by AGSOC at such time as it needs financing.

FURTHER DETAILS -- LAYING THE FOUNDATION FOR WORKING WITH THE 1980 FEDERAL CENSUS IN ORDER TO DEVELOP A STOCKHOLDER CONSTITUENCY DATA BASE

Because the printing of questionnaire forms for use in the 1980 United States census has already begun, this is an area of great urgency. Preliminary conversations with census officials indicate little precedent for enlarging the activities of census workers to include what will be basically State-oriented data. Nevertheless, a willingness to explore the administrative rulings and procedures necessary to enable the collection of data which would be vital to AGSOC in building its stockholder identification base has been evidenced. All relevant legislation, administrative regulations, and judicial precedents will of necessity be reviewed simultaneously with the carrying on of conferences both at the regional and national levels of the Bureau of the Census.

It is clear that the data for AGSOC purposes must be of a higher order than that required for census purposes, since a flow of funds and allocation of liabilities between AGSOC and its stockholder constituencies will be involved, whereas no such relationships arise out of the national census as such.

Only the initiation and diligent prosecution of this work can throw light on more of the details that will be encountered.

FURTHER DETAILS -- DEVELOPMENT OF TYPES OF POTENTIAL INVESTMENT OPPORTUNITIES FOR AGSOC

This work will involve not only an analysis of the Alaskan economy and its total range of potential investment opportunities, but interviews with those whose long involvement in the Alaskan economy has given them a familiarity with facets of the economic structure unique to them or beyond the range of imagination of the analyst lacking such particularized experience. Certainly numerous repositories of information bearing on identification of the types of potential investment opportunities for AGSOC exist throughout departments and agencies of the State Government, the Federal Government in Alaska, and State and private universities and research centers. We will undertake, to the extent that the time available permits, to ferret out every type of such investment opportunity and evaluate it in terms of its priority and its implications for the orderly economic development of Alaska.

SPECIAL NOTE CONCERNING CONFERENCES WITH THE SECURITIES AND EXCHANGE COMMISSION

On Pages 8 and 9 of our Interim Work Proposal of June 12, 1979, we outlined our basis for believing that we should develop a working relationship for AGSOC with the Securities and Exchange Commission. The Committee proposes that this be one of the subjects eliminated from the presently proposed contract. In earlier discussions, someone mentioned the possibility that the Washington law firm of Wilmer, Cutler & Pickering might be employed, possibly by the Budget & Audit Committee, to discuss AGSOC with the Securities and Exchange Commission. That firm, because of its previous research on this subject for the Commissioner of the Department of Revenue, would, of course, be eminently qualified to negotiate the anticipated status of AGSOC's securities under the Federal securities laws.

We would like to reemphasize, however, that the theory of capitalism appears, for whatever reason, to be extremely difficult for lawyers and economists steeped in the conventional wisdom to totally master. We would, as a matter of precaution, rest easier if we participated, to whatever degree necessary, in such negotiations to make certain that the nature of AGSOC is fully understood by the representatives of the Securities and Exchange Commission. The decision on this, of course, lies with your Committee.

Since the scope of the work has been reduced, it is elementary that the overall fee should be reduced. To give us sufficient funding to enable us to make a significant contribution to foreshortening the time and work required upon passage of the AGSOC legislation before AGSOC can become an active force, we hope that the overall fee will not be reduced below $150,000. If that funding were available, we would suggest that the payment pattern set forth in our original proposal of June 12, 1979, be modified -- both because of the reduction in the fee and the passage of time -- into a retainer of $25,000 on the first day of August, 1979, and a like amount on the first day of each of the ensuing five montns during the term of the contract.

Please do not hesitate to call the undersigned or Mr. John Miskimen of this firm should there be further questions.

Yours truly,

KELSO & CO., INCORPORATED

By _____
Louis O. Kelso, President and
Chief Executive Officer

LOK:cae

KELSO & CO.
INCORPORATED
INVESTMENT BANKERS

GREENSBORO, N.C. SAN FRANCISCO LOS ANGELES

June 19, 1979

The Honorable Jim Duncan, Chairman
Legislative Budget and Audit Committee
State of Alaska
Capitol Building
Pouch W F
Juneau, Alaska 99811

Dear Mr. Chairman:

RE: PROPOSAL TO UNDERTAKE AND EXECUTE SUPPLEMENTARY INTERIM WORK RELATING TO THE PROPOSED ALASKA GENERAL STOCK OWNERSHIP CORPORATION (THE CREATION OF WHICH IS THE SUBJECT OF S.B. NO. 170 AND H.B. NO. 240 IN THE STATE OF ALASKA ELEVENTH LEGISLATURE--FIRST SESSION) RELATING TO SEEKING CONGRESSIONAL IMPROVEMENT OF THE TAX POSITION OF CITIZEN-STOCKHOLDERS OF AGSOC UNDER FEDERAL PERSONAL INCOME TAX LAWS; DESIGNING AND DEVELOPING A PROPOSED MANAGEMENT STRUCTURE AND MANAGEMENT PROCEDURES FOR AGSOC; SEEKING CLARIFICATION AND FAVORABLE TREATMENT OF THE ULTIMATE SECURITIES ACTIVITIES OF AGSOC BY THE SECURITIES AND EXCHANGE COMMISSION; EVALUATING FOR THE BUDGET AND AUDIT COMMITTEE OF THE HOUSE OF REPRESENTATIVES OF THE STATE OF ALASKA THE DESIRABILITY OF CONGRESSIONAL AMENDMENT OF SUBCHAPTER U OF THE INTERNAL REVENUE CODE SO AS TO PERMIT MULTIPLE CLASSES OF STOCK TO BE ISSUED BY A GENERAL STOCK OWNERSHIP CORPORATION IN ORDER PERIODICALLY TO EXTEND ITS STOCKHOLDER BENEFITS TO NEW CATEGORIES OF RESIDENTS, TO HAVE STOCK THAT WOULD BE ELIGIBLE FOR AN EMPLOYEE STOCK OWNERSHIP PLAN, AND IF A FAVORABLE DECISION THEREON RESULTS, UNDERTAKING TO PERSUADE CONGRESS TO INITIATE AND ADOPT SUCH AMENDMENT; INITIATING LIAISON WITH THE UNITED STATES BUREAU OF CENSUS IN ORDER TO TAKE MAXIMUM ADVANTAGE OF ITS ACTIVITIES PRELIMINARY TO THE 1980 FEDERAL CENSUS TO INITIATE BUILDING THE DATA BANK OF RESIDENTS OF ALASKA QUALIFIED TO BECOME STOCKHOLDER CONSTITUENTS OF AGSOC AND TO PROGRESS THE BUILDING OF SUCH DATA BANK, ON THE BASIS OF THE DEFINITIONS OF "QUALIFIED RESIDENT" IN SAID

PENDING STATE LEGISLATION; CONDUCTING A BROAD INVESTIGATION OF POTENTIAL TYPES OF INVESTMENT OF AGSOC AND PREPARING A CATALOG THEREOF; AND INITIATING AND COMPLETING A DEFINITIVE ANALYSIS OF THE DETAILS OF THE PENDING STATE LEGISLATION AND MAKING SUCH RECOMMENDATIONS THEREON AS MAY SEEM JUSTIFIED.

From information we have gathered in the course of our work pursuant to our now completed contract with the Legislature of the State of Alaska and our continued close liaison with representatives of the Legislature of the State of Alaska and the office of the Attorney General of Alaska, we think it safe to venture the assertion that no legislation ever to come under consideration by the Legislature has received more intensive and broad-gauge analysis and scrutiny than the legislation dealing with AGSOC. This is entirely fitting in view of the enormous potential significance of AGSOC to the economic and political wellbeing of the citizens of the State of Alaska. Nor can such meticulous care and consideration fail to benefit others beyond Alaska who, it seems probable, will seek to follow in the pioneering footsteps of the Alaskan Legislature.

Much has been accomplished through the study by legislators, by their staffs, by the sizable group of witnesses who have appeared before various Committee hearings, and by consultants in responding with analytical efforts and with proposed modifications to the pending legislation in the course of a year's thoughtful consideration of the AGSOC legislation.

However, the vast work done to date has raised almost as many questions as it has provided answers, and unremitting and painstaking work must continue to be done if the Legislature of the State of Alaska, upon convening its next session in January, 1980 is to have before it an AGSOC bill upon which it can act with confidence and with a minimum of doubts that any critical areas have been left unexplored.

In this proposal, we urge the State of Alaska to employ our firm, together with such subcontractors and consultants as we may, with the approval of the designated representative of the Budget and Audit Committee of the State of Alaska, employ to undertake and complete, (or complete so far as possible), a number of activities aimed at answering these unanswered questions and providing the Legislature with the basic analytical material to resolve most of the unresolved doubts.

Many trends in the economy of Alaska, of the United States, and in the field of international economic relations have developed during recent months that suggest greater urgency in avoiding loss of momentum in the AGSOC project. The importance of the energy resources of the State of Alaska have gained an even more awesome significance to the future of America. Regulatory confusion in the energy field has increased in complexity. The precariousness of the continued viability of the U. S. economy, as it is presently structured, has become more doubtful. The pace of nation-debilitating inflation has quickened. The willingness of Federal leadership to use further inflation-creating stimuli to cut unemployment meets rising opposition in the form of taxpayers' revolts. The needs for economic leadership and to clarify economic policy considerations--to which the Legislature of the State of Alaska can make major contributions with the launching of a carefully designed AGSOC--has risen to preeminence in the minds of many Americans.

The 95th Congress of the United States, in enacting Subchapter U of the Revenue Code of 1954, as amended, went further in recognizing the need for a new economic policy built upon broader ownership of capital than anyone with historical perspective could have confidently anticipated. Nevertheless, Subchapter U in its present form accomplishes only part of the necessary changes in our basic approach to financing business enterprise and facilitating individual acquisition of capital ownership that are necessary in order to construct a rational economic policy. While it is feasible, in certain highly productive investments, to so design financing structures that stockholders, or beneficial stockholders can buy productive capital and pay for it, both principal and interest, in after-personal-income-tax dollars, it is not in the interest of either State or Federal governments, nor certainly in the interest of accelerating the virtually dormant economic growth rate of our economy, for them to do so. The proof of this lies in the great success of ESOP financing. In that technique, which, like the AGSOC, is based upon the theory of capitalism, or two-factor economics, the employee has access to credit through which we can buy stock representing productive capital and pay for it, both principal and interest, in pre-corporate-income tax dollars from the return on invested net worth of the shares purchased, and defer personal taxation, normally to his retirement date. Clearly what is needed is to recognize that the purchase of capital under arrangements that make it possible to pay for it out of what that capital produces is, in reality, not an income transaction at all. Thus, it is of major importance to pursuade

Congress to eliminate personal income tax liability upon stockholders of a General Stock Ownership Corporation as to all yield of the underlying capital applied to amortization of the purchase price, both principal and interest, and to do so permanently. The sooner the ownership of productive capital can begin producing added income for the new stockholder, the faster the income tax base grows, both for the Federal and State governments.

SUMMARY OF PRINCIPAL COMPONENTS OF WORK CONTEMPLATED BY THIS INTERIM PROPOSAL FOR THE LEGISLATURE OF THE STATE OF ALASKA DURING THE PERIOD JUNE 15 THROUGH DECEMBER 15, 1979

While our work on the AGSOC project for the State of Alaska has continued, at reduced speed, since the completion of that agreement upon delivery of our final report thereunder in January, 1979, we propose herein that the Legislature of the State of Alaska employ us to marshall the necessary manpower and talents to accomplish, between June 15, 1979 and December 15, 1979, under the direction of such representative of the Legislature of the State of Alaska as the joint Budget and Audit Committee of the State may designate, the following work projects for the purpose of supplementing and extending the preparatory work accomplished by the Eleventh Legislature of the State of Alaska, First Session, and by its consultants, including ourselves, towards establishing the Alaskan General Stock Ownership Corporation and in due course, if the legislation becomes law, enabling it to acquire significant productive capital ownership.

Analysis, Cataloging and Evaluation Of Financing Sources

In the debates and discussions that took place during the Eleventh Legislature, First Session, both within the Legislature and between the Legislature and the Office of the Governor, the sources for financing the acquisition of capital assets for AGSOC of such magnitude as to be significant to the State's economy, were a major subject. In modifying the initial AGSOC bill, as first introduced, several restrictions were imposed upon the economic resources and power of the State itself and of its agencies.

It is critical now that realistic sources and methods for financing the acquisition of major capital assets by AGSOC be identified, and that the means by which such financing sources can be induced to participate be determined. We would undertake to analyze and catalog these sources, to evaluate them, and to generate strategic and tactical approaches with respect to each of them.

Laying the Foundation for Working With the 1980 Federal Census in Order to Develop a Stockholder Constitutency Data Base

Preparations for the 1980 United States census are already well advanced. Failure to develop, in connection with the appropriate agencies of the State of Alaska, a working relationship that will enable Alaska to take advantage of the experience and major manpower expenditures of the Federal government in accomplishing the census in Alaska would be to miss a vital opportunity to accelerate the establishment of AGSOC if the Legislature adopts the necessary legislation during the forthcoming Session. The end result would force AGSOC into making duplicating expenditures that would waste its start-up funds. Maximizing the availability of the Federal census facilities and resulting data to the building of the list of residents qualified to become stockholders of AGSOC would, if the representative of the Legislature concurs with our views on this, be given the highest priority.

Development of Types of Potential Investment Opportunities for AGSOC

From our work in connection with AGSOC to date, we are well aware that it would be counterproductive, until AGSOC becomes an operating and functional reality, to investigate, evaluate, or initiate probing activities with respect of any particular investment opportunity for AGSOC.

At the same time, it is clear that a careful review of the types of investment opportunities that will be open to AGSOC is indispensible to a consideration of the feasibility and an estimate of the time that will be required to activate AGSOC once it is brought into existence. Our study would take into consideration all aspects of particular types of available investments that will be relevant and of interest to those who ultimately make and implement investment decisions for AGSOC.

Educational Efforts Directed at the Appropriate Committees of Congress and Their Individual Members, and at the United States Treasury Department and the Appropriate Officials Therein

The office of the Hon. Russell B. Long, Chariman of the United States Senate Finance Committee, estimates that there are approximately 3,000 Employee Stock Ownership Plans operating in the United States. The overwhelming evidence is that these financing techniques bring about spectacular improvements in the productivity, profits, sales, increase in net worth, and even income tax payments of the companies that adopt them. The ESOP is a double tax shield: it gives employees access, through

credit, to the pre-corporate-income tax return on net worth of the shares that the employees have purchased through their ESOP in order to pay principal and interest on the debt incurred to make such acquisition. At the same time, the ESOP is a tax shield against current, year-to-year taxation of employees while they are accumulating viable capital estates. Federal tax law, however, is still flawed with respect to ESOPs: it taxes the employee when his portfolio (or its cash equivalent) is removed from the ESOP trust. This is simply evidence of the historical confusion resulting from the use, pioneered by our firm, of "deferred compensation" legislation for purely financing purposes, i.e., the purchase of capital assets and the payment of the purchase price out of the income thus produced. Legislation to correct that defect was introduced into the 54th Congress by U. S. Congressman William Frenzel (from Minnesota) and its introduction, we are informed, is planned again in the current Congress by Senator Long. Opposition to the last mentioned tax aspect, namely the limination of personal income taxation upon taking possession of the capital accumulation as it is released from the trust, has been presented by the United States Treasury on the ground that it would cause an excessive loss of revenue to the Federal government. We have accumulated a great deal of evidence to the contrary, however, demonstrating that the Federal Government derives a net benefit from raising the productiveness and incomes of consumer units by equipping them with productive capital.

Virtually all of the estimated 3,000 or so ESOPs now in existence have been adopted since 1970 when the firm of Kelso & Co., Incorporated was organized. The ESOP functions by giving employee-participants (who become, through the ESOP trust, beneficial stockholders of their employer) access to the corporate pre-tax return on invested net worth of the shares which are allocated to their accounts to pay for the stock which they have bought. Furthermore, the ESOP defers (usually until the participant's retirement) taxation on the sums applied to amortization of acquisition debt. Thus the value of the stock received from the ESOP trust is partly taxable as ordinary income and partly at capital gain rates. Even this "deferred taxation" is the result of an historical accident. In seeking to apply the theory of capitalism to the practical financing problems of a business corporation in such manner as to build the ownership of newly formed capital, or newly acquired capital assets, into employees as those assets pay for themselves in pre-corporate-income tax dollars, it was expedient to use Section 401(a) of the Internal Revenue Code as a financing device, even though it was originally

intended only to provide "deferred compensation." Thus, the theory of capitalism, as applied to employee stock ownership plans, is not yet perfected to its ultimate efficiency, and will not be so until an employee, upon retirement, can take his portfolio of stock (or its cash equivalent) out of the ESOP trust without tax consequences, so long as he keeps it invested in productive capital which will help to make him a better income tax payer, and a better customer for business.

This same logic is applicable to the General Stock Ownership Corporation legislation set forth in Subchapter U of the Internal Revenue Code, as the result of amendments adopted in the Revenue Act of 1978. However, the citizen-stockholder of a general stock ownership corporation is not yet as well off as an employee beneficial stockholder under an ESOP: for this letter has what is allegedly his "income" applied to the amortization of debt incurred to finance stock acquisition deferred, whereas the citizen-taxpayer under a general stock ownership corporation is taxed currently on that part of the corporation's income applied to the retirement of principal of debt incurred in acquiring capital investments.

Clearly, it is of the greatest urgency that the appropriate committees of Congress and their respective members, as well as the Department of Treasury and its appropriate officials, be educated to understand the logic of two-factor economics in order that the impact of AGSOC, once it is activated, not be slowed for years by the stretch-out of debt retirement resulting from the intervention of personal income taxes while the citizen taxpayer is purchasing his AGSOC stock.

We would concentrate our attention during the period covered by this proposal, either on bringing about the amendment of the GSOC legislation, or laying the foundation for its early amendment in the next session of this Congress. The end result, if we are successful, as we are confident we can be, will be a vast advance in the time when AGSOC can become income-significant to the people of Alaska, as well as to the tax collectors in governments at all levels.

Development of Organizational Structure and Procedures for AGSOC

It has appeared to us that many of the questions raised about the future operations of AGSOC have resulted from the fact that little attention has been, or up to this point could be, devoted to developing and defining concretely a proposed rational

management structure for AGSOC and operations procedures to enable it to accomplish the various tasks which it is expected to accomplish by the pending legislation. Under this proposal, working with management consultants approved by the representative of the Legislature, we would seek to define and design and appropriate management structure for AGSOC and operations procedures that can be readily adapted to it or adopted by its management to facilitate its accomplishing its various functions, including building its data-base, its identification and evaluation of investments, and its arranging for the financing of their acquisition; its establishment of escrow accounts for each of its stockholders; its organization of a trust department (or in the alternative its employment of a professional trustee) for the handling of its stockholder accounts, its dividends, its notifications to stockholders; it calling of meetings of its board and of its stockholders, etc.

Establishing an Acceptable Working Arrangement With the Securities and Exchange Commission With Respect to Reporting of Activities; Avoiding or Simplifying Registration, Etc.

AGSOC will, in all probability, be the first general stock ownership corporation to make its appearance on the American financial stage. The securities laws of the United States were not designed to cope with such a corporation, even though it is defined by law as a private for-profit corporation, because its stock, through the proposed legislation, will be under many controls and restraints which do not apply to ordinary business corporations or their securities.

We would undertake as part of our work assignment during the forthcoming six-month period, under close liaison with the representative of the Legislature and with the Budget and Audit Committee and any other agencies of the State or consultants of the Legislature whom the Budget and Audit Committee may deem appropriate, the initiation and progressing of a dialogue with the regulatory and enforcement divisions of the Securities and Exchange Commission, looking toward the evolution of procedures to assure that the interests guarded by the securities laws will be protected, while avoiding unnecessary bureaucratic procedures that are not appropriate to a general stock ownership corporation.

The end result of this effort should enable AGSOC to fully live up to the expectations of the Securities and Exchange Commission from the moment that it becomes operational, and at the same time should enable the Securities and Exchange Commission to understand and to know what to expect from a general stock ownership corporation such as AGSOC. Many months of delays in the future, when such

delays could be extremely costly, can, we are confident, be avoided by these efforts during the intervening months before the next session of the Eleventh Legislature of Alaska is convened.

Time of Performance

Our work under this proposal would, if agreeable to the designated representative of the Legislature, commence promptly upon the granting of a contract between this firm and the Budget and Audit Committee of the Legislature, and final reports would be delivered to the Legislature on or before December 15, 1979. We would, of course, as we have during the past five and one-half months of 1979, although our work under our previous agreement was concluded at the end of 1978, be prepared to explain, execute refinements of our work, and to cooperate with the needs of the Legislature in going forward with the A egislation.

Our Proposed Fee for Services

We would propose that upon the granting of a contract pursuant to this proposal, we be paid a retainer fee of $35,000, and that we be paid on or before the 15th day of each month during the contract period, beginning with July 15 and concluding with December 15, 1979 a similar sum, for an aggregate payment of $245,000. This fee would cover not only the services of our own personnel, but our out-of-pocket travel, computer time, and miscellaneous expense (which we estimate at approximately $3,000 per month) and the fees and expenses of subcontractors and consultants employed with the consent and approval of the representative of the Budget and Audit Committee for the purpose of executing in full the work program contemplated by the proposal.

In our preliminary discussion of this proposal with members of the Alaskan Legislature and staff members on June 11-13, 1979, it was emphasized that it uld be desirable for us to suggest separate fee amounts for e.. n of the work items in the proposal. We think that this is not feasible because of the nature of the work proposed.

None of the tasks specified herein is a finitely-bounded work project. Rather, each is in the nature of bridge work to connect the primary work done so far with the more advance status of the project that can be presented to the next session of the Alaska legislature. It is momentum-maintaining work; it is work

that advances necessary preparations to the launching of AGSOC if the pending legislation becomes law and by its very nature can save many times its cost in avoiding future AGSOC start-up delays.

We propose to deliver progress reports at 15-day intervals to the representative of the Legislature and its Budget and Audit Committee designated as our liaison if our proposal is accepted. If, as a result of these reports, it is desired that the emphasis we are giving to each portion of the work be changed, we will respond accordingly upon request.

Should the aggregate funding for this project be less than suggested herein, we would suggest that the seven installments be equally reduced to stay within the available budgeted goals as we can, within such budgetary restraints. Needless to say, we are open to your suggestions on all aspects of the matters covered by this letter.

We will, of course, be pleased to respond to any and all questions relating to this proposal. If you decide to proceed with the contract proposal herein outlined, please provide authorization hereof through signatures by officers authorized to obligate the state, and by delivery to us of a retainer check in the sum of $35,000.

There is no task that we look forward to with greater pleasure than that of assisting the Alaskan General Stock Ownership Corporation not only to become a reality, but to be an enterprise that is prepared and has been so thoroughly equipped in advance to cope with its challenges that it will set a performance record that will not soon be broken.

KELSO & CO., INCORPORATED

By Louis O Kelso
Louis O. Kelso, President
and Chief Executive Officer

co

AGSOC

Alaska State Legislature

House of Representatives

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REPRESENTATIVE JIM DUNCAN
CHAIRMAN
BUDGET & AUDIT COMMITTEE

MEMBER
FINANCE COMMITTEE

August 14, 1979

The Honorable Mike Gravel
United States Senate
3131 Dirksen Senate Office Bldg.
Washington, D.C. 20510

Dear ~~Senator Gravel~~ Mr. Gravel:

I am taking this opportunity to inform you of our interim AGSOC work. Currently, we have two contracts in effect. The first of these is with Wilmer, Cutler & Pickering. The scope of their work is as follows:

1. Review federal securities law problems that would be raised by the proposed AGSOC legislation and initiate discussion with the federal Securities and Exchange Commission in accordance with recommendations set forth in Wilmer, Cutler & Pickering memorandum dated November 2, 1978.

2. Review federal tax problems that might arise in implementing the proposed AGSOC legislation including any federal tax problems that might occur upon initial distribution of shares. Initiate appropriate discussions with the Treasury Department and/or Internal Revenue Service and submit a federal tax ruling request if necessary to confirm the federal tax consequences of the AGSOC proposed legislation.

Our second contract is with Louis Kelso, who will provide the following services:

1. Development of potential investment opportunities for AGSOC. Analyze the Alaska economy and its total range of potential investment opportunities and evaluate those investment opportunities for their relative significance to the State's

economy against a criterion of maximum return to stockholders.

2. Analysis, cataloging and evaluation of financing sources. Correlate with each of the findings of Task I (Development of Potential Investment Opportunities for AGSOC) the potential financing sources and estimate the limits of funding available from each source, considering potentially available collateral or security and/or guarantee arrangement and estimate the effects upon interest costs.

We anticipate either extending one or both of these or contracting for further AGSOC research.

Please call if you have any questions or suggestions concerning this interim project.

Respectfully,

Jim Duncan

JD:jp

file w/ AGSOC

(during 1st S.A. meeting) on AGSOC, however, we should consider these changes?

Rep. Miller

WILMER, CUTLER & PICKERING

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ROBERT G. WILSON
JUDITH BARRY WISH
ROBIN M. WITTEN

September 17, 1979

RECEIVED
SEP 21 1979
BUDGET/AUDIT
COMMITTEE

Representative James Duncan
Chairman, Legislative Budget
and Audit Committee
Alaska Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Duncan:

I enclose a memorandum for your Committee on the federal tax and securities law issues raised by Senate Bill No. 170. The memorandum suggests several possible changes in S. 170 in order to facilitate the necessary federal action. Consistent with our contract with you of June 1, 1979, we have focused mainly on the securities and tax issues and have not attempted a review from the standpoint of constitutional questions or corporate law. However we have, in Section III of the memorandum, questioned the desirability on constitutional grounds, of the waiting period for eligibility under S. 170 and suggested an alternative.

Finally the memorandum outlines the approaches we recommend to the IRS and SEC. We would be grateful for your reaction to the memorandum and authorization to begin preliminary discussions with appropriate IRS and SEC officials. In the interest of time, we have begun drafting submissions to the two agencies along the lines proposed in our memorandum.

Sincerely,

Samuel A. Stern

Samuel A. Stern

cc: Mr. Dale E. Staley

WILMER, CUTLER & PICKERING
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September 14, 1979

MEMORANDUM FOR THE LEGISLATIVE
BUDGET AND AUDIT COMMITTEE, STATE OF ALASKA

Subject: Proposed CSSS Senate Bill No. 170:
Federal Tax and Securities Laws Issues
and Suggested Approaches

You have asked us to review pending legislation[1/] permitting the establishment of an Alaskan General Stock Ownership Corporation ("AGSOC") in conformance with the recently enacted Subchapter U of the Internal Revenue Code.[2/] We have considered issues which may arise under the federal tax and securities laws in connection with this legislation, having previously, in our memorandum of November 2, 1978, for the Alaska Commissioner of Revenue, treated the securities law issues. This memorandum summarizes those issues, identifies optional approaches to resolution of certain problems, and identifies sections of S. 170 which you may wish to consider revising in order to facilitate regulatory approvals. We also propose an

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1/ CSSS Senate Bill No. 170, introduced as amended April 27, 1979. (Hereafter "S. 170").

2/ 26 U.S.C. §§ 1391-97, eff. November 6, 1978.

approach for our presentations to the Internal Revenue Service ("IRS"), and the Securities and Exchange Commission ("SEC") to facilitate the creation and operation of AGSOC in conformity with the federal regulatory provisions administered by those agencies.

I. SECURITIES REGULATION OF AGSOC

Our firm's Securities Law Memorandum of November 2, 1978, indicated that AGSOC will potentially be subject to provisions of three of the federal securities laws: the registration provisions of the Securities and Exchange Act of 1933 (the "1933 Act"); the registration, reporting, and proxy rules of the Securities Exchange Act of 1934 (the "1934 Act"), and the registration, conduct regulation and disclosure requirements of the Investment Company Act of 1940 (the "1940 Act").

S. 170 poses no securities regulation problems beyond those raised in our earlier memorandum.[3/] Because the statute is an adaptation of general corporation law,

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3/ However, we do recommend herein minor modifications to S. 170 to facilitate conformance with the intrastate exemption to the 1933 Act.

it does not deal with most of the subject areas which are likely to concern the SEC: particularly disclosure of risks to potential shareholders, periodic reports on financial condition, the administration of the "ballot" mechanisms, and fiduciary duties of officers and directors. Moreover, our initial approach to the SEC will be made at a time when the final form of the AGSOC has not yet been determined. For example, the question of the appropriate basis for exemption from the registration requirements of the 1933 Act must await a final decision as to whether payment of consideration will be required of Alaska citizens who wish to acquire AGSOC shares.[4/]

4/ We presume that an initial free issuance is preferred if we are able to obtain a ruling from the IRS that a tax will not be imposed upon citizens who receive shares. However, AGSOCA provides in Section 10.50.080 that

> "Shares may be issued without consideration or for consideration fixed by the shareholders before issuance. Consideration for shares shall be fixed by a vote of a majority of the shares voting on the issue."

This provision appears to suggest that AGSOC may charge consideration for shares only after the initial distribution as no shareholders will exist until then to fix the consideration. This point should be clarified if an initial charge for shares is contemplated. If you wish to leave the option open, Section 10.50.075 could be amended to read: "Shares may be issued without consideration or for consideration fixed by the Board of Directors before issuance."

We propose to present to the SEC a briefing memorandum describing the proposed AGSOC as set out in the S. 170 draft offered April 27, 1979, formally requesting a 1933 Act exemption, and requesting the commencement of negotiations to develop a modified form of 1934 Act regulation and a waiver of the 1940 Act's requirements during the first five years of AGSOC existence. We plan a preliminary presentation and discussions with the SEC prior to making detailed requests for rulings on the latter points so that we may involve them in establishing a creative approach to GSOC regulation. We hope to have received preliminary feedback from the SEC before S. 170 is passed in final form.

Provisions of the Securities Act of 1933

We believe, as we indicated in our Securities Memorandum, that AGSOC should not be subject to the registration requirements of the 1933 Act, either on the basis that an initial distribution of shares is not a "disposition . . . for value" within the meaning of Section 2(3) of the 1933 Act, or on the basis of the "intrastate exemption" provided by Section 3(a)(11) of

the same Act. We propose to argue both points to the SEC.[5/]

Even if the AGSOC shares are sold for consideration or if the SEC deems the disposition otherwise to be for value, we anticipate that we will be able to prevail on the theory that its shares are exempt from registration under the 1933 Act by virtue of the intrastate exemption in section 3(a)(11).[6/] The characteristics of offerings the SEC will deem as falling within

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5/ Of course, even if the initial distribution of shares is free of charge and thus falls within a "not for value" exemption to the Securities Act of 1933, any additional issuances which are for value would fall within the registration requirement unless they are otherwise exempt. This would include exchanges of shares for property or services as provided for in S. 170 § 10.50.085.

6/ This section exempts from registration:

> "Any security which is a part of an issue offered and sold only to persons resident within a single State or Territory, where the issuer of such security is a person resident and doing business within, or, if a corporation, incorporated by and doing business within, such State or Territory."

Section 3(a)(11) are described in non-exclusive Rule 147 (17 C.F.R. § 230.147).[7] The rule requires that both the purchasers of the securities and the issuer have certain characteristics to ensure that both are truly residents of the state and that sales and resales are restricted to state residents. We believe that several minor changes in S. 170 are advisable in that they will bring the AGSOC within Rule 147 and thus simplify our task if the intrastate exemption need be relied on (either for the initial or any later issues).

AGSOC will be an Alaska corporation as required by Rule 147. Its principal place of business will probably be located in Alaska (Rule 147(c)(1)(i) and (2)(iv)), although the latter is not required by S. 170.[8] We suggest that the legislature consider

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7/ Issuers may avail themselves of the intrastate exemption even if they do not satisfy all the provisions of this rule. 17 C.F.R. § 230.147 (Preliminary Notes, p. 1). If an issue satisfies all of Rule 147's provisions, however, the intrastate exemption will apply.

8/ S. 170 § 10.50.050 requires only that the corporation maintain a "registered office" within the state.

requiring AGSOC to have its principal place of business in Alaska as this would clarify this aspect of compliance with Rule 147.

Rule 147 restrictions on sales and resales to state residents are clearly satisfied by AGSOC.[9/] The basic purpose of Rule 147's limitations on resale is to ensure that securities do not enter the interstate marketplace. It does not appear that the fact that a few shares pass by descent after five years to out-of-state holders or that former residents may retain their AGSOC shares if they leave the state after five years is so inconsistent with those principles as to upset application of the exemption.

Rule 147 also requires that the issuer's business be conducted predominantly within the state in which the securities are distributed.[10/] The gross revenues and

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9/ Subchapter U and S. 170 provide that shares may only be transferred voluntarily or involuntarily to persons who are residents of the state. 26 U.S.C. § 1391(4)(D)(ii); S. 170 §§ 10.50.320(a)(6) & 8(B). The general prohibition against transfers except by descent for five years also helps to meet the Rule 147 requirement that resales in a nine-month period after the initial distribution be restricted to state residents. S. 170 also provides that if the shareholder leaves the state or shares pass by operation of law to a non-resident, the corporation shall repurchase them at book value. S.170, Section 4(c).

10/ The issuer must derive at least 80 percent of its gross revenues from within the State and have at least

[Footnote continued on following page]

asset provisions of the rule will only be applicable to the initial GSOC distribution if AGSOC becomes operational before its shares are distributed.[11/] The use of proceeds provision will only apply if AGSOC charges for the shares, and it may be satisfied easily by segregating issue proceeds to ensure that they are spent within Alaska. If AGSOC is to acquire an asset prior to share distribution we must know what the asset is to formulate arguments that the asset and its income are "within" the State within the meaning of Rule 147 and section 3(a)(11). AGSOC will presumably be acquiring a minority participation in a joint venture as an asset. If majority control of that venture is in the hands of non-Alaskans, it is arguably not an Alaska asset. Also, income may or may not be deemed derived from within the state -- e.g., sales of oil to out-of-state corporations may be deemed non-Alaska income. Even if the initial

[Footnote continued]

80 percent of its assets within the State. Rule 147 (c)(2)(i) and (ii). It must also intend to use 30 percent of the net proceeds from sales of the issues in question within the State.

11/ Rule 147 provides that if gross revenues for the most recent twelve-month period are less than $5,000, the proceeds provision is not applicable.

distribution is of shares in a shell company, it will be necessary to examine whether AGSOC revenues can be deemed to arise from the "operation of a business or of real property within the state," with regard to subsequent issues of shares. The legislature may wish to consider so restricting the corporation in its enabling legislation.

S. 170 does not now specifically provide for procedures required by Rule 147 to ensure that the reality comports with the intent of the issuer.[12/] We recommend that the legislature amend S. 170 to provide for adequate legends on share certificates;[13/] and that

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12/ A legend on the share certificates must identify the limitations on resale and warn of the lack of registration, stop transfer instructions must be given to the transfer agent, and purchasers must be required to make written representations as to their residence. Rule 147 (b)(1). The issuer must also restrict sales of shares which are part of the same issue and make appropriate disclosures. Id. § (f)(2) and (3). S. 170 does require that eligible individuals apply for shares and that their interest will become void if it is determined that they misrepresented their eligibility. § 10.50.345-360. The SEC may wish to make rules in this regard or examine AGSOC procedures for establishing residency prior to authorizing sale or distribution without registration.

13/ S. 170 § 10.50.105 provides for extremely limited information to be contained on the certificate. We recommend that the legislature amend this section to require disclosure on the certificate of all the restraints on transfer, including the fact that shares are not transferable to non-residents.

the AGSOC provide for the application and stop transfer requirements in the articles of incorporation or the by-laws.

The Securities Exchange Act of 1934
and The Investment Company Act of 1940

As was indicated in our firm's Securities Memorandum, AGSOC does not fall within any statutory exemptions to either the 1934 or the 1940 Acts, and without special provision by the SEC, it will be required to register its securities, to file periodic reports, to comply with proxy rules, to comply with disclosure and trading rules under the 1934 Act and to file under and comply with the fiduciary standards of the 1940 Act.

The primary goals of the 1934 Act are to ensure that shareholders have adequate information concerning the financing and operations of registered companies to permit informed investment decisions, to ensure that shareholders have similar information when they are called upon to vote on corporate matters, and finally to ensure that sales and exchanges of shares occur in a free and open fair market exchange. The 1940 Act has similar goals although it additionally imposes certain fiduciary standards upon the management of investment companies because of the risks that it might usurp control of shareholder assets.

S. 170 permits the AGSOC to be run as a fairly conventional private corporation. It is primarily subject to control by the legislature in its initial stages[14/] and it is thereafter subject to governance by shareholders[15/] and the board of directors.[16/] It is unique in other respects: (1) its shareholders, constituting a cross-section of the state's citizens, will be in large measure unsophisticated in the exercise of shareholder rights and investment decisions;[17/] (2) shareholders will have little or no initial equity investment in AGSOC; (3) they will be subject to severe limitations on sales or transfers of their shares, particularly during the first five years

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14/ The legislature must amend the enabling legislation pursuant to § 10.50.640 to control it thereafter.

15/ A vote of shareholders is required to amend the articles of incorporation, § 10.50.375, and to approve certain asset sales.

16/ The directors may create and amend the bylaws, § 10.50.125, and have other standard management powers of corporate directors.

17/ Many shareholders will be minors or other legal incompetents.

after distribution;[18/] (4) ownership of shares will remain unconcentrated by statutory mandate; (5) bars to proxy

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18/ In conformance with Subchapter U, S. 170 provides many restrictions which will make it extremely difficult for a trading market in AGSOC shares to develop. For example, shares may not be transferred, voluntarily or involuntarily, within the first five years after issuance, and they may thereafter only be transferred to "resident individuals of the chartering State." It will not be possible for security brokers or dealers to make a market in AGSOC shares if this section is interpreted to mean such entities cannot hold AGSOC shares. Also, since no individual can own more than ten shares, it may not be feasible to create a trading market funded through transfer fees in a manner comparable to those which exist for other private corporate securities. The legislature should, as we previously recommended, give serious consideration to empowering AGSOC to be its own transfer agent or to the creation of a transfer mechanism for bringing together willing buyers and sellers.

Another potential problem is presented by the involuntary transferor. The AGSOC legislation provides at several points that redemption of shares shall be at book value. It is possible that there will be no or negative book value for the shares at stages during the operation of the corporation, when the carrying value of assets approximates the unamortized acquisition debt. This means that shareholders who leave the state or whose shares pass by operation of law to non-residents during the first five years after issuance may end up being forced to "sell" for far less than what would otherwise be market value. The legislature may wish to consider enabling AGSOC to pay a "fair market value" rather than book value to avoid unfairness.

usage[19] and cumulative voting[20] will limit shareholder power (while simultaneously barring usurpation of it by certain groups) and (6) AGSOC equity will be primarily supplied by loans from large financial institutions in reliance upon state guarantees. The existence of a diffuse, unsophisticated, and passive shareholder population together with a sophisticated and concerned set of creditors provides potential for abuses. S. 170 does not contain provisions which are adequate substitutes for most of the investor protections of the 1934 and 1940 Acts.[21]

19/ §§ 10.50.155 & 175.

20/ § 10.50.160.

21/ For example, because of the large shareholder population involved and the large sums of money which will be sought from financial institutions, this entity may have major impact upon financial markets. The SEC will probably be quite concerned about the contents of disclosures made to potential shareholders because of the lack of sophistication of this group of people compared with other investors in corporate securities. Particular care should be given to disclosure of the rights of minors and incompetents, who will probably compose a significant portion of shareholders. We propose to represent to the SEC that the notices to Alaska residents, the prospectus or other offering circulars, and other explanations of AGSOC made available to the public will contain full disclosure of the risks to shareholders.

In addition, S. 170 has no provision imposing fiduciary duties on officers or directors, other than requirements that loans not be made to officers or directors and

[Footnote continued on following page]

Our briefing memorandum prepared for the SEC will suggest that a modified form of 1934 Act regulation will be adequate to meet these problems during the five years after the initial distribution and that 1940 Act regulation would be unnecessarily burdensome. However, we anticipate that some modifications to S. 170 may be requested by the SEC during the course of these discussions because of the possibilities for abuse.

II. FEDERAL TAXATION OF AGSOC AND AGSOC SHAREHOLDERS

Subchapter U permits the creation of GSOCs by states and generally provides that a GSOC set up in conformance with its requirements will be exempt from federal taxation. 26 U.S.C. § 1392.[22/] Taxation of the income of such corporations occurs at the shareholder level. § 1393. Shareholders also receive investment

[Footnote continued]

that distributions not be made unless there are adequate resources in the corporation. § 10.50.230. It provides for no periodic reports but only that shareholders may receive the most recent financial statements of the corporation upon written request. § 10.50.285.

22/ See generally Joint Committee on Taxation, General Explanation of the Revenue Act of 1978 (H.R. 13511, 95th Cong.; P.L. 95-600)(Joint Committee Print, March 12, 1979, pp. 321-24).

tax credits which would otherwise accrue to the corporation. § 1393(b). The corporation, rather than its shareholders, utilizes net operating losses which it may incur, and these may be carried forward for a ten-year period. § 172(b)(1)(H). The GSOC is required by Subchapter U to distribute 90 percent of its annual taxable income to shareholders,[23/] (§ 1396), but to withhold 25 percent of such distributions for the IRS on behalf of shareholders. § 3402(r). AGSOC must file an informational tax return that identifies all shareholders and the distributions they have received. § 6039B.

Subchapter U permits a state to establish a GSOC between December 31, 1978 and January 1, 1984 by a charter enacted by the state legislature or a state-wide referendum. §§ 1391(a)(2) and (3). For the GSOC to qualify for the benefits of the Subchapter,

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23/ These distributions must be made by January 31 of the year following the taxable year in question. A GSOC must maintain a segregated shareholder income account for purposes of accounting for such distributions. § 1394. At certain points, S. 170 refers to "dividends" rather than distributions. See, e.g., §§ 10.50.115(b), 10.50.140(a) and (b), 10.50.350, and 10.50.360; cf. § 10.50.215. These provisions should be conformed to the Subchapter U language.

its charter must provide for the issuance of only one class of stock, for the issuance of the stock only to "eligible individuals,"[24] for the issuance of at least one share of stock to each "eligible individual" unless such individual elects not to receive a share, and for certain restrictions on the transfer of shares. Id. § 1391(a)(4).[25] GSOCs may not own more than 20 percent of another company, (§ 1391(a), 1504), and may not obtain investment properties through the exercise of the state's power of eminent domain. § 1391(a)(5).

S. 170 contains the obligatory provisions required by Subchapter U[26] and generally appears to conform to the statutory standards. However, there are a few respects in which modifications to S. 170 may facilitate conformance of AGSOC with Subchapter U.

24/ Eligible individuals are defined as individuals who are residents of the chartering state during a period between "a date specified in the State's enabling legislation . . . and the date of issuance" of shares. § 1391(c).

25/ Shares may not be transferred for five years except by reason of death or if the shareholder ceases to reside in the state. Thereafter they may only be transferred to individual state residents who may not acquire more than 10 shares. Id. § 1391(a)(4)(D).

26/ See § 10.50.320(a), which requires AGSOC to set forth in its articles of incorporation Subchapter U's limitations on classes of shares, issuance, and restraints on alienation. S. 170 also requires that AGSOC must qualify under Subchapter U. § 10.50.320(9).

Taxation of Shareholders
at the Time of Distribution

Section 102 of the Internal Revenue Code provides that "gross income does not include the value of property acquired by gift . . . ." A gift has been defined as a voluntary transfer of property by one to another without any consideration or compensation therefor. Gray v. Barton, 55 N.Y. 68. The recipients of the shares are not required to do anything in order to be entitled to participate in AGSOC. They need only be residents of Alaska which they already are and will be. It cannot reasonably be argued that the possibility of becoming a shareholder will induce anyone to move to, or remain in Alaska. The recipients only have to be in Alaska to share in the disinterested generosity on the part of the donor. See Commissioner of Internal Revenue v. Duberstein, 363 U.S. 278 (1960).

It must be recognized that the IRS may resist treating the share distribution as a gift. For example, there is precedent for treating amounts as income where the recipient has done little or nothing to acquire the property. See Rev. Rul. 53-61, 1953-1 C.B. 17, holding treasure trove to be income to the finder. See also Cesarini v. United States, 428 F.2d 812 (6th Cir. 1970),

where a taxpayer was required to include in income currency discovered in a used piano bought at auction. The IRS has also held that payments under the Soil Bank Act, 7 U.S.C. § 1801, for refraining from planting crops constitute income. Rev. Rul. 60-32, 1960 C.B. 23. These precedents, which involve some minimal taxpayer activity, or induced inactivity, may be distinguishable in the mind of IRS. They do indicate, however, that there may be some reluctance on the part of IRS to exclude amounts from income, for example, where there is a transfer of property outside the normal family situation.

An alternative argument should also be considered. The receipt of shares by Alaska residents is comparable to a non-taxable transfer payment by a government. Support for the transfer payment analogy is found in the legislative history of Subchapter U.[27/]

In general, the IRS has taken the position that transfer payments such as social welfare payments are not non-taxable, although no statutory authority for it to do so exists. United States v. Kaiser, 363 U.S. 299, 305-14 & App. (1960)(concurring opinion of Mr.

27/ Senator Gravel emphasized the hope that GSOC income could ultimately become a substitute for welfare.

Justice Frankfurter); see, e.g., I.T. 3230, 1938-2 C.B. 136 (unemployment benefits); I.T. 3447, 1941-1 C.B. 191 (social security payments); Rev. Rul. 57-102, 1957-1 C.B. 26 (aid to the blind); Rev. Rul. 72-340, 1972-2 C.B. 31 (job training); Rev. Rul. 36-395, 1976-2 C.B. 16 (home rehabilitation grants).

Rev. Rul. 76-131, 1976-1 C.B. 16, holding that benefit payments under the Alaska Longevity Bonus Act are taxable appears readily distinguishable. Those payments are available to all Alaskans "to provide an incentive to continue uninterrupted residence in the State and under no circumstances is to be considered a form . . . of public relief." The payments by Alaska under this Act must have been sufficient in amount to provide a realistic inducement for persons to remain in the State and are comparable to the Soil Bank Act payments in Rev. Rul. 60-92, supra.

It will, of course, be helpful to a favorable determination by IRS that the value of these shares of AGSOC will be readily perceived to be negligible, or possibly zero. The cost basis for gain on a future sale of the shares by the donee shareholder will be the same as the cost to the donor, i.e., negligible or possibly zero. 26 U.S.C. § 1015. Accordingly, the IRS may

recognize the administrative convenience of not taxing the initial distribution but instead deferring the tax until eventual sale when the entire proceeds will be subject to tax.

Finally, in the event that IRS is unwilling to rule favorably on the tax treatment of the initial stock distribution, consideration may be given to obtaining the opinion of two reputable appraisers, if it can reasonably be anticipated that a conclusion of zero value will be reached. In view of the apparent negligible revenue loss involved, if any, it would be highly unlikely that such appraisal would not be accepted as conclusive of the issue.

Tax Consequences After the Initial Distribution of Shares

Under federal law, AGSOC will become eligible for Subchapter U treatment once it qualifies and so elects. 26 U.S.C. 1392(a). It may revoke its election for a year or more with the consent of the Secretary of the Treasury. Id. § 1392(f). S. 170 provides that AGSOC shall be formed in conformance with Subchapter U, (§ 10.50.010), and that its Articles of Incorporation shall set out that it "must qualify" as a GSOC under Subchapter U. § 10.50.320(9). The Articles may be

amended in conformance with Section 10.50.365 et seq. but only if as amended the Articles "contain provisions which would be lawfully contained in original articles of incorporation at the time the amendment is made."

While the matter is not free from doubt, we believe the state legislation is thus more restrictive than Subchapter U,[28/] and requires AGSOC to maintain its election as a Subchapter U entity. We believe it would be preferable to permit a maximum flexibility by allowing the Articles to be amended to drop Subchapter U status under the usual procedure whereby the Board of Directors (or 1000 shareholders) proposes an amendment subject to shareholder approval. § 10.50.375. To accomplish this end, we believe § 10.50.320(9) should be modified[29/] and that the possibility of such a change should be added to the list in § 10.50.370.

28/ AGSOC may also lose its Subchapter U status under federal law by "ceasing to be" a GSOC, 26 U.S.C. § 1392(f), but it would appear that this can only occur by such affirmative actions as passing amendments which do not conform to § 1391(a)(4), acquiring assets through exercise of the power of eminent domain, or becoming a member of an affiliated group (i.e., obtaining a greater than 20% investment in another group).

29/ The phrase "unless any election to so qualify is terminated under section 1392(f) of such Subchapter" would be added to the section.

Tax consequences to individuals holding AGSOC shares are set forth in Subchapter U, and nothing in S. 170 raises questions in this regard. The Internal Revenue Code provides that the IRS may by rule provide for a certification procedure by which AGSOC could be exempt, as to non-taxpayers, from the requirement of section 3402(r) that the GSOC reserve 25 percent of distributions as withheld taxes on behalf of shareholders as if it were their employer. 26 U.S.C. 3402(r). We propose to explore the feasibility of establishing such a procedure with the IRS. While such a procedure is desirable from a social welfare perspective (permitting these individuals to receive full distribution value as soon as possible and removing the burden of filing a federal tax return), a technique will have to be established to minimize administrative burdens upon AGSOC which would have to determine and keep a record of which of its anticipated 400,000 shareholders were taxpayers in any given year.

Summary of Points
To Be Discussed with the IRS

We propose to present a brief memorandum describing AGSOC and S. 170 to officials of the IRS.

The focal point of our discussions will be the tax consequences of the initial distribution of shares. We propose to request a revenue ruling on this point on behalf of the citizen shareholders of the State of Alaska. Consideration should also be given to discussing the following matters with IRS:

(1) Confirmation of our understanding of how Subchapter U will work, including

  (a) AGSOC obligations to the IRS;

  (b) AGSOC shareholder obligations to the IRS;

  (c) The general type of reports IRS will desire from GSOCs and the types of regulations contemplated to be issued for GSOCs.

(2) Confirmation that AGSOC as proposed in S. 170 will be viewed in conformance with Subchapter U, including

  (a) That S. 170 is a sufficiently detailed "charter" within the meaning of 26 U.S.C. § 1391(a);30/

  (b) That the definition of "eligible individuals" conforms to Subchapter U requirements;

30/ It could be argued that such a charter must contain details of AGSOC governance as currently planned for the Articles of Incorporation.

(c) That charging consideration for shares will not defeat Subchapter U status;

(d) That S. 170 provisions requiring eligible individuals to apply for shares are compatible with Subchapter U status;31/

(e) That secondary issuances of shares will not be considered different classes of stocks in conflict with 26 U.S.C. § 1391(a)(4)(A).

III. CONSTITUTIONAL ISSUES

For purposes of determining who is an "eligible individual, the drafters of S. 170 would begin the mandatory period of state residency on the effective date of the enabling legislation. § 10.50.320(6). Persons who are entitled to receive shares thus must remain residents of Alaska for the entire period from the effective date of S. 170 until the date of issuance of shares.32/ As now defined, the class of eligible individuals is permanently fixed and any later issuances of shares by AGSOC apparently

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31/ The federal legislation states that the GSOC shall provide for the "issuance of at least one share to each eligible individual," 26 U.S.C. § 1391(a)(4)(C). S. 170 makes clear that receipt of a share is dependent upon application by residents in response to state-wide notification procedures. § 10.50.345-360. We will attempt to clarify that the IRS does not deem GSOCs as under a duty to seek out and issue shares to all eligible individuals. Such a view could be fatal to AGSOC's tax-free status.

32/ These individuals are referred to herein as "charter residents."

may only be made to charter residents. We again call to your attention our reasons for questioning this approach, although it appears acceptable under Subchapter U.

First, this restriction of eligible individuals to members of a closed class of persons resident within the state at a fixed point in time may pose significant constitutional problems. See Wilmer, Cutler & Pickering, Memorandum for the Commissioner of Revenue, State of Alaska: Federal Constitutional Issues Presented by Alaska's GSOC (December 15, 1978).[33/] S. 170 exaggerates some of the problems we have previously raised because it also provides that within five years of issuance, shares must be sold back to the corporation if charter residents leave the state or die leaving their shares to nonresidents. This means that the pool of AGSOC shareholders will include only those charter residents who stay within the state for five years (and the small group who move into the state within this period and inherit shares from a charter resident). After five years, right to AGSOC shares seemingly vests in charter residents and their heirs may retain

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33/ (Hereinafter "Constitutional Memorandum"). As we indicated there, such limited eligibility for a government benefit must at least be based upon significant state interests as recited in legislative findings.

AGSOC shares even if they do not reside in Alaska. Establishing a fixed class which excludes Alaska citizens who are born in or move to Alaska after S. 170's effective date from AGSOC share issuances may then appear particularly inequitable in view of the fact that these non-Alaskan heirs will hold shares and receive AGSOC income. Even if later arriving residents may acquire shares from charter residents after the five-year period, there can be no assurance that a market in such shares will exist.

The possible constitutional problems are exacerbated by the fact the residency period to qualify as a charter resident could be lengthy, as AGOC must be organized and become sufficiently operational to issue shares.[34/] The longer the eligibility period the more difficult it will be to verify compliance with residency requirements. A long residency period will also reduce

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34/ Incorporators must be selected, and an initial slate of directors chosen. The latter are subject to disapproval within 15 days of their nominations which could cause delay. S. 170 § 4(b). The directors must prepare articles of incorporation and bylaws, and there is at least a 60-90 day period after they have been drafted and filed during which the legislature has the authority to disapprove any of their provisions. § 10.50.335. Activities before share issuance but after finalization of the articles and bylaws, including preparation of offering materials and procedures for share distribution, will also take considerable time,

[Footnote continued on following page]

the pool of eligible individuals and increase the number of Alaska citizens who will be resident within the state on the date of issuance or before distribution but ineligible to receive AGSOC shares. The latter will increase the potential for challenges to the constitutionality of AGSOC, and may undercut the political acceptability of AGSOC as well.

A possible solution to these problems would be to revise S. 170 to provide that the eligibility period will commence on a fixed date prior to the date of share issuance 35/ -- e.g., three to six months before issue. This approach has the advantage that if there is an issuance of shares subsequent to the initial distribution, later arriving residents could be included as long as they had

[Footnote continued]

for example, section 10.50.345 provides for notice to allow for application for shares of at least 90 days before the date of issuance. Litigation by opponents of some aspect of the program could cause indefinite delay. It appears extremely likely that the total period involved may exceed six months and could create constitutional problems under both the federal and State of Alaska constitutions. As we have mentioned previously, Alaska courts have taken a particularly strong stance against durational residency requirements. Constitutional Memorandum at 1, n.1, 34, n.38.

35/ The pivotal "date of issuance of shares" of S. 170 §§ 10.50.345 and 355 may not be effectual, since the bill appears to contemplate sporadic issue. Perhaps, the standard "the date of initial notification to the public of its intention to issue shares" would better carry out the purpose.

been and remained residents for the applicable period to the later issuance. This approach would, of course, exclude charter residents who leave the state prior to any secondary issuance.

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January 22, 1980

Mr. Dale E. Staley
Legislative Budget and
Audit Committee
Alaska Legislature
Pouch V
Juneau, Alaska 99811

Re: Exemption of the Alaska General Stock Ownership Corporation from the Investment Company Act of 1940.

Dear Dale:

I enclose a memorandum to the Budget and Audit Committee recommending several specific changes in the Alaska GSOC enabling legislation which have suggested themselves in the course of our consultations with the Staff of the SEC. We believe that representations to the Staff that these changes will be made would be most helpful in securing Staff support before the Commission for our request for a total exemption from the Investment Company Act for the first five years.

Also enclosed is a draft letter concerning these changes as well as a discussion of Alaska's law on conflict of interest which has been requested by the Staff. We ask you to clear these statutory changes and the draft letter in principle with the Committee. We will then forward the letter to the SEC Staff and ask that they recommend to the Commission that the requested exemption be granted if th Alaska legislation is amended along these lines. When and if we receive informal assurances, we will suggest that you proceed with the revisions.

The Staff has also requested more information as to the nature of the investments which are planned for the AGSOC. We have told them that we do not believe portfolio securities will be among the investments to be made, but rather that the AGSOC will seek to become a joint venturer with other large enterprises in the development of various natural resources. We have been specifically asked whether it is contemplated that the AGSOC will own in excess of 25 percent of each entity in which it invests. Please clear with the Committee a representation whether ownership of this magnitude is or is not contemplated. Any additional information you could provide as to contemplated investments would be most helpful.

Your prompt response on these matters is appreciated. On the whole we have been encouraged by the Staff's receptivity to the GSOC concept.

On the IRS front, we understand that IRS, at the urging of a representative of the Treasury, will reconsider its initial unwillingness to rule. We will of course keep you posted.

Sincerely,

Sam

Samuel A. Stern

WILMER & PICKERING
1666 K STREET, N. W.
WASHINGTON, D. C. 20006

January 22, 1980

MEMORANDUM FOR THE ALASKA
LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Re: Exemption of the Alaska General Stock Ownership Corporation from the Investment Company Act of 1940.

We have submitted to the staff of the Securities and Exchange Commission ("SEC") our memorandum of December 5, 1979, and discussed the submission with the staff on several occasions. As a result of our discussions, we believe certain steps are necessary and appropriate to secure total exemption for five years for the Alaska General Stock Ownership Corporation ("AGSOC") from operation of the Investment Company Act of 1940 ("ICA"). We have been given informal assurances that if the Division of Investment Management (the section of the SEC which regulates registered investment companies) will recommend granting the AGSOC total exemption for five years from operation of the ICA, SEC personnel will also recommend approval of our application for partial and temporary exemptions from operation of the Securities Act of 1933 and the Securities and Exchange Act of 1934.

We suggest that certain specific changes set forth below be made to the enabling legislation before its passage in its current form to maximize our chances of

persuading the Division of Investment Management that the AGSOC should be exempt from operation of the ICA. All of these suggested changes have been prompted by specific comments of the staff. The alternative will be at best a partial exemption and some measure of SEC regulation of the AGSOC.

a) Conflict of Interest

The SEC's primary concern is whether granting an exemption from operation of those provisions of the ICA which outlaw certain transactions which could involve conflicts of interest or self-dealing will result in a failure to protect AGSOC shareholders.

Section 17 of the ICA makes unlawful (absent an exemption by Commission order) certain transactions between an investment company and "affiliated persons," broadly defined.*/ Under section 17(a) it is unlawful for an

---

*/ The term is defined in section 2(a)(3) of the ICA:

> "'Affiliated person' of another person means
>
> "(A) any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting securities of such other person;
>
> "(B) any person 5 per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person;

[Footnote continued on following page]

"affiliated" person to sell or buy property or most securities to or from the investment company or to enter into joint ventures with or borrow money from the company. */

[Footnote continued]

"(C) any person directly or indirectly controlling, controlled by, or under common control with, such other person;

"(D) any officer, director, partner, copartner, or employee of such other person;

"(E) if such other person is an investment company, any investment advisor thereof or any member of an advisory board thereof; and

"(F) if such other person is an unincorporated investment company not having a board of directors, the depositor thereof."

*/ Section 17(a) makes it unlawful for an "affiliated" person:

"(1) knowingly to sell any security or other property to such registered company or to any company controlled by such registered company, unless such sale involves solely

"(A) securities of which the buyer is the issuer,

"(B) securities of which the seller is the issuer and which are part of a general offering to the holders of a class of its securities, or

"(C) securities deposited with the trustee of a unit investment trust or periodic payment plan by the depositor thereof;

"(2) knowingly to purchase from such registered company, or from any company controlled by such registered company, any security or any other property (except securities of which the seller is the issuer); or

[Footnote continued on following page]

The SEC staff has pointed out that various sections of the proposed AGSOC enabling legislation*/ could give rise to the kind of transactions which would be prohibited under section 17. For example, the Act (§§ 10.50.015(4), (5) and (7)) permits the AGSOC to buy and sell property and securities; the ICA, if applicable, would prohibit it from engaging in such a transaction with, for example, a person who is a director of the GSOC (or with a company on whose board their director also sits). The ICA might also prohibit the AGSOC from becoming a joint venturer with such a company, as contemplated in Act § 10.50.015(17), in certain circumstances.**/ Similarly, the Act § 10.50.015(6) permits

[Footnote continued]

> "(3) to borrow money or other property from such registered company or from any company controlled by such registered company (unless the borrower is controlled by the lender) . . . ."

*/ References to "Act §" refer to section 1 of CSSS Senate Bill No. 170, introduced as amended April 27, 1979.

**/ Section 17(d) makes it "unlawful for any affiliated person of . . . a registered investment company . . . or any affiliated person of such a person . . . acting as principal to effect any transaction in which such registered company, or a company controlled by such registered company, is a joint or a joint and several participant with such person . . . for the purpose of limiting or preventing participation by such registered or controlled company on a basis different from or less advantageous than that of such other participant."

the AGSOC to lend money to its employees; since the ICA defines employees as "affiliated persons," such a loan would constitute a violation.

One option -- an option invited by the staff -- is to argue to the Commission why existing Alaska law on conflicts of interest adequately protects the public and why therefore there is no need for section 17 of the ICA to apply to AGSOC. Attached hereto as Attachment A is a draft of a letter we propose to send to the staff for its informal reaction. If we are not successful with this approach, it may be necessary to formulate certain modifications of the enabling legislation to include explicit prohibitions of transactions with persons who may have a conflict of interest.

b) Indemnification

The staff also commented on the scope of the AGSOC's power to indemnify provided by section 10.50.020 of the enabling legislation. The staff has indicated that these standards are acceptable to them as consistent with section 17(h) of the ICA, with the exception of the open-ended power granted in Act § 10.50.020(f), which widens the scope of possible indemnity to allow any corporate

choice. Although we realize that the provision was based on the American Bar Foundation's Model Business Corporation Act, it goes further than the ICA. We suggest strongly that Act § 10.50.020(f) be deleted from the legislation.

c) Miscellaneous

Below we discuss a series of miscellaneous changes to the legislation which have been suggested by our conversations with the staff. We request that you clear each of these changes in principle so that we may represent to the staff that they will be implemented if our exemption request is granted.

(i) Stock Options

The AGSOC is given the power to establish pension plans and other incentive plans for its directors, officers and employees. Act § 10.50.015(15). The staff has pointed out that section 18(d) of the ICA prohibits an investment company from granting stock options to its employees. We recommend that stock options be specifically excepted from Act § 10.50.015(15). The new section would read:

> "(15) pay pensions and establish pension plans, pension trusts, profit-sharing plans, and other incentive plans for its directors, officers and employees, except that such pensions or plans shall not include the issuance of stock options;"

(ii) Later Issues

Under Act § 10.50.080, the AGSOC shareholders are permitted to set the price of shares to be sold in later issuances. The staff has pointed out that section 23(b) of the ICA requires that shares not be sold at an amount below the current net asset value of each share without the consent of a majority of the investment company's shareholders. Under Act § 10.50.150, one third of the AGSOC shareholders constitutes a quorum and, thus, one vote more than one sixth could set the price at less than net asset value. We recommend that you tighten the restriction in the AGSOC legislation to match the ICA. The second sentence of section 10.50.080 would be amended to read:

> "The decision to issue shares without consideration or for consideration if that consideration is less than the current net asset value of such shares shall be made by the vote of a majority of the shareholders."

(iii) Payment Other Than Cash

The staff has also noted that Act § 10.50.085 allows payments for shares to be by transfer of property other than cash or in exchange for services. The ICA does not allow payment other than in cash (section 23(a)). We suggest conformance to the ICA in this minor matter. The

first sentence of Act § 10.50.085 would be amended to read:

> "Consideration for the issuance of shares if required shall be paid in cash."

(iv) Interested Directors

Section 10(a) of the ICA provides that no investment company may have more than 60 percent of its Board of Directors be "interested persons". The ICA's definition of "interested" persons includes all affiliated persons and many others.*/ There is currently no similar restriction on who may serve on the Board of Directors of the AGSOC. In lieu of incorporating some sort of restriction along the lines of the ICA into the AGSOC legislation, we suggest that a provision along the lines of section 41 of the Model Business Corporation Act be added to the legislation. That section provides:

> DIRECTOR CONFLICTS OF INTEREST
>
> No contract or other transaction between a corporation and one or more of its directors or any other corporation, firm, association or entity in which one or more of its directors are

---

*/ "Interested person", as defined in section 2(a)(19) of the ICA, includes (unless exempted by Commission order) members of the immediate family of affiliated persons, affiliates or other interested persons of the company's investment adviser, legal counsel for the company or any partner or employee of such counsel, and any registered broker or dealer or an affiliate of such a broker or dealer.

> directors or officers or are financially interested, shall be either void or voidable because of such relationship or interest or because such director or directors are present at the meeting of the board of directors or a committee thereof which authorizes, approves or ratifies such contract or transaction or because his or their votes are counted for such purpose, if:
>
> (a) the fact of such relationship or interest is disclosed or known to the board of directors or committee which authorizes, approves or ratifies the contract or transaction by a vote or consent sufficient for the purpose without counting the votes or consents of such interested directors; or
>
> (b) the fact of such relationship or interest is disclosed or known to the shareholders entitled to vote and they authorize, approve or ratify such contract or transaction by vote or written consent; or
>
> (c) the contract or transaction is fair and reasonable to the corporation.
>
> Common or interested directors may be counted in determining the presence of a quorum at a meeting of the board of directors or a committee thereof which authorizes, approves or ratifies such contract or transaction.

We suggest the new provision follow Act § 10.50.200. This new provision will also strengthen our position with the SEC concerning the need for application of section 17 of the ICA to the AGSOC. See Attachment A.

(v) Replacing Directors

The ICA requires (section 16) that when a vacancy occurs in the Board of Directors of an investment company it may be filled only if after it is filled, two thirds of the Board has been elected by the shareholders. No such restriction exists in Act § 10.50.195, and we recommend adding such a provision. The first sentence of § 10.50.195 would then read:

> "A vacancy occurring in the board of directors may be fulfilled by the affirmative vote of a majority of the remaining directors if immediately after filling any such vacancy at least two thirds of the directors then holding office shall have been elected by the shareholders at a shareholders' meeting."

(vi) Disqualification

The ICA places certain restrictions on who may serve as an officer, director, or employee of an investment company, forbidding (unless an exception is granted) persons convicted within 10 years of a securities related crime or subject to an injunction arising from past securities laws violations (section 9). The staff has indicated, and our research has confirmed, that this provision of the ICA is one for which exceptions are only very infrequently given. The enabling legislation contains no equivalent, and we suggest that a provision such as the following

be added, to follow § 10.50.260:

" INELIGIBILITY OF CERTAIN AFFILIATED PERSONS AND UNDERWRITERS

"It shall be unlawful for any of the following persons to serve or act in the capacity of employee, officer, or director of a corporation:

"(1) any person who within ten years has been convicted of any felony or misdemeanor involving the purchase or sale of any security or arising out of such person's conduct as an underwriter, broker, dealer, or investment adviser, or as an affiliated person, salesman, or employee of any investment company, bank, or insurance company; or

"(2) any person who, by reason of any misconduct, is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an underwriter, broker, dealer, or investment adviser, or as an affiliated person, salesman, or employee of any investment company, bank, or insurance company, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security."

(vii) Public Utility Holding Company Act

Finally, as we have advised previously, the Public Utility Holding Company Act places very severe restrictions on a company owning in excess of 10 percent of (or otherwise controlling) a "public utility" as that term is defined in the Act. The staff has indicated that it

would be useful if a mechanism were worked into the legislation so that the directors would be advised of the possibility that an investment would fall within the terms of the Public Utility Holding Company Act, and either seek specific exemption from the SEC as permitted under section 3 of that Act, or comply with the Act's extremely rigid requirements. For this reason, we suggest a new section be added to follow Act § 10.50.015:

> PROHIBITION. A corporation may not own, control or hold with power to vote ten percent or more of the outstanding voting securities of a public utility company or a public utility holding company (as those terms are defined in the Public Utility Holding Company Act of 1935, 15 U.S.C. §§ 79 et seq.), without first taking steps to come within the requirements of that Act, or seeking exemption from the Act's coverage from the Securities and Exchange Commission.

Wilmer & Pickering

WILMER & PICKERING

ATTACHMENT A

DRAFT
January 22, 1980

Houghton R. Hallock, Jr., Esq.
Division of Investment Management

Paul Roye, Esq.
Division of Investment Management

Securities and Exchange Commission
500 North Capitol Street
Washington, D.C. 20549

Re: Request for Exemption for Alaska General Stock Ownership Corporation

Dear Sirs:

You have asked us to amplify our opinion as to why exemption of the AGSOC from the conflict of interest provisions of the Investment Company Act ("ICA") would not work to the detriment of the investing public. In addition, this letter responds to several other concerns you have expressed to us.

As we have stated previously (Memorandum to the Staff of the Securities and Exchange Commission, dated December 5, 1979), the AGSOC, while it may technically fit within the definition of an investment company, is not at all the sort of entity typically regulated under the ICA. It will not invest in portfolio securities, will not use traditional investment advisors or underwriters, and will not engage in more than occasional purchases or sales of securities. Thus, the traditional

abuses which section 17 of the ICA was created to outlaw -- such as conflicts of interest on the part of investment advisors, mutual backscratching and other self-dealing -- will not take place. Moreover, one obvious potential for abuse -- loans to AGSOC officers and directors -- is strictly forbidden by the Alaska legislation. (Act § 10.50.225).

The AGSOC is in many ways a political entity; its few investments and loan transactions will be highly visible and a subject of widespread public comment and debate. This scrutiny alone provides a strong disincentive for self-dealing. Certain provisions of the Alaska enabling legislation provide additional "sunshine" protections against conflict of interest situations. For example, shareholders have the right to examine AGSOC books and records (Act § 10.50.270), and the AGSOC must file an annual report to the Secretary of the Treasury. 24 U.S.C. § 6039B. Extensive publicity will undoubtedly surround the appointment of officers and directors. As for deterrence, these persons are subject to court-ordered removal for fraudulent or dishonest acts and criminal penalties for defrauding shareholders or creditors or making misleading statements. (Act §§ 10.50.290, 10.50.635, 10.50.630).

In addition, Alaska law creates strict fiduciary duties owed every corporation by its officers and directors.

Although we have discovered no Alaska statutes specifically dealing with conflicts of interest, the most complete statement of Alaska law on this subject is contained in the Supreme Court of Alaska's opinion in Alvest, Inc. v. Superior Oil Corp., 398 P.2d 213 (1965), a copy of which is attached hereto. Under the rule of law set forth in this case, corporate officers or directors are fiduciaries and cannot personally profit from a corporate opportunity even with the concurrence of the company's Board of Directors. (Op. at 216). Any such conflict could only be waived by the shareholders (id.), and it is not necessary to allege bad faith by an officer or director in an action against him for dereliction of his fiduciary duties and recovery of the opportunity diverted.

We have also secured agreement from our client that a new provision modeled on section 41 of the Model Business Corporation Act will be added to the proposed Alaska legislation. The new section will provide:

DIRECTOR CONFLICTS OF INTEREST

> No contract or other transaction between a corporation and one or more of its directors or any other corporation, firm, association or entity in which one or more of its directors are

> directors or officers or are financially interested, shall be either void or voidable because of such relationship or interest or because such director or directors are present at the meeting of the board of directors or a committee thereof which authorizes, approves or ratifies such contract or transaction or because his or their votes are counted for such purpose, if:
>
> (a) the fact of such relationship or interest is disclosed or known to the board of directors or committee which authorizes, approves or ratifies the contract or transaction by a vote or consent sufficient for the purpose without counting the votes or consents of such interested directors; or
>
> (b) the fact of such relationship or interest is disclosed or known to the shareholders entitled to vote and they authorize, approve or ratify such contract or transaction by vote or written consent; or
>
> (c) the contract or transaction is fair and reasonable to the corporation.
>
> Common or interested directors may be counted in determining the presence of a quorum at a meeting of the board of directors or a committee thereof which authorizes, approves or ratifies such contract or transaction.

We believe that such a provision is more suited to the AGSOC than are the complex "interested person" restrictions of section 10(a) of the ICA, and that this provision will

further assure that any transaction carrying the potential for abuse will be the subject of focus by a disinterested board.

Thus, persons associated with the AGSOC will have few opportunities to profit personally and even less chance to do so successfully. In light of these circumstances, we feel application of section 17 of the ICA is unnecessary in the case of the AGSOC.

* * * * *

After consultation with us, our client has agreed to make certain other changes in the state legislation to satisfy your concern that the protections offered by the ICA are adequately dealt with in the state AGSOC legislation. Below is a list of changes we propose to CSSS Senate Bill No. 170:

1. Add a new provision after § 10.50.015 as follows:

> PROHIBITION. A corporation may not own, control or hold with power to vote ten percent or more of the outstanding voting securities of a public utility company or a public utility holding company (as those terms are defined in the Public Utility Holding Company Act of 1935, 15 U.S.C. §§ 79 et seg.), without first taking steps to come within the requirements of that Act, or seeking exemption from the Act's coverage from the Securities and Exchange Commission.

2. Act § 10.50.015(15) - Amend the section to read as follows:

"(15) pay pensions and establish pension plans, pension trusts, profit-sharing plans, and other incentive plans for its directors, officers and employees, ex pt that such pensions or plans shall not include the issuance of stock options;"

3. Act § 10.50.020(f) - Delete.

4. Act § 10.50.080 - Amend the second sentence to read as follows:

"The decision to issue shares without consideration or for consideration if that consideration is less than the current net asset value of such shares shall be made by the vote of a majority of the shareholders."

5. Act § 10.50.085 - Amend the first sentence to read as follows:

"Consideration for the issuance of shares if required shall be paid in cash."

6. Act § 10.50.195 - Amend so that the first sentence reads:

"A vacancy occurring in the board of directors may be fulfilled by the affirmative vote of a majority of the remaining directors if immediately after filling any such vacancy at least two thirds of the directors then holding office shall have been elected by the shareholders at a shareholders' meeting."

7. Add new provision after § 10.50.260, as follows:

" INELIGIBILITY OF CERTAIN AFFILIATED PERSONS AND UNDERWRITERS

"It shall be unlawful for any of the following persons to serve or act in the capacity of employee, officer, or director of a corporation:

"(1) any person who within ten years has been convicted of any felony or misdemeanor involving the purchase or sale of any security or arising out of such person's conduct as an underwriter, broker, dealer, or investment adviser, or as an affiliated person, salesman, or employee of any investment company, bank, or insurance company; or

"(2) any person who, by reason of any misconduct, is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an underwriter, broker, dealer, or investment adviser, or as an affiliated person, salesman, or employee of any investment company, bank, or insurance company, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security."

We hope this submission is helpful in your review of our exemption application. Please feel free to call on us should other questions arise.

Sincerely,

Samuel A. Stern

Appellant alleges that error was committed when evidence of the value of the property in dispute, supplied by the records and testimony of a tax assessor, was admitted.

As is pointed out by appellant, there is a difference of opinion among the various jurisdictions [16] as to whether such evidence of value should be admitted. The testimony of the tax assessor was that the taxing district regularly assessed at 100 per cent of value based upon a record of comparable sales in the area within the preceding two years.

[9] Appellant has not shown how or why this testimony was unreliable with respect to the value of the property or how its admission prejudiced his case in any particular. The basis employed in arriving at the valuation was sound. The evidence had probative value and should have been admitted. No error was committed.

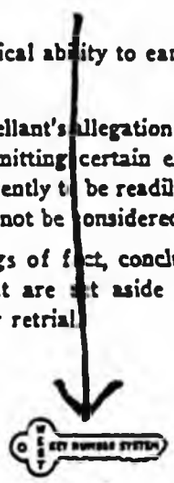
The trial court, over objection, permitted counsel for appellee to question appellee in detail concerning his military record, the nature of his discharge, wounds received while in the service, the degree of disability thereby created, the amount of government pension received by appellee and appellee's inability to obtain employment because of his wounds and disability. Admission of this testimony is assigned as error.

Appellant's first objection was overruled, apparently on the ground that appellee's physical ability to earn money was material to the determination of the issues. The second objection was overruled on the ground that the evidence was necessary to show the intent of the parties.

[10, 11] We hold that no error was committed. The financial condition of the plaintiff in a suit of this nature is a relevant factor to be considered.[17] So also may his physical ability to earn be relevant and material.

[12] Appellant's allegation of error committed in admitting certain exhibits is not briefed sufficiently to be readily understandable and will not be considered.

The findings of fact, conclusions of law and judgment are set aside and the case remanded for retrial.



ALVEST, INC., Appellant,
v.
SUPERIOR OIL CORPORATION, Appellee.
No. 503.

Supreme Court of Alaska.
Jan. 21, 1965.

Proceeding on appeal from a judgment of the Superior Court, Third Judicial District, Ralph E. Moody, J., affirming decision of state division of lands cancelling award to corporation which had been awarded first priority at noncompetitive oil and gas lease drawing. The Supreme Court, Dimond, J., held that fact that two officers of corporation filed applications for themselves in noncompetitive oil and gas lease drawing conducted by state division of lands when corporation itself had filed application violated administrative regulation providing that each applicant shall have only one chance in any one drawing, and division of lands properly cancelled award to corporation which had been awarded first priority at drawing.

Judgment affirmed.

16. See 5 Wigmore, Evidence § 1640 (3d ed. 1940) for a discussion of the subject and tabulations of the holding of the various jurisdictions.

17. Timmons v. Timmons, 217 Miss. 504, 64 So.2d 755, 755 (1953).

1. Corporations ⇐307

Corporate officer or director stands in fiduciary relationship to his corporation.

2. Corporations ⇐310(1)

Out of fiduciary relationship between corporate officer or director and corporation arises duty of reasonably protecting interests of corporation.

3. Corporations ⇐315

It is inconsistent with and breach of duty of corporate officer to reasonably protect interests of corporation for officer or director to take advantage of business opportunity for his own personal profit when, applying ethical standards of what is fair and equitable in particular situation, opportunity should belong to corporation.

4. Corporations ⇐315

Where business opportunity is one in which corporation has legitimate interest, officer or director may not take opportunity for himself, and if he does, he will hold all resulting benefit and profit in his fiduciary capacity for use and benefit of corporation.

5. Corporations ⇐315

Whether business opportunity is corporate one or one within legitimate scope of individual interests of officer or director depends on facts and circumstances of each case.

6. Mines and Minerals ⇐5

Fact that two officers of corporation filed applications for themselves in noncompetitive oil and gas lease drawing conducted by state division of lands when corporation itself had filed application violated administrative regulation providing that each applicant shall have only one chance in any one drawing, and division of lands properly cancelled award to corporation which had been awarded first priority at drawing.

7. Mines and Minerals ⇐5

Administrative regulation providing that each applicant in noncompetitive oil and gas lease drawing should have only one chance in any one drawing would not have precluded corporation from making successful claim for lease or its benefits against corporate officers who filed applications for themselves had either been successful at drawing.

8. Corporations ⇐315

In absence of shareholder approval, business opportunity involving application by corporate officers, as individuals and for themselves, in noncompetitive oil and gas lease drawing conducted by state division of lands was not within legitimate scope of individual interests of officers where corporation itself had filed application.

9. Corporations ⇐315

Showing of bad faith is not essential to establish duty on part of officers or directors of corporation in connection with business opportunities which they wish to acquire for themselves, and fact that business opportunity is of such nature that under particular circumstances it should fairly belong to corporation is sufficient to establish duty on part of officer or director to acquire opportunity for corporation.

Clifford J. Groh and Ronald G. Benkert, Groh & Benkert, Anchorage, for appellant.

Paul F. Robison, Robison, McCaskey & Lewis, Anchorage, for appellee.

Before NESBETT, C. J., and DIMOND and AREND, JJ.

DIMOND, Justice.

Appellant was awarded first priority for an oil and gas lease at a non-competitive lease drawing conducted by the state Division of Lands. Appellee was given second priority. Later the Division of Lands cancelled the award to appellant and gave it to appellee for the reason that two of appellant's officers and directors, White and Mueller, had filed applications for themselves in the same drawing. The Division of Lands held that this action on the part of White and Mueller gave appellant more than one chance at the drawing in violation

of an administrative regulation which provided:

"Each drawing shall be conducted in such a manner as the Director shall determine and each applicant shall have only one chance in any one drawing."[1]

The superior court affirmed the decision of the Division of Lands and this appeal followed.

[1-4] A corporate officer or director stands in a fiduciary relationship to his corporation. Out of this relationship arises the duty of reasonably protecting the interests of the corporation. It is inconsistent with and a breach of such duty for an officer or director to take advantage of a business opportunity for his own personal profit when, applying ethical standards of what is fair and equitable in a particular situation, the opportunity should belong to the corporation. Where a business opportunity is one in which the corporation has a legitimate interest, the officer or director may not take the opportunity for himself. If he does, he will hold all resulting benefit and profit in his fiduciary capacity for the use and benefit of the corporation.[2]

[5, 6] Whether a business opportunity is a corporate one or one within the legitimate scope of the individual interests of one officer or director depends upon the facts and circumstances of each case.[3] Here appellant's chance to be the successful applicant at the lease drawing was a business opportunity in which appellant had expressed a definite interest. That interest was a legitimate one because appellant had made similar applications in previous drawings, and the leasing of oil and gas lands was within the scope of appellant's corporate activities. This was a corporate opportunity which appellant's officers and directors, White and Mueller, had no right to seek for themselves. If either had been the successful applicant at the drawing he would have held the lease in a fiduciary capacity for the use and benefit of appellant. This means that appellant did not have only one chance at the drawing, but three—its own, represented by the corporate application filed on its behalf, plus two additional chances, represented by White's and Mueller's individual applications. Since appellant had more than one chance in the drawing, it was not a qualified applicant under section 507.31 of the administrative regulations. The Division of Lands was correct in holding that appellant was not entitled to the lease.

[7] Appellant argues that it had only one chance at the drawing, because the regulation would have precluded appellant from making a successful claim for the lease or its benefits against White or Mueller had either been successful at the drawing. This argument is untenable. The regulation deals with the element of chance. When a lease drawing has been concluded and the successful applicant known, the element of chance is gone. What had been chance has now become something certain. The regulation pertains only to the situation which exists while the element of chance is present, and not afterwards. The regulation would have no pertinency in an action by a corporation claiming that one of its officers or directors held a lease as constructive trustee for the corporation. What the rights would be as between those parties

1. 11 Alaska Adm.Code § 507.31 (1964).

2. Diedrick v. Helm, 217 Minn. 463, 14 N.W.2d 913, 919, 153 A.L.R. 645 (1944); Durfee v. Durfee & Canning, Inc., 323 Mass. 187, 80 N.E.2d 522, 527, 529 (1948); Lutherland, Inc. v. Dublon, 357 Pa. 143, 53 A.2d 143, 147 (1947); Guth v. Loft, Inc., 23 Del.Ch. 255, 5 A.2d 503, 510 (1939); McKay v. Wahlenmaier, 96 U.S.App.D.C. 313, 226 F.2d 35, 45-46 (1955).

3. American Inv. Co. v. Lichtenstein, 134 F.Supp. 857, 861 (E.D.Mo.1955); Industrial Indem. Co. v. Golden State Co., 117 Cal.App.2d 5.9, 256 P.2d 877, 686-687 (Dist.Ct.App.1953); Johnston v. Greene, 35 Del.Ch. 479, 121 A.2d 919, 923 (1956); Guth v. Loft, Inc., 23 Del.Ch. 255, 5 A.2d 503, 511-515 (1939); Durfee v. Durfee & Canning, Inc., 323 Mass. 187, 80 N.E.2d 522, 528-529 (1948); Henn, Corporations § 235, at 372 (1961).

would not be governed by the regulation. The regulation would be relevant after a drawing had been concluded only insofar as it was established that before the drawing took place an applicant had had more than one chance to be successful. If that is established, then the regulation can be invoked to disqualify such an applicant from securing the lease. That is what was done here.

[8] Appellant contends that it could not have claimed the benefits of the lease had it been awarded to White or Mueller, because a full disclosure of their actions in filing their individual applications had been made to the corporation, and because the filing of applications by appellant's officers and directors was consistent with corporate policy. There was evidence that the members of appellant's board of directors had generally approved the appropriateness of officers and directors filing on the same land that the corporation had filed on, although it was not established that this in fact had ever been done prior to the filings in this case. But there was no evidence that the shareholders of the corporation had consented to such a policy generally, or that in this particular instance they had approved White's and Mueller's actions in filing in competition with appellant. In the absence of such approval by the shareholders, the business opportunity in this case was not within the legitimate scope of the individual interests of appellant's officers and directors.[4]

[9] Appellant states that White and Mueller had at all times been open and above board and had acted in good faith in all their dealings here. That is apparently true. But it has no bearing on the decision of the issues in this case. A showing of bad faith is not essential to establish a duty on the part of officers or directors in connection with business opportunities which they wish to acquire for themselves. The fact that a business opportunity is of such a nature that under the particular circumstances of the case it should fairly belong to the corporation is sufficient to establish a duty on the part of an officer or director to acquire the opportunity for the corporation.[5]

The judgment is affirmed.

4. In re Larch's Estate, 390 Pa. 89, 169 A.2d 506, 513 (1960); Remillard Brick Co. v. Remillard-Dandini Co., 109 Cal. App.2d 405, 241 P.2d 66, 74–75 (1952).

5. Rosenblum v. Judson Engineering Corp., 99 N.H. 267, 109 A.2d 558, 563 (1954).

WRIGHT TRUCK AND TRACTOR SERVICE, INC., Appellant,
v.
STATE of Alaska, Appellee.
No. 525.

Supreme Court of Alaska.
Jan. 21, 1965.

Action on construction contract against the state. The Superior Court, First Judicial District, James A. von der Heydt, J., entered judgment for contractor for $285,933.17 plus costs but disallowed claim for interest between date when sums became due and date of formal entry of judgment, and contractor appealed. The Supreme Court, Nesbett, C. J., held that state was not liable for interest between date sums became due and date of entry of judgment, under statute providing in effect that judgment entered for plaintiff against state shall be for legal amount found due with interest only from date of judgment.

Affirmed.

1. States ⇐171

Legislature intended to preclude interest on all claims, not just tort claims, against state prior to judgment. Laws 1957,

HB

240

#3

ALASKA
GENERAL STOCK OWNERSHIP
CORPORATION

Sponsor Substitute for House Bill No. 240
Sponsor Substitute for Senate Bill No. 170

CONTENTS

HOW IT WORKS:	Alaska General Stock Ownership Corp.
EXPLANATION:	Federal GSOC Provisions
AGSOC ILLUSTRATED:	Transactional structure
TAX TREATMENT:	General Stock Ownership Corporations
TWO POINTS:	AGSOC is not a "Giveaway"
	AGSOC is not State Ownership
BILL SUMMARY:	State Legislation
SPONSOR SUBSTITUTE:	AGSOC Legislation

How It Works

The Alaska General Stock Ownership Corporation

* A corporation is formed and each resident of Alaska is issued one chare of stock.

* The corporation borrows money to invest in profitable projects, having assured itself of the investment's soundness.

* Private lenders will be willing to provide loans because they can be secured by the assets of AGSOC and, if necessary subject to legislative approval, by a state guarantee.

* The loan proceeds will be invested in the project or projects, making AGSOC an owner and thus making each Alaskan (as a shareholder of AGSOC) an owner.

* Earnings from the project will be used to pay off the loan.

* Dividend payments can be made to AGSOC shareholders as soon as profits are made. Once the loan is paid off, all profits from the corporation's investments will be paid out to the shareholders.

EXPLANATION: FEDERAL GSOC PROVISIONS

Federal law provides income tax advantages to certain broadly owned corporations. These companies, known as General Stock Ownership Corporations (GSOCs), are exempt from corporate income tax. GSOCs are privately owned corporations designed to leverage the typical citizen into capital ownership. As such the stock is to be distributed free of charge and investments purchase entirely through borrowed funds. As the loans are paid down from investment earnings equity is built into the shareholders.

Charter Provisions

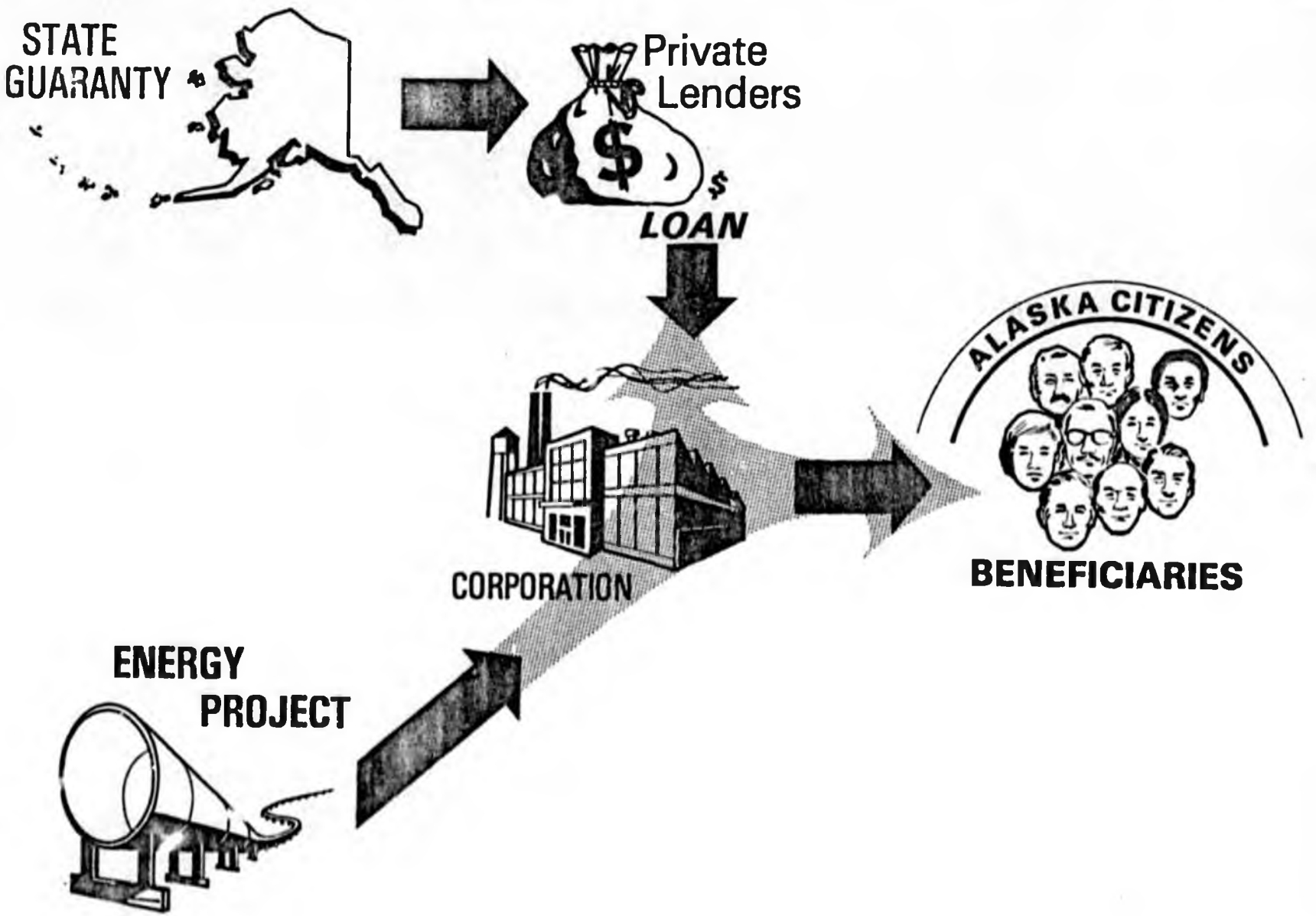
To qualify as a GSOC a corporation must be specially chartered by a state and have a single class of stock distributed to each qualified state resident. Transfers of stock must be limited to the earliest of five years from issue or the shareholder's death or emigration from the state. No shareholder may own or acquire more than 10 shares.

GSOC Taxation

The GSOC is exempt from corporate income taxes, but its shareholders must report their share of GSOC income personally. GSOC income is computed like that of other corporations with special treatment for tax credits. Audit adjustments are included in income of the corporation for the year during which they are finally determined. Net losses are subject to a 10 year carryover and investment credit and recapture is prorated to the shareholders.

Shareholder Taxation

GSOC shareholders are taxed on their share of GSOC income. If a shareholder disposes of his stock GSOC income will be prorated on a daily basis. The shareholder's stock basis will be increased by GSOC income attributed to him and reduced by cash distributions. Since GSOC shareholders are attributed GSOC income distributions from the GSOC are generally tax free. Distributions greater than attributed income are nontaxable to the extent of the shareholder's basis and the excess taxed as capital gains. To assure shareholders have cash for taxes on their share of GSOC income GSOCs must distribute 90% of taxable income by January 31. Noncompliance will subject the GSOC to a 20% tax on the distribution difficiency. To assure payment of taxes the GSOC must withhold 25% of each distribution. The amount withheld is a credit against shareholder income taxes. Individuals not required to pay taxes (because of insufficient income) may avoid withholding on GSOC distributions.


STATE
GUARANTY
Private
Lenders
$
$
LOAN
ALASKA CITIZENS
BENEFICIARIES
CORPORATION
ENERGY
PROJECT

Tax Treatment of
General Stock Ownership Corporations

There has been confusion over the extent to which General Stock Ownership Corporations receive special tax treatment. In a GSOC the corporate income tax is eliminated and the income of the corporation is taxed directly to the shareholders at their own personal rates.

Similar tax treatment has applied to small corporations for many years. A corporation with 10 or fewer shareholders may elect to be treated as a "Subchapter S" corporation. It is then exempt from the corporate income tax and the corporation's income is taxed to the shareholders in much the same manner as in a GSOC. In fact, the provisions of Internal Revenue Code "Subchapter S" were used as a model in drafting the GSOC tax law.

Thus, the GSOC tax benefits are new as applied to corporations with a large number of shareholders, but similar provisions have been in effect with respect to small corporations for some time.

Two Important Points About the Alaska General Stock Ownership Corporation

1. The AGSOC is not a "giveaway".

AGSOC stock would be issued to all citizens of Alaska. No cash investment is required of the shareholder because the AGSOC would borrow the funds necessary for profitable investments. The loan could be secured by the AGSOC assets and a state guarantee. As the loan is repaid the citizens' AGSOC equity increases.

This type of financing is not unique. The wealthy often borrow money on a nonrecourse basis for investment in profitable enterprises. They use their profits to repay the loans leaving themselves with an increased net worth. The AGSOC simply allows the rest of our citizens access to this type of financing.

2. AGSOC is not State ownership.

The stock of AGSOC will be held by the citizens of Alaska. They will vote this stock for a board of directors responsible for running the AGSOC in a profitable manner. AGSOC will be run in the same way as a typical business corporation. The only role for the State in AGSOC will be chartering the corporation and, if necessary, subject to legislative review, guaranteeing loans to the AGSOC.

In Alaska AGSOC may be an alternative to what would otherwise be State ownership of equity interests in some of Alaska's major energy projects. It was out of concern for this possiblity that AGSOC was born.

ALASKA
GENERAL STOCK OWNERSHIP CORPORATION

BILL SUMMARY

Federal law requies state authorization of general stock ownership corporations receiving special tax treatment under Subchapter "U" of the Internal Revenue Code. The bill creates the Alaska General Stock Ownership Corporation (AGSOC). This corporation is a completely private for profit corporation which will operate under the Alaska Business Corporations Act to the extent consistant with the AGSOC act. The shares of the AGSOC will be owned and voted by the citizens of Alaska with each resident holding a share of stock.

The bill directs the Governor to appoint incorporators to form the AGSOC and sets forth the following:

1) Board membership limitations assuring Alaskan control;
2) Federal requirements for corporate articles;
3) Stock distribution to all Alaska residents;
4) Penalties for fraudulent acquisition of AGSOC stock;
5) One year statute of limitations on AGSOC challenges;
6) Financing for AGSOC startup costs; and,
7) Technical amendments required to Alaska statutes.

The corporation is designed to have as its shareholders existing Alaskan residents. Stock will be distributed to eligible individuals without cost. Investments by the AGSOC will be made through the use of borrowed funds and the earnings from those investments used to retire the loan and distribute dividends to the shareholders. Except for minor exemptions the AGSOC will be subject to the same rules as all other Alaska corporations.

DETAILED EXPLANATION

The bill creates a new Chapter 50, entitled "Alaska General Stock Ownership Corporation", within Title 10, the Corporations and Associations title, of Alaska Statutes. The act contains nine sections which may be summaried as follows:

Section 1 sets forth those areas where the AGSOC differs from a typical Alaska business corporation organized under Chapter 5 of Title 10. To the extent that these provisions do not conflict with the provisions of Chapter 5, the Alaska Business Corporations Act, Chapter 5 will apply;

Section 2 includes the corporation among those organizations eligible to receive secured loans from the Permanent Fund;

Section 3 allows the investment of surplus state funds in bonds of the AGSOC;

Section 4 exempts the AGSOC from registration under the Alaska securities laws while providing protection from fraud.

Section 5 creates a one year statute of limitations on suits brought to challenge legality of the AGSOC;

Section 6 makes the provisions regarding eligibility for stock ownership "nonseverable" in order to assure that if this fundamental section is found unconstitutional the entire law will be voided;

Section 7 makes fraud or misrepresentation in obtaining or selling shares of the AGSOC a Class C felony; and,

Sections 8 and 9 provide effective dates immediately following the Governor's signature for most of the legislation.

ANALYSIS: SECTION 1

Section 1 of the bill constitutes the primary legislative section. It creates a new chapter, Chapter 50, of the Alaska Statutes, Title 10, setting forth technical requirements for the Alaska General Stock Ownership Corporation. The Chapter is divided into nine sections dealing with creation of the AGSOC, federally required charter limitations, board of directors, notification of shareholders' eligibility, limitations on corporate liability, restrictions on application for shares, fraud penalties, corporate dividends and definitions. A section by section analysis of Chapter 50 follows.

50.010. ALASKA GENERAL STOCK OWNERSHIP CORPORATION CREATED.

This section directs the Governor to appoint nine people as the incorporators and initial board members of the Alaska General Stock Ownership Corporation. These nine people, a majority of whom must be Alaskans, will adopt corporate articles and bylaws and file with the state to create the corporation as required under the Alaska Business Corporations Act. The bill allows the appointment of some non-Alaskan directors to provide flexibility in obtaining special expertise.

The status of the general stock ownership corporation is made clear by this section. AGSOC is not and may not be considered to be an agency, instrumentality or political subdivision of the State of Alaska. This parallels the federal statute which provides that a GSOC shall be treated as a private corporation and not as a governmental unit. The section also clarifys AGSOC status in relation to other statutes by requiring that it comply with the provisions of Subchapter U of the Internal Revenue Code and the Alaska Business Corporations Act. To the extent that the AGSOC authorizing legislation is not inconsistant with Chapter 5 of Alaska Statutes Title 10, AGSOC will be subject to all the rules applicable to any other Alaska business corporation.

50.020. ARTICLES OF INCORPORATION.

Federal law requires certain charter provisions for general stock ownership corporations and these are set out as requirements for the articles of incorporation of the Alaska General Stock Ownership Corporation. Each of the subsections in .020 set forth a different requirement which must be included in the AGSOC articles.

Subsection 1 provides that the AGSOC may issue only one class of stock which impliedly must be voting common stock.

Subsection 2 provides that stock may be issued only to a certain class of individuals. The group to whom stock may be issued, a closed class of original issue shareholders, are those people who fulfill two tests:

a) They were residents of Alaska, as defined by the definition Section .900, as of the effective date of the legislation which, under Section 8 of the bill, will be the day following the Governor's signing; and,
b) They remain residents of Alaska until the shares are issued.

50.900 defines resident as a person who lives in Alaska and intends to remain here permanently. The definition allows for temporary travel or employment outside without loss of residency. If a dispute arises over residency all of the facts and circumstances indicative of permanent residency must be considered.

Subsection 3 provides that at least one share of stock must be issued to each eligible resident unless that person elects within one year not to receive the stock. The legislation contemplates issuance of shares to eligible individuals free of charge with corporate investments financed entirely with borrowed funds. The one year period allows shareholders who do not wish to receive stock for whatever reason to reject their share, but this election not to receive stock is irrevocable and once made may not be changed.

Subsection 4 provides for limitations on the transferrability of the stock so that shares may not be sold or used as security for a loan during the first five years unless the shareholder dies or moves out of the state. Shares may only be transferred to another Alaska resident and then only if that person would not own more than ten shares of AGSOC stock after the transfer. Corporations and other artificial persons may not be shareholders. Finally, in order to protect minors, shares may not be transferred until the shareholder reaches 18.

Subsection 5 provides that the corporation shall qualify as a general stock ownership corporation subject to the special tax provisions of Subchapter U of the Internal Revenue Code.

Subsection 6 provides for a limitation on investments which the corporation may purchase. The corporation may not invest in assets acquired by it or for its benefit through the power of eminent domain. This is not to imply that the AGSOC has the power of condemnation since that power may be exercised only by the government. The limitation is designed to prevent the AGSOC from acting in collusion with an agency or local government to acquire a going business from an unwilling seller. It is not intended to prevent the purchase at arm's lenght of a business where a portion of the seller's assets may have been acquired by condemnation. The AGSOC would not be prevented from investing in a project where some minor portion of the assets must be acquired through eminent domain is the State or local government determines that the exercise of its condemnation power is appropriate. Such a situation might occur should the AGSOC become involved in the construction of a major pipeline.

Subsection 7 provides the AGSOC with a right of first option to purchase, at a price not less than book value, any stock offered for sale during the first five years of the corporation. The terms and conditions for exercise of this right will be set forth in detail in the corporate bylaws and a notice of the restriction will appear on the stock certificates or receipts.

The five year period for the right of first option parallels the time during which shareholders are prohibited from selling their stock. Only a limited number of shares will become available for sale during this period of time and it is unlikely that an organized market for AGSOC stock will develop during this period. Discretion is left with the corporation to pay prices higher than book value for the stock, but it is likely that the directors will determine that book value is the appropriate price.

Since shareholders who become non-residents during the five year period of transfer restrictions may be able to sell their stock at a high price in an uncontrolled market emigration might be encouraged. The option by the corporation provides a controlled market during the transfer restriction period and allows time to structure the full public market which will develop after the transfer restrictions lapse.

50.030. BOARD OF DIRECTORS.

This section sets out the provisions for AGSOC directors which differ from those applicable under Alaska Statutes Title 10, Chapter 5. The nine incorporators serve as the original board of directors and are divided into three groups in accordance with AS 10.05.186, except that only one-third of the directors will stand for election at the first annual meeting, one-third at the second annual meeting and one-third that the third annual meeting. Thereafter each director will serve for a term of three years as provided in AS 10..5.186. None of the other provisions of the Alaska Business Corporations Act regarding directors are changed and the normal rules of Chapter 5 apply to the AGSOC.

50.040. NOTIFICATION OF ELIGIBLE SHAREHOLDERS.

Since stock is to be distributed free of charge all Alaska residents must be notified of its availability. This section sets out the minimum notice requirements of weekly broadcast and publication for at least three months before stock distribution and monthly broadcast and publication for eleven months after distribution. These are minimum requirements only and the board of directors may determine that the corporation should take other steps to identify and notify potential shareholders. The AGSOC might want to compile mailing lists from various sources to develop a list of potential shareholders while in the bush it might be appropriate for it to hire census personel to locate and identify eligible Alaskans.

50.050. CORPORATION NOT LIABLE TO SHAREHOLDERS.

This section makes it clear that although the AGSOC is required to take reasonable steps to notify potential shareholders of their right to stock the burden of applying for stock lies with the resident and the corporation is not liable for failure to notify or issue stock to a potential shareholder. If a resident makes application for stock after the distribution of one or more dividends he looses his right to those dividends and is entitled to receive only those dividends declared and paid after the date upon which his stock was issued to him.

50.060. LATE APPLICATION FOR SHARES.

The legislation provides that stock is to be issued to all qualifying residents and the corporation directed to use reasonable efforts to identify potential shareholders. The burden of application is upon the resident. Those residents who re identified or who identify themselves will have one year in which to elect not to receive stock. To protect against those eligible residents who are not identified and fail to identify themselves hoping to see how the corporation fares before applying for their stock, a final cutoff date is provided after which distributions of stock will be made only upon payment to the corporation of book value.

50.070. PENALTIES FOR MISREPRESENTATION OF ELIGIBILITY AS SHAREHOLDER.

This section provides a civil right of action against individuals who obtain stock through fraud or misrepresentation and who sell stock on the same basis. It allows the stock to be voided, dividends to be recovered with interest and costs of the suit to be paid by the defendant.

50.080. DIVIDENDS OF THE CORPORATION.

Under the rules of the Alaska Business Corporations Act a corporation may pay dividends only out of earned surplus, the retained earnings of the corporation. Since the AGSOC is required by federal law to distribute 90% of its taxable income to its shareholders on an annual basis is may be necessary to distribute a dividend in excess of earned surplus. Such a situation can arise because accounting for tax purposes and for purposes of the corporation's books may not and are not required to be the same. For this reason an exception to the general rule of Chapter 5, Title 10, is required allowing the AGSOC to distribute dividends as required to meet the terms of Internal Revenue Code Subchapter U except where such distribution would cause the corporation to become bankrupt or when the corporation is already bankrupt. Bankruptcy in this situation means when the corporation is unable to meet its current obligations.

50.090. EXEMPTION FROM AS 10.05

This section exempts the AGSOC from the provisions of the Alaska Business Corporations Act which requires $1,000 of paid in capital before operation of the corporation commences.

50.100. LOAN GUARANTEE FUND.

This section establishes a fund within the Department of Revenue which is to be used to guarantee loans to the AGSOC by private lenders. This fund is intended to provide security for private credit to be used by the AGSOC for its startup expenses such as the costs of stock issue and the investigation of potential investments.

50.900. DEFINITIONS.

This section defines the terms used in Chapter 50. Especially important is the definition of resident since that definition will determine who is eligible to receive AGSOC stock without charge.

Two-Factor Theory And ESOP Financing

Why, In An Advanced Industrial Economy, Substantial Income-Producing Capital Must Be Owned By Corporate Employees

And

How--With Very Slight Changes In Basic Business Strategy--This Can Be Effectively Accomplished Through Employee Stock Ownership Plan (ESOP) Financing:

°The Most Potent Instrument For The Purpose

°The Most Advantageous To The Corporation

°The Most Beneficial To Employees

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Although two-factor economics is a new and fundamental concept, it is simple and straightforward. The reasoning runs as follows:

1. While it is true that people, participating in the economy through the performance of their various tasks, are a basic source of productive input, they are not the only source of productive input.

2. Non-human things, such as land, structures and machines, also make productive input into the economy.

3. The division of the input sources into two types is both necessary and adequate, because the ownership of labor power cannot be concentrated, while the ownership of non-human things can easily be concentrated. It is, after all, an individual's property in an input factor that entitles him to receive what it produces.

4. Under the logic and morality of a market economy, productive input into the economy is the basis for the individual's right to receive income from it. Economic outtake is conditioned on economic input. To accountants and businessmen, this relationship is simply double-entry bookkeeping. To economists, it is "Say's Law" or "Say's Identity". To moralists, it is the Puritan Ethic, or simply the principle of economic justice defined by Aristotle. To lawyers, it is the principle of private property, under which the owners of capital and the individual owners of labor power are accorded the income equivalent of what each privately-owned input factor contributed to production.

Figure 1: SAY'S LAW THE BASIC LAW OF TWO-FACTOR ECONOMICS

For every dollar spent, somebody gets a dollar in economic value. Say's Law is simply a prose statement of the principle of double-entry bookkeeping, which is the logic of a private property, market economy.

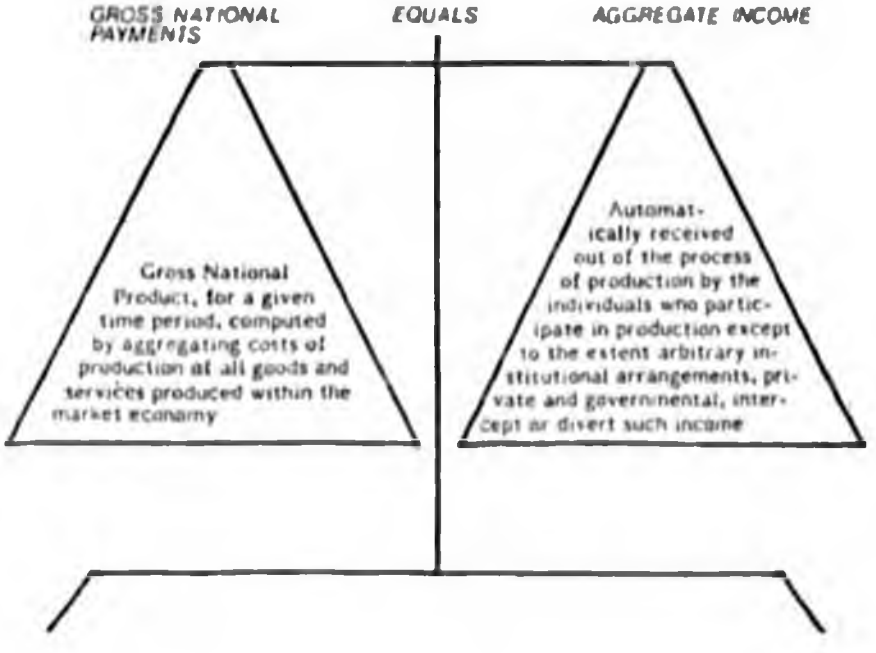
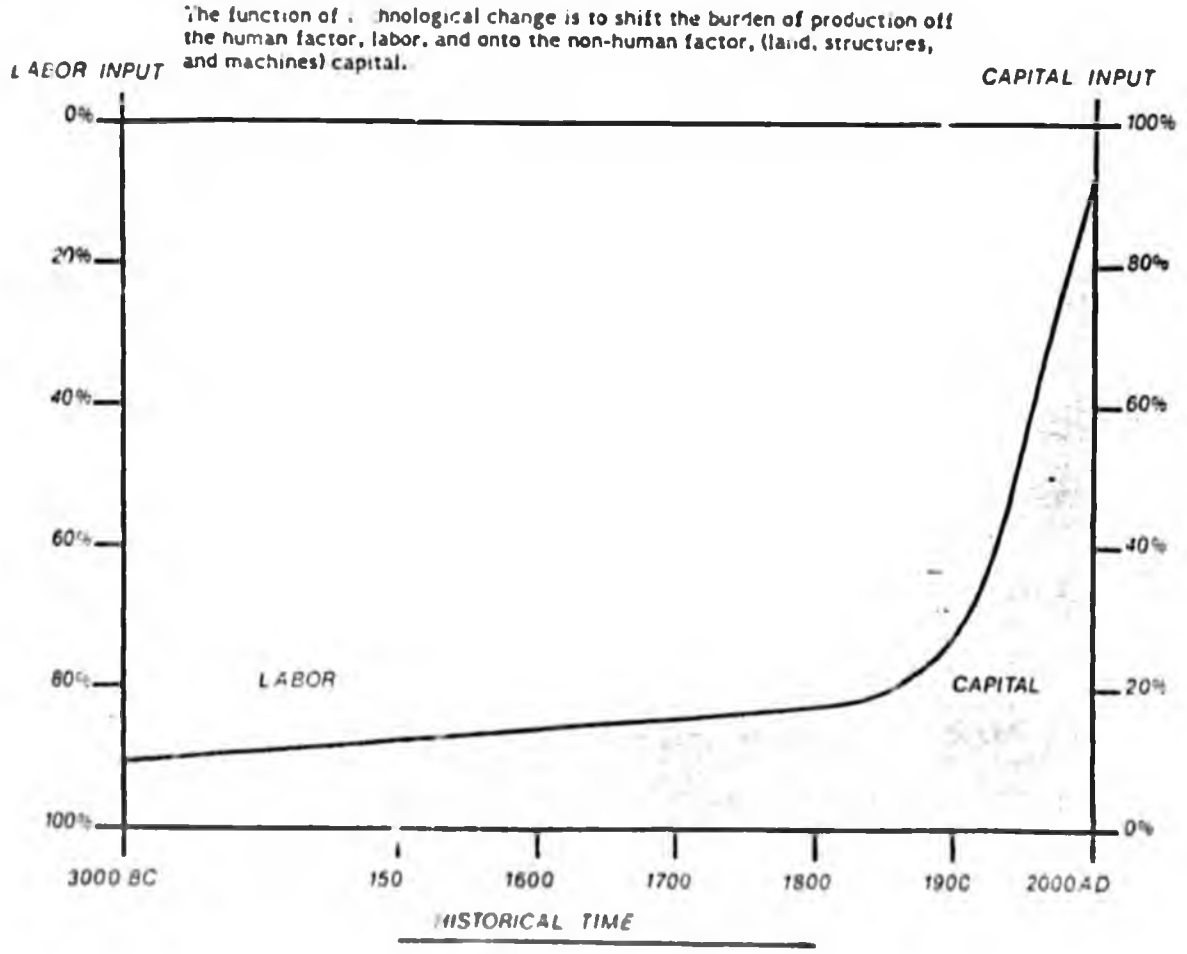


Figure 2: SAY'S LAW ILLUSTRATED ON THE BASIS OF 1973 STATISTICS (IN BILLIONS)

Gross National Product		Pre-tax Income	
Less adjustments for capital consumption allowances, indirect business tax and non-tax liability, business transfer payments and other minor adjustments.		Pre-tax Income Automatically Arising out of Production and Received by the Participants in Production	
CONSUMER COSTS OF:		INCOME OF PARTICIPANTS IN:	
Agriculture, forestry, and fisheries	$ 37.8	Agriculture, forestry, and fisheries	$ 37.8
Mining	9.7	Mining	9.7
Contract construction	57.5	Contract construction	57.5
Manufacturing	291.9	Manufacturing	291.9
Transportation	39.3	Transportation	39.3
Communications	21.7	Communications	21.7
Electric, gas, and sanitary services	19.8	Electric, gas, and sanitary services	19.8
Wholesale and retail trade	151.5	Wholesale and retail trade	151.5
Finance, insurance, and real estate	118.9	Finance, insurance, and real estate	118.9
Services	133.6	Services	133.6
Government and government enterprises	162.9	Government and government enterprises	162.9
Foreign trade and transactions	9.6	Foreign trade and transactions	9.6
	$1,054.3		$1,054.3

5. Technological advance, which is the phenomenon responsible for the Industrial Revolution, as well as our own automation revolution, and all of the intermediate revolutions brought about by science and technology, changes, and is intended to change, the input mix. It shifts the burden of production off labor (the human factor) and onto capital (the non-human factor). Technological change does not operate directly on labor. It cannot increase the productiveness of an individual worker. It increases the productiveness of machines, tools, structures, land and processes. The economic productiveness of human workers--what they can accomplish with their unaided muscles or minds has not changed during the course of history, if the value of that productiveness is determined objectively and competitively by the free operation of the law of supply and demand.

Figure 3: *THE FUNCTION OF TECHNOLOGICAL CHANGE*



6. In the United States economy, the world's most advanced, the process of technological change has gone so far that most of the goods and services today are produced by capital instruments; only a minor portion of the productive input is made by people. With rare exceptions, it is capital that produces affluence. Labor, in a free labor market, can normally produce only subsistence. The relative distribution of aggregate personal income between workers (roughly 3/4ths) and the owners of capital (1/4th) does not reflect the relatively higher productive input by capital because our governmental economic policy (the Employment Act of 1946), and implementing legislation, attempts to repeal the law of supply and demand as it applies to the value of labor. This is the purpose of minimum wage laws, coercive fixing of wages, vast governmental make-work programs, government subsidies to industry and other government entities to "create" jobs, etc.

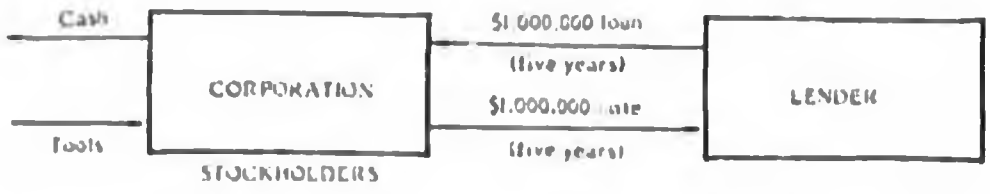
The costs of all such efforts enter into the costs of production, directly or indirectly, and thus are inflationary precisely because they are not reflected in the increased production of goods and services by labor. Such costs, neither representing increased labor input nor labor shortages, are, in fact, disguised welfare. They are injected into the costs of the same quantities of goods and services that, prior to the coerces increases, would have been produced at lower costs. These attempts to overvalue labor constitute the monetization of welfare.

7. The shifting of the input mix from labor to capital would cause no economic problem, even under competitive labor markets, if the declining productiveness of labor were offset by increasing capital ownership, i.e., if, as technology diminished the productive role of the human factor, workers simultaneously acquired ownership of enough productive capital to compensate for their loss, or even better, enough capital to provide what few labor-dependent persons have ever achieved, a truly affluent standard of living.

8. Unfortunately, traditional techniques of finance do exactly the reverse of what the situation logically requires. They insure that all newly-formed capital will be automatically owned by those who own all existing capital. Under these techniques, the $100 billion-plus of new capital formation that comes into existence each year in the U.S. economy becomes owned by a tiny proprietary class--5% of consumer units at most. If averaged over the past 15 years, about 98% of new capital formation in the corporate sector (which produces more than 85% of total private sector goods and services) is financed out of direct cash flow or borrowings repaid out of cash flow.

Figure 4: *CONVENTIONAL CORPORATE FINANCE*

Including internal cash flow, borrowings repaid from after-tax cash flow, accelerated depreciation, depletion, and investment tax credit, but excluding sale of new stock to the public for cash

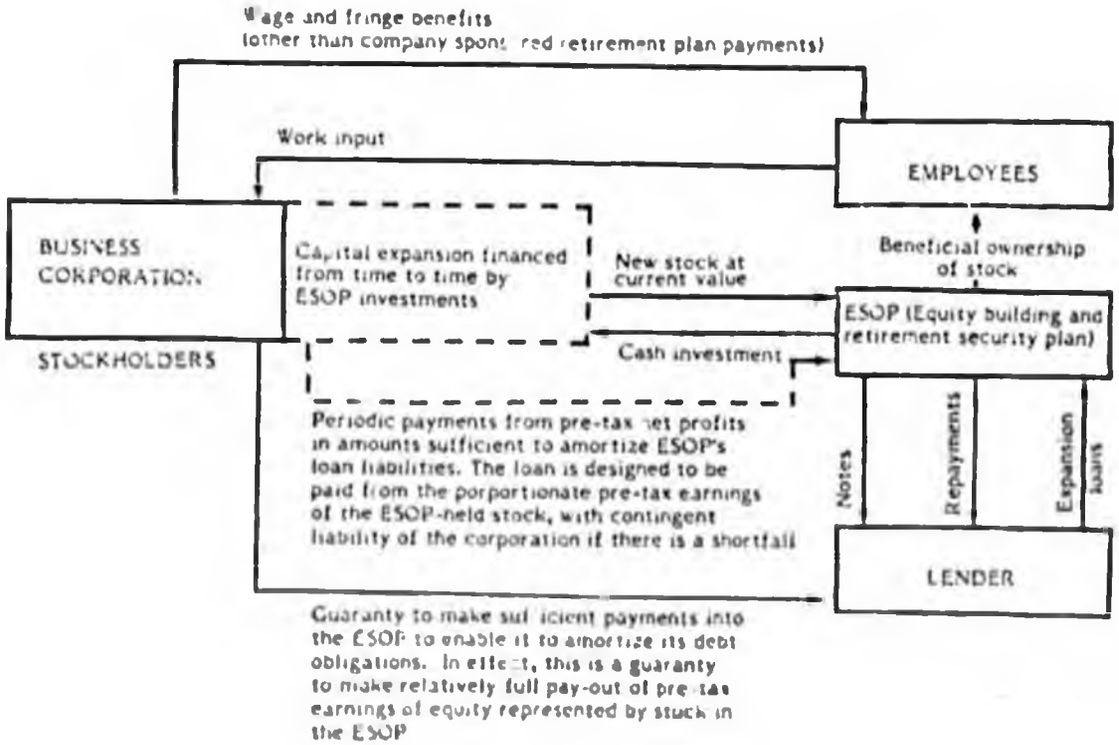


These methods of financing new capital formation have one common characteristic: they do not create a single new stockholder. The portion of new capital formation (about 2%) financed by sale of equity stock to the public does not alter this propensity. Every qualitative study of stock ownership to date shows that ownership of virtually all individually-owned productive capital is lodged in the top 5% of consumer units. These are the families who have excess funds to buy newly-issued stock. Conventional finance has created this monopoly.

9. The logic of business finance is to invest in productive capital that will pay for itself within a reasonably short space of time, normally three to five years, and then go on throwing off wealth indefinitely, its productive power being replenished through depreciation funds set aside out of gross income before net income is computed. Two-factor financing techniques, of which the most widely used today is the Employee Stock Ownership Plan or ESOP, makes this logic available to employees.

Figure 5: *BUSINESS CORPORATION FINANCED BY A PROPERLY DESIGNED ESOP*

Intended to simultaneously (1) finance growth of the corporation, and provide second incomes for the employees (if the stock is dividend paying and, after shares are paid for, the dividends pass through the ESOP currently to the employees) and (2) to build retirement security in the form of equity capital ownership.



10. ESOP financing, on the one hand, provides low cost capital, through the use of pre-corporate-tax funds, to finance corporate growth, and on the other hand, builds ownership into workers without diminishing their take-home pay or calling upon their small or nonexistent savings.

11. With minor legislative changes to provide capital diffusion insurance (modeled after FHA insurance) for lenders that make sound ownership broadening loans and to make the financing paper held by lenders discountable at a rate not in excess of the administrative costs of the Federal Reserve Bank, two factor techniques provide means for financing unlimited growth, while building market power, economic security, and growing current second incomes from capital* into the masses of workers; thus the market power of potential consumers rises in step with the productive output of the economy.

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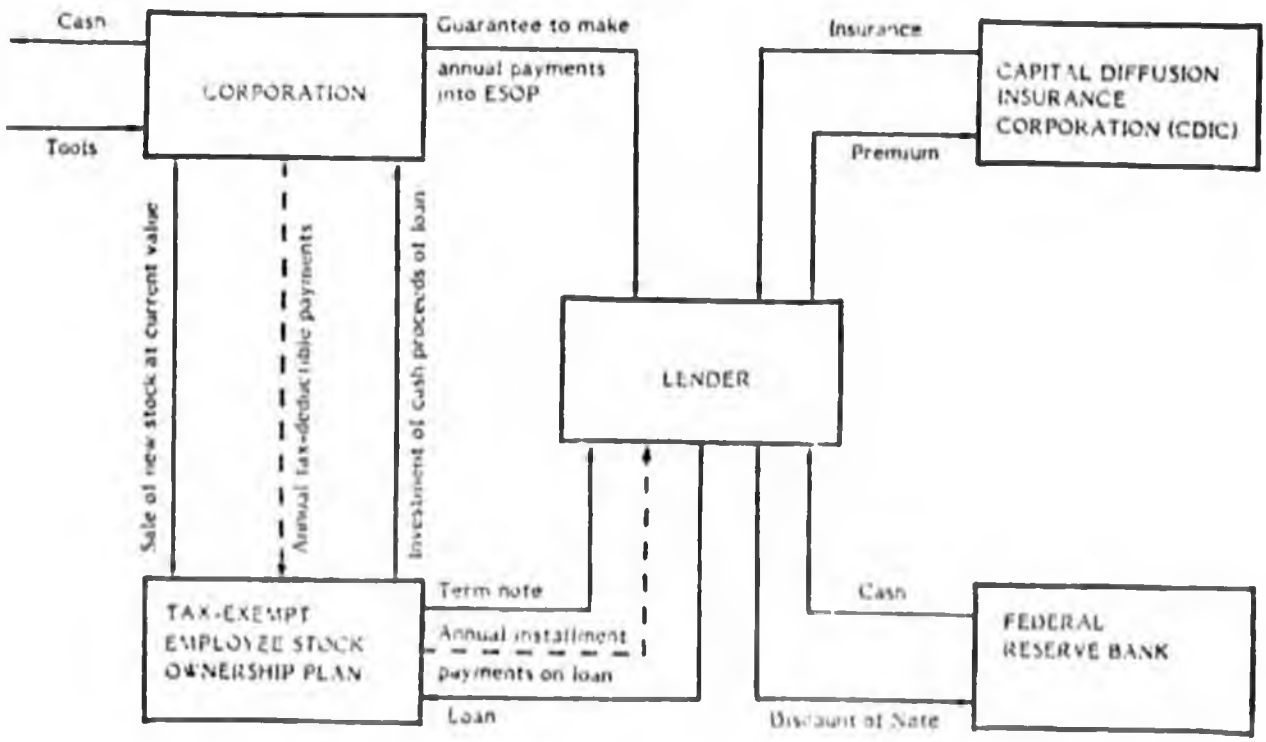
*Where the stock in the ESOP pays a dividend, the plan often provides that, after each particular share of stock is paid for, the dividends on it shall currently pass through the trust into the workers' pockets.

Figure 6: *FINANCING ECONOMIC GROWTH*

Financing economic growth by monetizing productive capital while building market power into consumers through ESOP financing

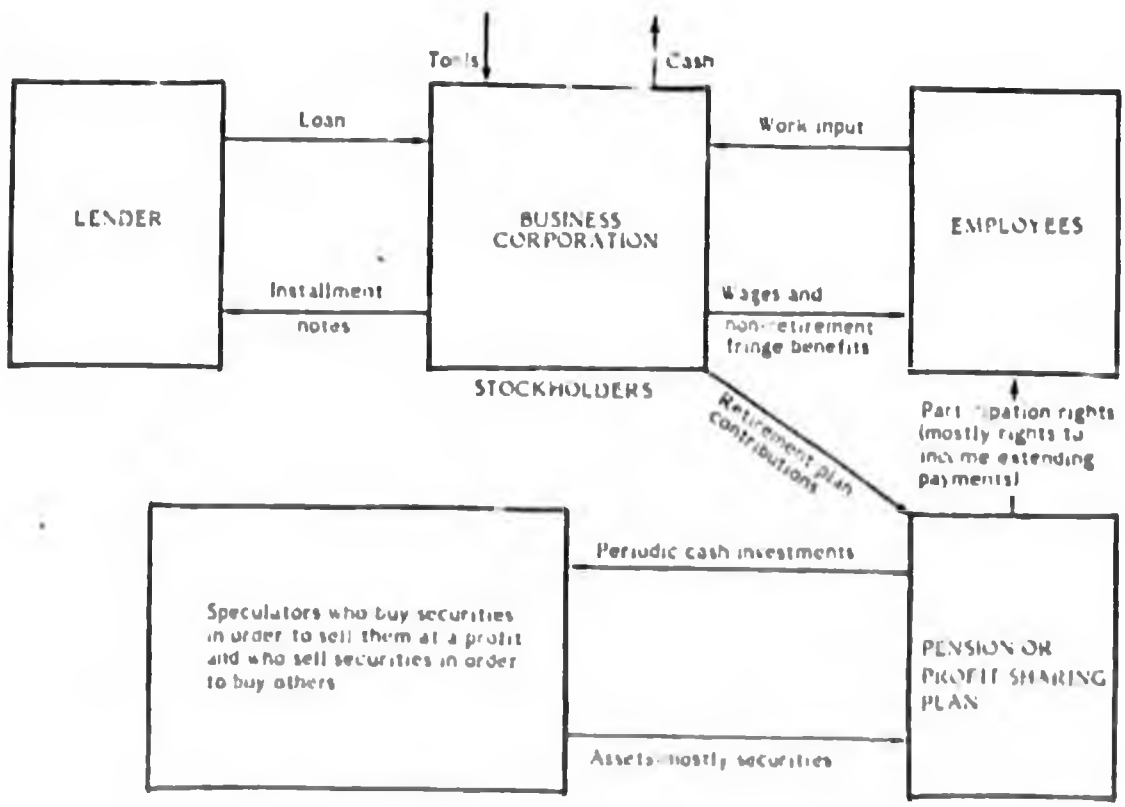


12. Inflation is eliminated. Institutional barriers, such as lack of "money" to finance solid, self-liquidating economic growth are eliminated; legitimate leisure, built upon the ownership of a holding of productive capital that will enable a man or woman to produce a viable income, becomes possible over a reasonable working lifetime; and the burden of public taxes imposed upon producers to support the non-productive and under-productive can ultimately be virtually eliminated. Fully productive households and individuals do not need to be subsidized.

13. The ESOP is an enormous cost-saver for the corporation which--sooner or later--can substitute it for a fixed-benefit pension plan, or any other pension plan or conventional profit-sharing plan. All payments by the corporation into these conventional plans are pure cost.

Figure 7: *CONVENTIONAL FINANCING OF A BUSINESS CORPORATION*

Conventional financing of a business corporation, other than by sale of new stock to the public for cash, with conventional pension or profit sharing plans invested wholly in assets purchased from sources other than the employer-corporation.

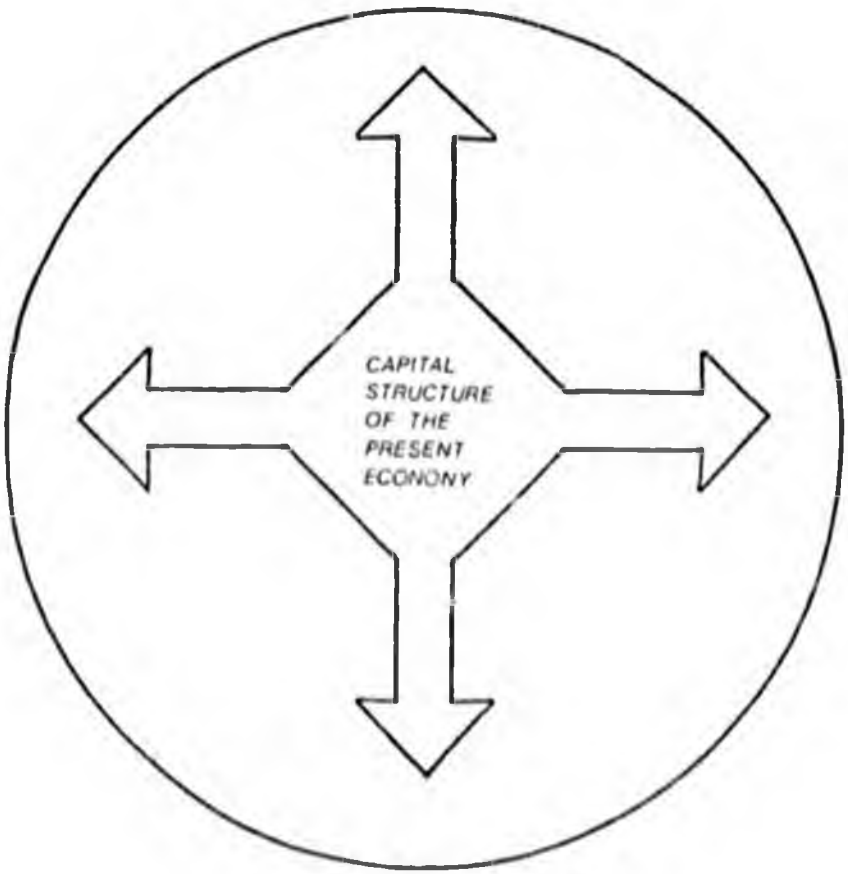


Compared with the ESOP (see Figure 5), not only does the identical dollar paid by the corporation to build stock ownership into employees also finance corporate growth, but corporate growth can be accomplished on pre-tax dollars. By comparing the ESOP (Figure 5) with conventional economic security-building plans (Figure 7), you will see that the ESOP enables the corporation to gain $3 of advantage for each dollar spent. And it conforms to the sound economic goal of enabling employees, who work hard and well over a reasonable working lifetime, to retire singularly well off.

14. Finally, because the economic goal implicit in Two-Factor Theory is to expand the U.S. economy (and any other economy that adopts it) sufficiently to enable all consumers to live well--general affluence--while also producing the technology to protect the environment, a change to a two-factor policy by business and government could give us twenty-five years or more of legitimate full employment. This would be time enough for society to adjust to a world in which each person will spend less time in economic work and more time in the work of civilization.

Figure 8: *OBJECTIVE OF TWO-FACTOR ECONOMICS*

Capital structure of the present economy, owned by 5% of consumers, expands ten-fold to create the SECOND ECONOMY, owned primarily by the 95% of consumers who now own no capital



SUGGESTED READING ON TWO-FACTOR ECONOMICS

Books

THE CAPITALIST MANIFESTO by Louis O. Kelso and Mortimer J. Adler (Originally published by Random House, New York, 1958. Republished 1975 and presently available through Greenwood Press, 57 Riverside Avenue, Westport, Connecticut 06880, Tel. (203) 226-3571.)

THE NEW CAPITALISTS by Louis O. Kelso and Mortimer J. Adler (Originally published by Random House, New York, 1961. Republished 1975 and presently available through Greenwood Press, 57 Riverside Avenue, Westport, Connecticut 06880, Tel. (203) 226-3571.)

TWO-FACTOR THEORY: THE ECONOMICS OF REALITY by Louis O. Kelso and Patricia Hetter (Random House, New York, 1967; Paperback Edition, Vintage Press, 1968)

Testimony

Testimony by Louis O. Kelso before the Joint Economic Committee, U.S. Congress, December 11-12, 1975, on "Employee Stock Ownership Plan Financing and Other Financing Concepts Based on Two-Factor Economics"

Testimony by Louis O. Kelso, Norman G. Kurland and Patricia Hetter before the Senate Finance Committee, U.S. Congress, March 31, 1976, on "Major Tax Revisions and Extension of Expiring Tax Cut Provisions"

Reports and Publications

"ESOPs: An Analytical Report" prepared for the Profit Sharing Council of America, Chicago, Illinois, by Hewitt Associates, Deerfield, Illinois

"Employee Stock Ownership Plans" prepared by The Committee of Publicly Owned Companies, New York, New York

"A Symposium on Employee Stock Ownership Plans", The American University Law Review, Spring 1977, Volume 26, No. 3, prepared by The Washington College of Law, American University, Washington, D.C.

"Making New Capitalists -- A Creative Response to Income Inequities" prepared by the 1977-78 Twentieth Session, Executive Seminar in National and International Affairs, Department of State

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A Discussion of the Financial Foundation for General Stock Ownership Plans*

by

Stephen A. Buser**
(April 1979)

*This paper was prepared in part from material gathered under a research project for the Ford Foundation and was submitted in support of oral testimony before the Alaska State Legislature in Juneau on March 20, 1979.

**Academic Faculty of Finance, The Ohio State University

I. Preface and Summary

A General Stock Ownership Corporation (GSOC) is not a magical money machine. In the absence of external support in some form, a GSOC cannot be expected to earn a net cash flow simply by borrowing from one group of capital owners in order to finance asset acquisitions from other capital owners. Inappropriate analogies are sometimes drawn between financed asset acquisitions that a GSOC might undertake and those that wealthy individuals and solvent firms undertake as a matter of routine. By definition, wealthy individuals and solvent firms have equity bases to cushion temporary or chronic operating deficits. In constrast, the financial condition of an unsubsidized GSOC, is similar to that of any other firm whose liabilities exceed its assets; it is <u>insolvent</u>. Like any other insolvent firm, a GSOC can be made to show an operating profit if given sufficient subsidies in the form of donated cash or assets, tax benefits, and/or credit assistance. However, since these subsidies would have earned a normal return if put to alternative uses, it is erroneous to attribute a GSOC "profit" to its leverage-acquisitions. Any such "profit" is simply a residual of the normal return on the subsidies invested in a GSOC, after the GSOC's own expenses have been deducted.

Therefore, despite optimistic claims by a few exhuberant supporters, a GSOC is more accurately described as an elaborate financial device for capturing and redistributing the federal taxes currently paid on privately owned assets. Since these tax payments can be sizable, the implicit federal subsidy represents a potentially valuable source of State revenue. However, under the federal "enabling" legislation a GSOC's tax liability is not forgiven but instead is passed through to (and borne fully by) the citizen shareholders of the GSOC. Technically, the federal tax "break" is limited distributions in excess of the

GSOC (pass through) tax liability. This provision carries important implications both for the financial viability of the GSOC and for the form of the distribution of the federal subsidy.

In terms of financial viability, the pass-through restriction, reduces the portion of the federal subsidy that a GSOC can use to cover its own overhead and debt-service expenses. Projected GSOC operating deficits (which any pure leverage investment company would run) must be funded from some other source. Most likely, State assistance will be required on a continuing basis and in an amount that is significant when measured against the after-tax benefits received by the citizens of the State.

In an attempt to lessen its own subsidy burden, a State might direct its GSOC to acquire assets that would generate a low (or even a zero) pass through tax liability. However, to the extent that such assets also generate low tax liabilities for existing owners, the federal subsidy is reduced as well. The "solution" that seems implicit in the federal legislation is for the GSOC to acquire assets that are eligible for tax credits and/or accelerated depreciation charges from owners who have already exhausted such benefits for themselves. Since nonsubsidized firms have a similar tax incentive for acquiring such assets, a GSOC must expect to pay prices above those that would otherwise prevail in the secondary market for depreciated assets. Sales at inflated prices would allow the selling firms to capitalize a greater portion of their scheduled tax payments to the federal government, reducing the portion of the subsidy captured by the GSOC.

GSOC advocates have suggested that careful investment analysis might eliminate such overpricing. However, the GSOC's investment team, will be virtually totally dependent on projections provided by the selling firms. Experi-

enced negotiators for selling firms also have been known to cite pressing cash needs or other smokescreens in an effort to convince buyers that the assets are actually offered below the prevailing market prices. Experienced buyers recognize, of course, that if such were in fact the case, a rational seller would always sell at the higher market price unless the sale at the lower price constituted an implicit payment for some past or future consideration. Such might be the case in a "pilot" program where a selling firm has a clear incentive to "prove" that the GSOC is viable in order to establish a future flow of subsidy benefits. In other cases, selling firms may simply rely on the observation that even at inflated prices, the GSOC will show a "profit" as long as the federal subsidy is less than fully capitalized by the seller.

Despite the apparent inevitability of the diversion of GSOC subsidies to selling firms, even GSOC directors with impeccable standards may be hard pressed to determine the true extent of these diversions. Efforts at extensive investment analysis might succeed in limiting the subsidies to selling firms but only by creating another type of subsidy diversion in its place since the required analysis is apt to be quite expensive, and these costs must be subsidized as well. Regrettably, it is unlikely that even an outside "watch dog" agent (perhaps established by the State legislature) could successfully monitor GSOC activities. On the contrary, the risk appears far greater that outside pressure will be exerted on the GSOC directors to use their considerable subsidy powers in support of particular firms or banks that might be deemed "essential" to the State or local economy. In fact, it might be argued by some that the GSOC has a "moral obligation" to provide such support as long as it can do so and still show an operating "profit." For example, subsidy diversions to the shareholders of particular firms might be regarded as necessary to continue employment for

workers who might otherwise face a loss of jobs. Unfortunately, the firms destined for subsidy diversions are capital intensive rather than labor intensive so that GSOC subsidy diversions are apt to be extremely inefficient (in terms of cost per worker) as a means of providing job security.

When the inherent disadvantages of the GSOC concept are measured against the ambiguous federal support for the program, a State may decide that the "price" it must pay for a GSOC is too high in relation to the poter ial benefits. Even if a State determines that GSOC benefits are "offered" at a bargain under the federal legislation , the State should be aware that the citizen-shareholders in a GSOC will share the federal and State subsidies with the GSOC bureaucracy and with the firms that sell assets or lend funds to the GSOC. While subsidy diversions in small amounts might be regarded as "normal" operating costs, the potential for large-scale subsidy diversions cannot be ignored. Such diversions are not necessarily "bad," but they defeat the expressed purpose of the GSOC concept by funnelling benefits to existing capital owners rather than to new capital owners. At present the "unintended beneficiaries" of a GSOC program appear to be the shareholders of capital intensive firms, as well as banks and other lending institutions that might win the favor of a particular board of GSOC directors. The federal immunity from personal income taxes on distribution in excess of the GSOC pass-through tax liability obviously benefits citizens in the highest tax brackets the most. Those who pay little or nothing in the way of taxes obviously receive little or no benefits from this tax "break." Those suffering the most from the proposed GSOC program would be firms that would have to compete with the GSOC, either in the market for credit or in the market for depreciated assets. In addition, despite the fact that the costs of the federal and State subsidies would be dispersed, every dollar of benefits distributed

by the GSOC will have to be made up, either in the form of additional tax revenues to replace those diverted or in the form of greater inflation if the lost tax revenues are not made up.

Economists note that asset transfers do not create new cash flows. In fact, transfer programs, no matter how socially desirable they might be, absorb rather than generate market value as new costs are merely grafted onto the existing economy. Thus economists place a heavy burden of proof on the proponents of particular plans to show that their plans are adequately funded (or subsidized) and that the benefits actually accrue to the targeted groups. Unfortunately, despite the force of a highly emotional call for action, the GSOC backers have not satisfied these basic requirements. "Faith" and "vision" are all that have been offered in support of the contention that a GSOC can achieve its intended goals and avoid becoming simply one more program that promises broad-based benefits but instead imposes broad-based costs and funnels the benefits to familiar recipients, the banks, the capital intensive industries, and of course, bureaucracy itself.

II. Financial Viability of a GSOC

Case 1: Viability without external support

To appreciate the limitations of the federal GSOC legislation, it is important to understand precisely how and why a GSOC is not financially viable without external support. To do so, let us reexamine a hypothetical example of financed capitalism found on p. 71 of the report submitted by Kelso & Co. to the Alaska State Legislature, "Design of an Alaskan General Stock Ownership Plan, Volume I" (February 15, 1979). In that example, a Mr. Adams borrows $200,000 and builds a fourplex which he rents out for a total of $24,000 per year. For simplicity, the drafters of the Kelso & Co. report abstract from vacancy risk, from taxes, from overhead expenses, and even from interest on the loan. Such simplifications might have served the narrow purposes of the commission issued by the State to Kelso & Co. They do little, however, to reassure a potential lender who is concerned with the financial viability of a GSOC. For example, with an interest rate of 10% (generous by today's standards), the annual debt service on a ten-year fully amortized loan is $32,500 rather than the $20,000 figure used in the interest-free example. Thus even if the $24,000 earnings figure is reinterpreted as net taxes and net of all expenses, the financed acquisition plan would fall considerably short of the goal of self-liquidation. Instead of an excess annual cash flow of $4,000 found in the zero-interest example, Mr. Adams would have to cover a short-fall of $8,500 per year over the life of the loan. The loan could be amortized over a longer period, thus reducing the annual debt service. However the interest alone amounts to $20,000 per year so that a self-liquidating the mortgage would have to be written with exceptionally long maturity. At an interest rate of 12% or better, the mortgage could never be paid off out of the projected rents alone.

Advocates for the concept of financed capitalism might observe that the rental rates chosen by the drafters of the Kelso & Co. report were arbitrary and just happened to be too low in order to make sense when representative charges are introduced. Therefore, it is important to recognize that even if the example were restructured so that Mr. Adams would have been able to arrange self-liquidating financing for his investment, that does not mean he would sell his fourplex to the GSOC at a price that (in the absence of external support) would allow the GSOC to finance the acquisition with a self-liquidating loan. On the contrary, rather than sell at such a price, Mr. Adams would simply refinance any outstanding mortgage against his fourplex, in order to raise the same amount of additional cash that the sale would have produced (after repaying the loan). Thus even though the financed capitalism concept might work for original investments, the model breaks down when it is applied to asset transfers. As long as asset sellers require full compensation for the stream of earnings they relinquish, the debt service on loans to provide such compensation must exhaust the full value of the asset's earning potential. Otherwise, the alternative of financed asset retention dominates the decision to sell the asset.

In reaching this general conclusion, it must be remembered that external factors, such as tax considerations, have not yet been introduced. Similarly, differences in borrowing capacities have not yet been considered. Thus the general conclusion is not contradicted by examples of asset acquisitions that are entirely financed via self-liquidating loans to individuals or firms who can secure the loan pledging more than just the asset's own earnings. Implicit in such arrangements is the very important premise that, if needed, the borrower can draw on other funds or resources. In contrast, a GSOC has no equity base to use

as supplemental collateral for loans. Thus in the absense of external support, a GSOC would be unable to acquire assets via self liquidating loans even though equity firms and some individuals might be able to do so. GOSC's are by no means unique in this regard. Extensive analysis of investment companies (including mutual funds) confirms that these equity institutions would not be viable as pure-debt firms. I.e., they do not earn a rate of return equal to their risk-adjusted cost of capital.

Case 2: Viability under the federal legislation

The federal "enabling" legislation is not a legal requirement for the operation of a GSOC. It is merely an open admission that a GSOC is not financially viable without external support of some form. On its own a GSOC would not earn leverage arbitrage profits, it would make leverage arbitrage losses as would any other pure-debt investment company. Without an equity base or an external subsidy to offset these losses no lender would extend funds to a GSOC. This observation, more than any other single factor, explains why pure-leverage investment companies have failed to materialize on their own despite promises of sure profits offered by advocates of financed capitalism.

Recent federal legislation grants qualifying GOSC's immunity from the federal corporate income tax. Had immunity been granted in an unrestricted form, a GSOC would have been able to use a greater portion of the pretax earnings on assets to cover GSOC overhead and to service the debt raised to finance asset acquisitions. Any excess subsidy would then have been available for distribution to citizen-shareholders or for accumulation as equity in the GSOC. To illustrate this point, let us return to the previous example, and assume that the pretax earnings on Mr. Adams' fourplex had been $40,000, of which he was required to pay $10,000 in federal taxes and another $6,000 in state

taxes, leaving $24,000 for expenses and debt service. Under federal (but not state) immunity, the GOSC would have the use of $34,000 per year, and thus, over some price range, could afford to offer Mr. Adams more for the asset than he would be able to raise via his own self-liquidating loan. At such a price, Mr. Adam's would capitalize all of the after-tax earnings plus a portion of the earnings stream otherwize lost to the federal government. In such a case, both Mr. Adams and the GSOC would benefit at the expense of the U.S. Treasury.

Apparently the U.S. Congress did not intend that the federal legislation reduce to merely a tax dodge (at least not so simply). Therefore, in granting GOSC's immunity, the "enabling" legislation also mandates that the equivalent tax liability be passed through to the citizen-shareholders without regard for the special tax status of the recipients. Had the GSOC been a viable-self-supporting firm, the pass-through restriction would not have been especially significant. A GSOC would simply pass through its own tax savings in order to cover the tax liability that it must also pass through. However, the GSOC requires these (or some other) funds to cover the amount by which its overhead and interest costs will exceed its (after-tax) earnings. Thus, as presently structured, the federal legislation does nothing to improve the financial condition of a GSOC. To qualify for the tax subsidy, the GSOC must accept an offsetting financial committment.

Despite this negative assessment, a GSOC would have the same opportunities for tax-arbitrage exchanges as any other firm would, and it might be able to make use of such opportunities to strengthen its financial base. Tax savings arise if the tax payments that would have been made by an existing owner (by Mr. Adams in the hypothetical example), are less than those that a GSOC would incur and this difference is less than fully capitalized in the sale of the asset to

the GSOC. The corresponding portion of the pre-tax earnings flow is, in effect, donated by the federal government rather than purchased from the previous asset owner. Such opportunities arise as a matter of routine because of federal tax laws that provide acquisition tax credits and/or accelerated depreciation charges which are renewable only if the qualified assets are transfered to new owners. Thus a GSOC might earn a tax-arbitrage profit by acquiring depreciable assets from owners that have already exhausted the liberal tax benefits for themselves. Unfortunately, these assets offer similar tax advantages for acquiring firms other than GSOC's. Thus GOSC's must bid against other firms for these assets, and this competition will allow the selling firms to monetize even greater portions of their projected tax payments.

Since a GSOC cannot earn tax-arbitrage profits by acquiring assets from firms in lower tax brackets than the GSOC (based on the pass-through computation), the only way that a GSOC might be able to strengthen its own financial base is to divert a portion of the federal tax subsidy to the shareholders of large capital-intensive corporations seeking to unload some of their depreciable assets after the initial tax benefits have been gutted.

This description of the federal legislation is vastly different from the expressed intentions of the backers of the GSOC concept. So much so in fact, that it is difficult to imagine that the U.S. Congress had a similar goal in mind in settling on the form of this particular "enabling" legislation. It would be far easier to explain the federal "enabling" legislation as an attempt to provide large capital-intensive firms with additional relief from federal taxation.

Case 3: Viability under alternative forms of State assistance

At present, the extent of federal support for a GSOC appears anything but overwhelming. Kelso & Co. or some other source may be able to furnish a

description of the type of asset acquisitions that would recover enough of the federal subsidy to render a GSOC financial viability. As yet, however, no such encouragement has been provided. Nor is there any evidence for a legitimate reference to required State assistance as "start-up" costs. Surprisingly few of the proposed budget items are truely nonrecuring. On the contrary, virtually all of the GOSC's expenses contribute to the annual deficits that a GSOC must run in the absence of continuing financial assistance. These annual deficits are projected as substantial and must be supported from some external source. Moreover even after these deficits have been absorbed (by the State), the State must directly or indirectly provide for every dollar of benefits distributed by the GSOC (in excess of the GSOC tax liability). Recall the federal "contribution" is limited to forgiving the personal taxes that citizen-shareholders would otherwise owe on these excess disbtriubtions.

Although there are many forms that State assistance might take, any such assistance reduces to two basic dimensions, perpetual year-by-year maintenance, and/or an initial endowment. As a substitute for equity capital in a normal firm, an initial endowment of cash or earning assets would provide an income flow needed for an initial operating margin. To the extent that such an initial subsidy is insufficient, supplemental annual subsidies will be required as well. One obvious possibility for an annual maintenance subsidy is immunity from the State corporate income tax. In essence, the State could donate its own tax flow in support of the federal subsidy. Assuming that this benefit is less than fully capitalized in the sale prices of assets, the GSOC would then capture at least a part of the State subsidy (with the balance accuring to the seller of the asset as with the federal tax subsidy).

Credit assistance provides an alternative form of a maintenance subsidy. Instead of furnishing additional revenue, a credit subsidy is designed to reduce

borrowing costs and hence lower debt service claims against GSOC income. Agency status would provide the GSOC with direct access to the tax exempt borrowing market. Equivalently, the State could borrow (or divert funds from other uses) and lend to the GSOC at rates less than those charged in the fully taxable market. In either case, however, the State could have earned the higher (market) rate, on its funds and thus the State, should regard the difference in revenue as a subsidy to the GSOC.

Loan guarantees have been proposed as a low cost form of subisidy. Unfortunately, it is only the visibility of the cost that is low. In any insurance situation, such as a loan guarantee, it is not the visible or out-of-pocket expense that determines the true cost to the insurer. Far more important is the associated risk that must be borne. Without a highly diversified asset base to support precise accuarial assessments, the invisible costs of insurance are usually regarded as prohibitive rather than as negligible. If lenders (who are apt to be more highly diversified than the State) believed that these costs were negligible, they would not offer a substantial reduction in rates in exchange for a loan guarantee. The fact that lenders <u>are</u> willing to accept less interest in exchange for a loan guarantee indicates that they presume that the implicit risks are high. In effect, lenders are betting the difference in interest charges that even with massive federal and State subsidies, the GSOC may be overextended in relation to its financial committments. It is important to note that financial overextension can arise even if the asset portfolio of a firm is of the highest possible quality.

A normal firm that is overextended but otherwise sound is referred to as undercapitalized. In order to raise debt capital, such a firm may first have to raise additional equity capital. In the case of a GSOC, there is no initial equity capital, only a subsidy base. If this base is insufficient to assure an adequate

operating profit margin, the condition of the GSOC is analogous to that of the undercapitalized firm. Loan guarantees provide an additional subsidy, and eliminate the lender's risks. But, since there is no reason to presume that the State has any advantage over lenders in terms of bearing such risks, any apparent "profit" from selling loan guarantees (in exchange for lower borrowing costs) is purely illusory.

In terms of pure cost effectiveness, direct cash payments provide by far the most efficient form for subsidies since they are the least costly to administer . However, these payments are also the most visible and therefore they are often the least attractive from a political standpoint. Opting for less visible but also less efficient forms of subsidy makes it difficult, if not impossible, for the State to assess the extent of its own subsidy. (Just as it is already difficult to assess the extent of the subsidy implicit in the federal GSOC legislation.) For a State that is truely concerned about the extent of its own subsidy to the GSOC program, it is especially important to consider only the most cost-effective and visible subsidy program. It is difficult to imagine what is to be gained, other than short-run political expediency, by burying the unavoidable costs of a GSOC through a series of complex financial arrangements.

III. Distribution of the federal and State subsidies

A GSOC may useful as a device for capturing and redirecting federal tax revenues on earning assets. However, the GSOC's own budget,no matter spartan, can only draw from the subsidy pool. Moreover, even before the subsidies get to the GSOC, a portion will be diverted to asset sellers in the form of inflated market prices. An additional portion of the subsidies will be absorbed by banks and other lenders who earn more money from engaging in leverage-arbitrage of their own than they do by creating those opportunities for others.

This observation explains why the powerful bank lobby did not oppose the "enabling" federal legislation. That lobby would almost certainly have opposed any serious attempt at diffusing stock ownership since it is precisely this issue--disintermediation--that the banks have lobbied against for so many years. However, the GSOC lesgislation promises to cut banks in on the subsidy (at least those banks who win the favor of the GSOC directors).

Under scrupulous and cold-blooded financial management, it might be possible to hold the subsidy diversions to a minimum. But to do so, the GSOC's directors must turn a deaf ear to the pleas of special interest groups. It is to be expected, however, that the GSOC directors will be beseiged with requests for help from particular firms or industries that might be deemed essential to the State or local economy. Moreover, the subsidy diversion would be largely hidden in the sense that the GSOC still would be able to show a "profit" as long as it retains enough of the subsidy. Thus it may be difficult for GSOC directors to defend a decision to "support" some firms and some banks but not others. Such dilemma's always raise the possibility that political or other nonfinancial factors may influence the operating decisions of a GSOC.

In sum, while supporters may yet be able to show that GSOC benefits outweigh the additional costs that a State must bear under the federal "enabling"

legislation, thus far, little evidence has been offered in support of that contention. Instead, the case that has been presented is long on moral posturing, and long on railing against the sorry state of affairs that now exists, but painfully short in terms of sound economic reasoning that would lead one to believe that a GSOC offers any reasonable hope of achieving the expressed objectives. If left unattended, the existing biases in the federal legislation would funnel benefits to existing capitalists, as stockholders in banks and capital intensive firms, and to new GSOC bureaucrats, leaving an as yet undetermined fraction for (excess) distribution to citizen-shareholders. Even this distribution is regressive in the sense that the federal tax savings is greater for those in higher tax brackets. Since the same citizens must pay for the State subsidies (as well as their portion of the federal subsidy) either in the form of increased taxes or in the form of increased inflation (assuming that taxes are not raised), it is far from clear that the benefits outweigh the costs for any group of citizens. It should be clear, however, that the society as a whole loses since new costs are created but no new revenues are created to pay for those costs.

In the absence of "clarifying" analysis, the decision before the Alaska State Legislature appears to be one of whether or not to assist capital intensive firms in recovering part of the taxes they currently pay to the federal and State government. If so, a GSOC might be an appropriate vehicle, one that would also benefit selective banks and would create supporting jobs through its own bureaucracy. If sufficiently subsidized through tax benefits, loan guarantees, etc, a GSOC might even produce a modest excess cash flow to citizen-shareholders. However, if this is the ultimate goal, the State would be far better off to scrap the proposal for a costly administrative structure (the GSOC) and eliminate the subsidy diversions by simply distributing to its citizens the equivalent of the

proposed State subsidies to the GSOC. If it is deemed essential that checks be considered as "dividend" dispersements rather than as transfer payment (which they will be in either case), then the State might adopt a more ennobling title such as "the return on a citizen's share in State Wealth." It is doubtful that many citizens will feel all that different once they have cashed their checks. Only the banks and the capital intensive firms appear to have a strong financial incentive for favoring the more cumbersome and costly GSOC alternative.

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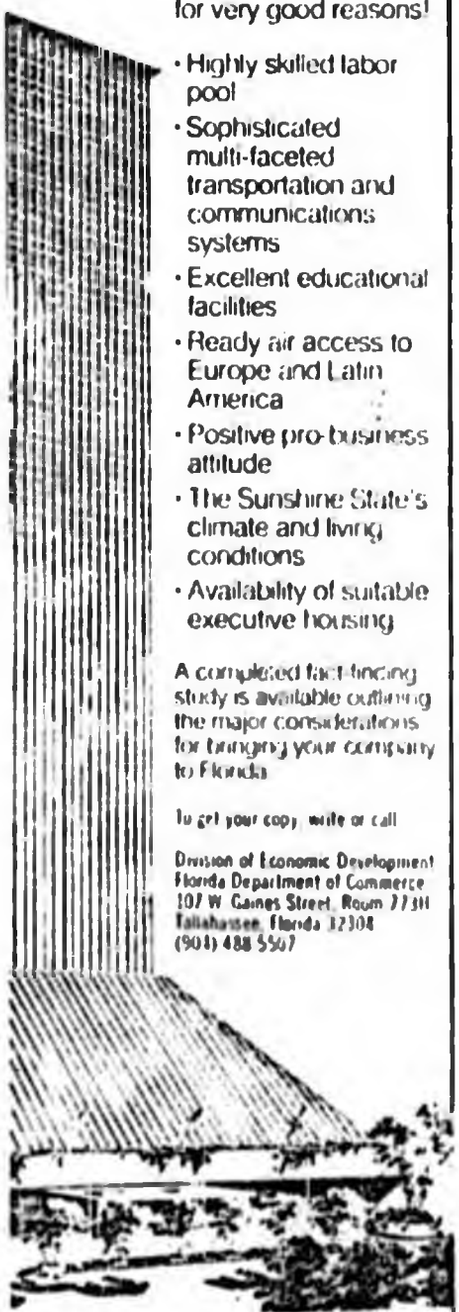


FLORIDA
THE PLACE TO BE

Senator Gravel finally got his Government Stock Ownership scheme into law, but who, all things considered, wants it?

A bad idea whose time, alas, came

Senator Gravel of Alaska
A curious way to build a constituency for capitalism.

By Fern Schumer

IN THE WANING hours of the 95th Congress a new economic animal was born—the Government Stock Ownership Corp. The GSOC (pronounce it "Gee, Sock") owes its life to Senator Mike Gravel of Alaska, who, in the rush toward adjournment, tucked the idea into the big tax-cut bill. It is an odd beast, a sort of state-chartered mutual fund. A state could use its credit to borrow right and left for the GSOC so that the corporation could invest in stock. It would distribute each year at least 90% of the profits to its shareholders, who, in turn, would be credited with the income for federal tax purposes. (Shareholders would not be able to use GSOCs as tax shelters, however, because they would not be allowed to flow through any losses.)

In theory, any state can now set up a GSOC. One can almost hear the bond salesmen and underwriters of the world bracing to handle a flood of new state-guaranteed issues. But, in fact, few are likely to, and only Alaska, with its huge natural resources and small population, seems more than mildly interested.

Not the least peculiar thing about the GSOC beast is that it all but totally separates risk from reward. If the Alaska legislature runs with the idea, each of Alaska's 405,000 residents would receive a free share of stock and its dividends. But the corporation's only real asset in the beginning would be the state's ability to guarantee huge loans, the proceeds of which would be invested by the corporation. As in any state, however, a lot of Alaskans don't pay taxes. Furthermore, Alaska is unique in that it has a native group of people who live off the land and have no cash income. Is it fair that only taxpayers absorb the risk of GSOC, while an initial group of Alaska residents reaps the benefits?

After the stock has been distributed, of course, there will also be an ever growing divergence between the stockholders, on the one hand, and taxpayers and citizens on the other. As people move to the state, they may not be eligible for a share of stock. At the same time, citizens who lived in Alaska and have since moved may still own stock.

The scheme would create a conflict between the risk-bearing taxpayers and

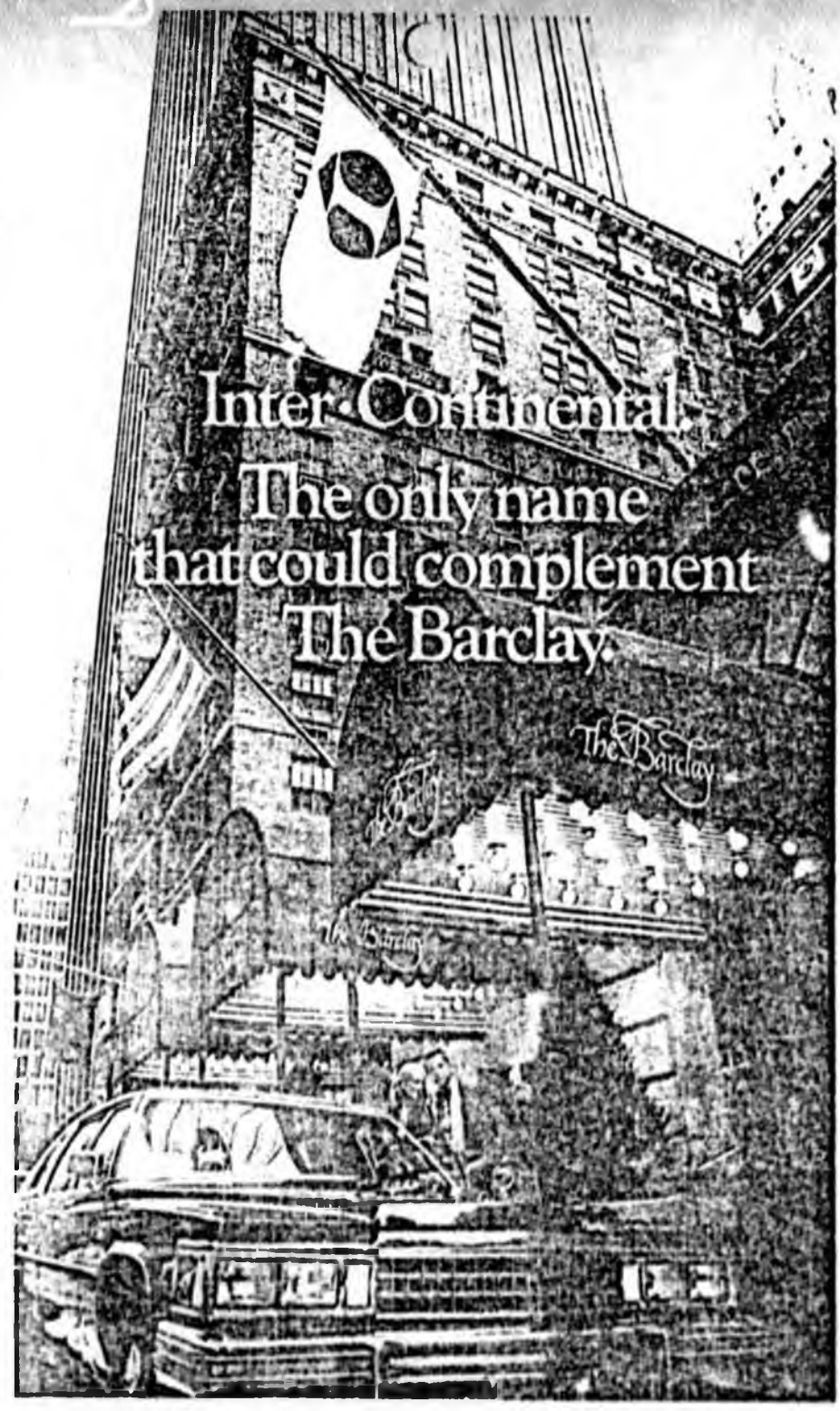
other stockholders. For instance, GSOC proponents are talking about investments on the scale of $1.5 billion. With that money the corporation might buy BP's 16% share of the oil pipeline. (BP is rumored to be eager to get its money out to help cover mounting exploration costs in the North Sea and elsewhere.) In that case, the state would be guaranteeing a $1.5 billion loan—its total indebtedness now is only $694 million, with guarantees in various forms for about another $400 million. The state's credit rating would clearly be affected. If it needs to borrow more money, say, for a public works project, interest rates would be higher. Who would pay these higher rates? The taxpayer, of course. The stockholders who *are* taxpayers would have a direct, obvious stake in the corporation's profits and a less obvious interest in holding down taxes.

"Not the least peculiar thing about GSOC is that it all but totally separates risk from reward. Is it fair that only taxpayers absorb the risk while an initial group of Alaska residents reaps the benefits?"

Gravel nevertheless, is pushing GSOC as a way "to build a constituency for capitalism." He got the idea from the theories of economist Louis Kelso, godfather of the employee stock ownership plans in effect at a good many U.S. companies. Alaska shows at least tentative interest in pushing the idea. The state has given Kelso a $180,000 contract to draw up a GSOC blueprint and is spending an additional $60,000 on other related consulting work. Kelso's blueprint is due next February, and the legislature is expected to tackle it shortly after that.

Gravel's staff has looked with particular longing at BP's 16% share of the Alaska oil pipeline. That would produce revenues of $400 million a year, they reckon. After operating costs and annual debt payments, about $145 million would be left to distribute to shareholders. Thus each of Alaska's citizen-shareholders would get a dividend check for $490 a year. BP projects its revenues will be $870 million this year and $4.87 billion next year if the pipeline runs at capacity.

GSOC, in a way, is another offspring of Proposition 13. "People recognize that once the money flows into the state treasury, it's harder to get it back into the hands of the people," says Mike Barker, a fiscal expert for the state legislature. GSOC may be perceived as one way to filter the money into the people's hands. But the Alaska legislature had better take a hard look at Kelso's blueprint and add up the hidden costs before it launches the nation's first GSOC. ■



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April 10, 1979

The Honorable Mike Miller
Chairman, State Affairs Committee
Alaska State House of Representatives
Pouch V
State Capitol Bldg.
Juneau, Alaska 99811

Dear Representative Miller:

We are writing you to comment upon the principal items covered by the memorandum from The Honorable Avrum M. Gross, Attorney General (by Mr. Joseph K. Donohue, Assistant Attorney General), to The Honorable Frances Ulmer, Director of the Division of Policy Development & Planning, under date of March 19, 1979. We understand this memorandum has been considered by both State Senate and State Assembly Committees, but is presently before the State Affairs Committee. The subject of the memorandum is "Policy & Legal Issues Surrounding AGSOC Legislation (SSSB 170 and SSHB 240)". The memorandum states that it is in response to a request from The Honorable Frances Ulmer for a brief outline of the various issues which the Administration should review in the context of the analysis of the AGSOC legislation presently pending before the legislature.

The memorandum itself, the care and astuteness used in its preparation, and the wisdom of Miss Ulmer in requesting it, all attest the high degree of responsibility and thoroughness with which the legislature is studying the AGSOC legislation. We hope that our comments on certain of the provisions of the memorandum will prove of use to your Committee, and to others to whom you may wish to distribute copies.

For simplicity of reference, we will initiate each of our comments with a reference to the paragraph or paragraphs and to the page number in the memorandum of March 19th or 20th (March 20th being the date used on its separate pages). We will also number our paragraphs for easy reference in case you wish to ask questions or comment on this letter.

1. THE FIRST FULL PARAGRAPH ON PAGE 3

The question of whether the State should follow the policy of the federal legislation and exempt AGSOC from State corporate income tax and from certain other State level taxes which might otherwise be imposed on the corporation are, of course, precisely the kinds of questions that only the legislature can answer. There is one erroneous statement at the end of the paragraph, however, and that is that

our firm, as investment bankers, is presently recommending "the new AGSOC purchase BP's share of TAPS." We, in our instructions from the legislature, were expressly requested to avoid recommendations as to AGSOC's investments, although, basically to illustrate feasibility, we believe, we were asked to do a feasibility study of that particular purchase.

In general, it will be obvious to your Committee that the taxes imposed on AGSOC at the corporate level would simply slowdown the rate at which AGSOC could amortize its debt incurred in acquiring productive investments from time to time, and thus slowdown the rate at which AGSOC is effective in building capital ownership into each Alaskan resident.

2. THE LAST FULL PARAGRAPH ON PAGE 3

In the last paragraph at the bottom of Page 3 (erroneously reproduced in our copy at the top of Page 4), it is postulated that by purporting to give each resident of the State a direct interest in the development of the State's natural resources, AGSOC would become an independent voice for more rapid exploitation of those resources, nd that because the AGSOC is required to pay out substantially all of its net income to residents of the State, it "would likely" become a lobbying force for lower State taxes. We do not believe that these conclusions are by any means obvious or sound. It apparently has been overlooked that while AGSOC, as a corporation in which every resident owns an interest, is intended to build capital ownership in each such resident each resident also has other and independent interests. He has an interest in the overall tax impact on him. Thus if reducing the taxes on AGSOC raised his personal income tax, or his property tax, he would certainly take both into consideration and either of these events would undoubtedly have a far greater individual effect than lowering State taxes of the corporation of which he is a shareholder It is inconceivable that AGSOC would become a lobbying force contrary to other basic interests of the residents of Alaska, simply because its stockholders would have ultimate control over AGSOC.

To be sure, as independent and privately owned capital is built into Alaskan residents, there will be less need for welfare and redistribution of income within the State of Alaska. The very theory upon which AGSOC is structured asserts that by enabling each resident to become, to whatever degree possible, economically autonomous and independent, such resident will be freed from the indignity of seeking welfare and other taxpayers will be freed from the unpleasant task of being forced to support strangers through taxation used for welfare purposes. These are "trade-offs" of a political and economic nature, but the underlying theory of AGSOC is that economic self-sufficiency through the ownership of income producing capital is preferable to welfare for some and redistributive taxes for others. We believe that this point should be clearly and thoroughly debated by the legislature and the question of whether the legislature prefers the prin-

ciple of capitalism or the principle of socialism should be determined.

3. THE SEVERAL PARAGRAPHS BEGINNING AT THE BOTTOM OF PAGE 4 UNDER SECTION II. FINANCING

It is represented in the memorandum that Louis Kelso testified before the Joint Committee and has stated to various Administration officials that AGSOC will be able to obtain financing on the private market without recourse to State guarantees or State credit. This is not, we believe, an accurate summary of my personal testimony and statements to various Committees and to various individuals in the legislature.

I have pointed out that in addition to start-up funding in order to make AGSOC an operating reality, it should then seek the best sources of funding available. Some investments, it is possible, can be acquired through collateral financing, or other conventional types of corporate finance. On the other hand, some investments may require support by the State or by some appropriate or appropriately created State agency. The important point to be focused upon in this area is that conventional corporate and business finance tends specifically to make the rich richer and to fail to make the poor richer. We do not see how it can be considered objectionable for the people of the State to use their collective power to assist the individual residents -- all residents at the outset and new residents as these grow in significant numbers -- by amendments to the State and federal legislation, or by the Alaskan State Legislature's specifically incorporating future AGSOCs -- AGSOC-I, AGSOC-II, etc.

The points made in the remainder of Section II should, of course, be considered by the legislature in the light of the existing Constitutional provisions and the existing State mechinery for backing up an enterprise -- AGSOC -- that is a private corporation but whose activities will address themselves to the solution of a public problem. AGSOC is a device to carry into practice preventative economic measures to avoid future poverty and to improve future affluence for Alaskan residents as a whole. We submit that these are noble public purposes and that in considering the use of the power of the State to support investments made by AGSOC, all of the income of which is commanded to be distributed to the stockholders of AGSOC, the legislature should not impose administrative barriers that would prevent AGSOC from competing effectively with giant corporations for investments. Investments of AGSOC will benefit all the residents of Alaska whereas investments of the traditional giant corporations primarily benefit the pinnacle wealth owners, a few of whom may be Alaskan residents, but most of whom will be non-residents and perhaps even non-U.S. citizens.

For our part, it would seem that the wisdom of the legislature in appropriating particular funds that can be used as guaranty funds is adequate assurance of careful review by the legislature on behalf of the people as a whole.

4. SECTION III. DEPOLITICIZING THE AGSOC BEGINNING ON PAGE 7

In general, it appears to us that the discussion here is made-up not of legal analysis primiarly, but rather of political concerns.

In the first paragraph under this item is the statement that "it should be noted that there is nothing in the federal legislation which would preclude the AGSOC's establishment as a state agency or public corporation." We believe this is a misinterpretation of the federal law, which requires that a General Stock Ownership Plan be a private corporation even though its shareholders must include, at the outset, all residents of the State as of a date selected by the legislature and as of the date of the issuance of its stock.

We disagree with the unwarranted conclusion drawn in the paragraphs at the bottom of Page 7 and on Page 8, et seq. that, if successful, AGSOC would quickly become highly politicized and an extremely powerful force -- in fact a Fourth Branch of Government. If AGSOC were permitted to accumulate its net income and thus develop a vast reservoir of funds which it could spend as its Board of Directors saw fit, then these comments might be justified. But that is precisely what AGSOC is designed to avoid. Its income is promptly translated into the income of its broad base of stockholders. It is not designed to be a powerful entity for anyone except the people of the State as a whole. As the shareholders gain power, their power to control AGSOC, through election of directors and through the power, under general law, to initiate a suit to have questioned in court a misuse of funds by AGSOC, is, it would seem to us, an ironclad guaranty that AGSOC would never become a branch of government in any form.

Because of its very size, and its potential economic importance to the enormously broad base of Alaska residents, we do not believe the speculation that ultimately one-tenth of the residents could wind-up owning all of AGSOC. One very simple reason for this belief is that if the residents do not tenaciously hold on to their AGSOC stock, the legislature is free to incorporate successive new AGSOCs and to add assurances that they do keep their individual economic power and independence.

Thus we regard it as simply improbable and unfounded speculation that any "power blocks" of residents could be established or that, if established, they could not be controlled quite easily by stockholders' derivative litigation.

With the absolute necessity that for many if not most of its investments AGSOC will look to the economic power of the State, as determined by the legislature, to give it access to federal or private credit, we think that there is no basis for imagining that AGSOC could develop a constituency over which it has no control whatsoever. We also believe that since AGSOC must pay its income to its stockholders, and has no duty except to develop and produce wealth and to distribute

it to those citizens, that the Board of Directors or the management of AGSOC could not become a political center or political leader of any kind whatsoever.

The last paragraph on Page 8 speculates that "Although one could argue that AGSOC violates the fundamental political theory of the State Constitution which established only three branches of government***". As noted above, AGSOC is not, and could never be under the proposed legislation, a branch of government of any kind whatsoever. It is an instrumentality created by the State, just as the State creates the laws under which business corporations in general can be established, but upon which the governments, State and Federal, have imposed limitations to assure that it will work for all residents -- all stockholders -- rather than for one, or a few, as present corporate giants do. Having made a false assumption that AGSOC could be a "Fourth Branch of Government", it is natural to speculate on all the dangers that would flow from this impossible situation. The recommendation for bureaucratic regulation appears to us to be totally unwarranted and would impede the potential efficiency of AGSOC to improve the economic status -- legitimately -- of all residents of Alaska. There is no virtue in bureaucratic regulation as such. The stockholders would annually vote on directors and upon all issues put to them by the Board or by stockholder initiative. A broader and more diversified base for AGSOC could hardly be conceived. The power of AGSOC is in its stockholders, not in its Board of Directors or its management.

Sight seems to have been lost of the fact that AGSOC is meticulously designed as the new method of financing economic growth and development for the purposes of attacking the cause rather than merely the effects of poverty. This is precisely what it is designed to do and precisely what it must do under its structural regulations. That is its purpose. Since AGSOC must pay out substantially all of its earnings to its shareholders, its sole function is to connect each resident with capital ownership and income. Could a more desirable goal be conceived?

5. BEGINNING AT THE BOTTOM OF PAGE 8 AND CONTINUING ONTO PAGE 9 OF THE MEMORANDUM

The problem is raised that members of the Board of Directors of AGSOC could use their position as a forum for criticizing the Administration's economic policies and ultimately as a launching pad for State elective office.

This is not a very real concern because the only official obligation of the members of the Board of Directors of AGSOC is to develop and produce Alaskan wealth for ownership by every Alaskan resident. When members of the Board of Directors periodically run for election as such, if they are incumbents, they do so on their performance record, as does any elected official, public or private.

The freedom of particular directors and/or officers of AGSOC to criticize the State's economic policies is nothing but the Constitutional right of all U.S. citizens to free speech. Precisely the reverse exists as well. The Governor, or any Committee of the legislature, is free to criticize the investments of AGSOC. It would appear to us that the absolute dependence from time to time of AGSOC upon specific legislative provision of economic support for its investments assures that any free speech that passes between the Board of Directors of AGSOC and any branch of the State Government will be tempered with these realities in mind.

Any activity within or without the State of Alaska could theoretically be a "launching pad" for public office. But AGSOC as an entity that makes every resident more affluent will increase the possible opportunities of every resident to run for State office, and to participate in local State and community affairs. This is a more democratic basis for the State than where only a few people can afford to run for office. Does Alaska want more or less democracy?

In the first full paragraph on Page 9 of the memorandum, it is suggested that AGSOC be prohibited from lobbying and from making political contributions to candidates for State offices. We would think it entirely proper that AGSOC be prevented from making political contributions out of its funds to candidates for State office. Indeed, since it must periodically come under the scrutiny of the entire legislature and the Governor, we find it difficult to imagine that such prohibition would not be voluntarily imposed upon itself. But nothing would be lost by including such limitations in the legislation.

However, we have grave reservations about "strict proxy review mechanisms" that would cause the directors to act in "a politically neutral fashion". AGSOC is not designed to act in a politically biased fashion, nor does its design so permit. It has one function: to make each resident wealthier and to deliver that wealth to him periodically and dependably. Nothing more. What the residents of Alaska do with their wealth would seem to us to be their business.

On general legal principles, it would appear to us that any stockholder of AGSOC could institute legal action to restrain AGSOC's Board from using the potential income belonging to the residents as stockholders for the benefit -- any benefit -- of the Board of Directors.

Only totalitarian states adopt edicts to shield bureaucrats from speaking freely, but AGSOC's single purpose assures the ease of its stockholders in holding it to the performance of its sole purpose.

6. CAN AGSOC BECOME A CENTER OF CONCENTRATED ECONOMIC POWER?

This question is raised at the bottom of Page 9 and on Page 10 of the memorandum. We believe that this is random and unrealistic

speculation.

It is quite true that because of the vastness of its stockholder constituency, AGSOC should seek to invest in massive and highly productive economic developments and activities. But it is not true that this can lead to its becoming a "major force for concentration of economic power in the State***". The design of AGSOC specifically makes this impossible for the very simple reason that it is required to pay out all of its income to its shareholders. That its shareholders will become more affluent, less dependent on redistribution of wealth, less dependent on welfare, and more powerful, is lementary. But this is the same as saying that its shareholders are the ones who have the power to scrutinize, correct, and contain any potential concentration of economic power in AGSOC.

The same is true of the risk that AGSOC may violate the Federal anti-trust laws. We have seen no lack of ability on the part of the Federal Anti-Trust Division to watch over this area of business activity. The periodic supervision by the legislature at the time it grants added support for any further investment by AGSOC assures that the State legislature itself can consider the question of whether any anti-trust monopoly action is involved. Certainly the absolute inability of AGSOC to accumulate internal funds defeats its power of ever exercising the main means by which business corporations violate anti-trust laws, namely by withholding the "wages of capital" from the owners of capital (the stockholders) and accumulating those funds to buy monopolistic power. Again, AGSOC is designed to make this impossible. We cannot conceive of the slightest need for any added limitations in this area.

We submit that the last sentence in the last paragraph on Page 10 of the memorandum, in itself, recognizes the improbability of the speculation involved in the preceding paragraphs. The fact that the stockholders of AGSOC and the people of the State are, and at all times will be identical, merely shows that AGSOC is, by its design, constrained through its broad ownership, and through the right of the legislature to launch any number of additional AGSOCs and to dry up its source of funding, designed to avoid any of the conflicts thus imagined.

Since the type of conflicts imagined in Pages 9 and 10 of the memorandum are unrealistic and cannot occur, the remedies proposed on Page 11 for this non-existent danger would seem to be entirely unnecessary. AGSOC's designed trust obligation -- to develop and produce wealth for all Alaskans -- assures that any wasteful or improper use of its resources could be enjoined by any of its stockholders under general principles of corporate law. The imagined problems simply do not and cannot exist, and if they did, they could be quickly restrained under these generally applicable legal principles.

7. PAGE 11, SECTION IV. CORPORATE DEMOCRACY

That the existence of classification of directors would limit the ability of minorities within the State to obtain representation on the Board of Directors of AGSOC is, in our opinion, without foundation in fact. Board classification is desirable to promote stable policies in corporate matters. The possibility of an entirely new Board being elected each year would be highly undesirable. Board membership will be in a corporation charged with a trust to represent all the people of the State of Alaska.

On the question of cumulative voting, we do not see, in a corporation with a stockholder base as vast as that proposed for AGSOC, that there would be any advantage in insuring cumulative voting. On the other hand, we see no disadvantage in assuring that cumulative voting must exist.

On the question of limiting the duration of any voting trusts, made in the paragraph at the bottom of Page 12, it would appear to us that this suggestion is a good one.

Similarly, providing for shareholders to initiate amendments to the Articles of Incorporation would be desirable where a substantial shareholder initiative, say 10%, or even 5%, of the registered shareholders' signatures would be required. It would not be desirable to permit a tiny handful of stockholders to upset the efficiency of the corporation in making its day-to-day decisions.

8. DESIRABILITY OF A HIGH FORUM REQUIREMENT

This would seem to us to simply impose clumsy procedures on the State's prime weapon in building preventative economic power into its citizens, i.e., measures to prevent future poverty from arising. AGSOC will be under a constant obligation to educate its stockholder constituency about the economics of capitalism and will, of necessity, become a source of economic education because it will enable, for the first time in history, every Alaskan to become a capital owner. To go further than this would seem to be probably wasteful in terms of paperwork and a pointless waste of time.

9. LESIGLATION ASSURING ADEQUATE NOTICE OF MEETINGS

In the second paragraph on Page 14 of the memorandum, suggestions with respect to this are made. We would think this entirely proper if the restriction does not obstruct reasonably efficient governance of the corporation.

10. THE CORPORATE BY-LAWS

The memorandum suggests that the power to amend the By-Laws should be reserved to the shareholders "in order to ensure adequate public review." We believe that such a provision would be too expen-

sive and too restrictive in terms of efficient governance of the corporation, and excessively wasteful of time.

11. AGSOC'S FINANCING OF PROXY FIGHTS, ACCESS TO VOTING LISTS AND VOTING MACHINERY

We believe that the suggestion made in Paragraph 8 on Page 14 would be salutary if the signatures of 10% or more of shareholders were required. Otherwise, the corporation could waste time dealing with mere adventurers.

12. SECTION V. PRIVATE CORPORATION: CLOSED CLASS OF SHAREHOLDERS

In this matter, covered on Pages 15 and 16 of the memorandum, we believe that the first paragraph on Page 15 is in error in stating that federal legislation mandates that the shareholder group in AGSOC be made up of a "closed class" in any realistic sense, for the simple reason that it imposes no limitation upon the number of AGSOCs which the Alaskan Legislature could authorize. Thus a longtime resident might well wind-up holding shares in ten or fifteen different AGSOCs, while those who depart the State would only own shares in those AGSOCs whose stock ownership qualifications they had previously met.

The "scenario" imagined by the author of the memorandum in the second paragraph on Page 15 is simply unrealistic. The preventative economic measures involved in establishing AGSOC that strike at the cause of poverty rather than merely at the effects of poverty hold more promise for eliminating poverty than all past measures, State and Federal, dealing with this subject, for those measures merely apply band-aids to the effects of poverty.

The problems imagined here are under year-to-year control by the legislature since AGSOC must be created by a separate act of the legislature. Other AGSOCs can be created at will by the legislature. Changes in the law concerning transferability of its stock can be made by the legislature if experience proves that such changes are warranted. It is contemplated that the full thrust of AGSOC's educational stockholder relations program will induce most stockholders to hold onto their shares as their dearest economic possessions.

We hope that the foregoing comments will be of use to your Committee in its deliberations. We would be pleased to respond to any requests for elaboration or to any questions.

Sincerely,

KELSO & CO., INCORPORATED

By _____
Louis O. Kelso

By _____
John A. Miskimen

LOK/JAM:ch

cc: The Honorable John G. Fuller,
Vice Chairman, State Affairs Committee
The Honorable Terry Gardiner,
State Affairs Committee
The Honorable Bill Parker
State Affairs Committee
The Honorable Terry Martin,
State Affairs Committee
The Honorable Ray H. Metcalfe,
State Affairs Committee
The Honorable Richard Eliason,
State Affairs Committee
Frances Ulmer, Director, Division
of Policy Development & Planning

of ALASKA

MEMORANDUM

TO: Frances Ulmer, Director
Division of Policy
Development & Planning

DATE: March 13, 1979

FILE NO:

TELEPHONE NO:

FROM: AVRUM M. GROSS
ATTORNEY GENERAL

SUBJECT: Policy & Legal Issues Surrounding AGSOC Legislation (SSSB 170 and SSHB 240)

By: Joseph K. Donohue
Joseph K. Donohue
Assistant Attorney General

You have requested a brief outline of the various issues which the Administration should review in the context of the analysis of the AGSOC legislation presently before the legislature (SS for B 170 and SS for HB 240). The following is an outline of those issues from the Department of Law's perspective:

I. TAXATION

The Revenue Act of 1978 added Subchapter U to the Internal Revenue Code 1954, 26 U.S.C. §1391 through §1397. This legislation provides for the creation of a general stock ownership corporation (GSOC) and it authorizes special tax treatment for those corporations which qualify. The federal legislation requires that all GSOCs be chartered by an act of the State Legislature or by a referendum and further requires that each state charter provide as follows:

1. That the charter provide for the issuance of only one class of stock;

2. That the charter provide for the issuance of shares only to eligible individuals; "eligible individuals" are further defined as those who are residents of the State as of the date specified in the State's enabling legislation and who continue to be residents of the State as of the date of the issuance of the shares;

3. That the charter provide for the issuance of at least one share of stock for each eligible individual;

4. That the charter provide that no share of stock shall be transferred by the shareholder other than by will or by intestate succession, until after five years from the date of issuance (except where the shareholder ceases to be a resident); that no share of stock be transferred to a person other than a resident; and that no share of stock be transferred to any individual who would as a result of the transaction acquire more than ten shares of the GSOC.

In addition, the GSOC may not acquire more than twenty percent of the shares of any other existing corporation; the GSOC may not acquire property through the right of eminent domain; the GSOC's charter must mandate that it qualify as a GSOC under the Internal Revenue Code; and finally, the GSOC must be chartered and organized between December 31, 1978, and before January 1, 1984.

Thus, AGSOC (Alaska GSOC) as set out by Louis Kelso's proposal in SSSB 170 would create a corporation whose shareholders consisted of every resident of the State of Alaska as of the time the State charter goes into effect who remain a resident until the date of the first issuance of the AGSOC shares. The AGSOC is treated as a private corporation and not as a governmental unit for purposes of the Internal Revenue Code, except that a qualifying AGSOC is not subject to federal corporate income taxes. Instead, AGSOC's "taxable income" which is calculated in accordance with the Internal Revenue Code (with minor exceptions not relevant here) would be attributed directly to the shareholders in proportion to the number of shares held and would be taxed as individual income to those shareholders. This dividend income does not qualify for the exclusion from gross income normally associated with the first $100.00 of dividend income. See 26 U.S.C. §116.

The AGSOC is required to distribute at least ninety percent of its "taxable income" for any tax year. 26 U.S.C. §1379(a). The failure of an electing AGSOC to make the required ninety percent distribution would subject it to a penalty of twenty percent of the excess amount required to be distributed over that amount actually distributed. The federal scheme is intended to give the AGSOC a significant competitive advantage since the corporation can operate free of corporate income taxes at the federal level. On the other hand, this ten percent maximum on retained earnings

may, indeed probably will, prohibit a corporation's expansion into major new investment areas on the basis of these earnings alone. New investment opportunities which arise in the future would require AGSOC to again obtain significant debt financing which may, in turn, require multiple state guarantees.

The first question which arises is whether or not the policy evidenced by the federal legislation (i.e., freedom from corporate income taxation) should be paralleled at the State level. The present SS for SB 170 would operate to exempt the AGSOC from the State's corporate income tax levied pursuant to AS 43.20. See AS 43.20.021, which incorporates by reference subchapter U of Chapter 1 of subtitle A of the Code. AS 43.20.021 provides for a delayed incorporation of tax exemptions. Those provisions of the Code adopted after 1975 "which change or modify exemptions from tax or credits against tax are not adopted by reference as a part of this chapter until the second January 1 following the effective date of the federal law". Here GSOC's exemption would go into effect at the State level on January 1, 1980. The AGSOC, however, would be subject to state severance taxes (AS 43.55), state oil and gas property taxes (AS 43.56), as well as the state's new oil and gas corporate income tax (AS 43.21.010) should the AGSOC invest in oil and gas production or pipeline transportation property. The investment opportunity presently recommended by Kelso's group is that the new AGSOC purchase BP's share of TAPS.

AGSOC's investment in the oil and gas arena would present several important policy questions which should be analyzed prior to the Administration's endorsement of the present legislation. By purporting to give each resident of the State a direct interest in the development of the State's natural resources, it would become an independent voice for more rapid exploitation of those resources. Because the dividends to the residents would, as presently proposed, be directly affected by the nature and extent of the State oil and gas tax policy, it would likely become a lobbying force for lower State taxes. Obviously, lots of tradeoffs are involved, but the political and economic issue reduces itself to the following: Would it be better to expedite resource development and lower State taxes in such a case in order to allow AGSOC's shareholders to benefit directly (albeit by only a marginal increase in their dividend) and at the same time deprive the State treasury of potentially enormous revenues which could be devoted to various social welfare programs? These programs would ultimately return greater proportionate benefits to those in the lower income brackets in the State and possibly lesser benefits (than AGSOC) to those in the upper income brackets.

However, they have also indicated that there was a significant probability (about 75%) that AGSOC would have to return to the Administration and to the legislature, and ultimately to the people at the polls, for approval of a major extension of State credit or guarantees to secure loans of sufficient size to enable AGSOC to invest in TAPS, construct a gas line, etc.

SSSB 170 presently contains only one financing device-- 10.50.100. The bill proposes the creation of a loan guarantee fund which will be a special fund segregated from all other funds of the State. It purports to be a trust fund for the uses and purposes of this section, but no uses and purposes are set forth in that section. As proponents of the measure have stated that the sole purpose is to guarantee loans for startup or organizational costs of the corporation, they have agreed to both clarify the uses to which the monies can be put and to a statement of a definite limit on the appropriations into the fund ($5,000,000.00). In addition, this section charges the Commissioner of Revenue with reviewing applications for loan guarantees (for the purpose of guarding against fraud and misrepresentation). It is suggested that the Commissioner of Revenue be given broader review powers such as the ability to disapprove a loan on the basis of its general inadvisability.

To accommodate these various concerns, the following substitute for AS 10.50.100 contained in SSSB 170 is submitted for consideration:

> A) There is a special fund of the State known as the Alaska General Stock Ownership Corporation Loan Guarantee Fund, which shall not exceed $5,000,000.00, and which shall be completely segregated from all other funds of the State. This fund is a trust for the uses and purposes of this section.
>
> B) The Commissioner of Revenue shall use the fund to guarantee loans solely for startup costs (and not to include major investment financing) made to the corporation by lenders other than the State. In guaranteeing loans, the Commissioner of Revenue shall review the loans for the purpose of ascertaining the general soundness of the proposed loan and for the purpose of guarding against fraud

and misrepresentation. The guarantee of a loan may not be for an amount in excess of the unobligated balance in the fund at the time the guarantee is made.

Whereas the above minor technical changes can clarify or limit the general purpose of the loan guarantee fund as originally proposed, the manner in which AGSOC would approach the State and apply for an appropriation or legislation which would enable them to utilize the public credit of the State of Alaska to guarantee a major investment in the future is not treated in this bill. Senator Gravel has testified that such an extension of public credit would be in accordance with the procedures which pertain to the issuance of general obligation bonds which require the ratification of the voters at the polls. Thus, Senator Gravel has argued that no major extension of public credit would occur without the ultimate participation of all the voters of the State who would, of course, include most of the AGSOC shareholders.

Senator Gravel is basing his procedural argument on Article IX, §8, State Constitution, which states:

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

Although the issue deserves further review by this department, it is suggested that this provision on its face does not apply to the type of guarantee contemplated by Senator Gravel and the proponents of the AGSOC, since the investment would not qualify as a capital improvement authorized by law under this section. See City of Juneau v. Hickson, 373 P2d 743 (Alaska 1962).

Rather, it would appear that Article IX, §6, applies in this context:

> "No tax shall be levied, or appropriation of public money made, or public property transferred, nor shall the public credit be used, except for a public purpose "

Under this provision, all that would be required for an extension of credit to the AGSOC would be legislation appropriating a sufficient amount of money to guarantee AGSOC's commitment. Thus, it appears that something on the order of a loan guarantee fund on a vaster scale would in fact be required but such legislation would not be subject to voter ratification at a subsequent general election. Since Kelso's investment consultants have based their advice on the assumption that there could be a call on the general credit of the State without a significant appropriation to back up any guarantees, the ability of the State treasury to make such an appropriation and its fiscal impact on other State programs has never been carefully analyzed.

Thus, three questions need to be considered: (1) Whether there is any constitutional mechanism for extending the State's credit without the necessity of a large appropriation which may not be fiscally sound or economically feasible; if not, whether AGSOC's proponents who have assumed the availability of access to the State's credit have any alternative suggestions for the financing of the corporation which should be statutorily treated at this time, (2) Whether this statute should incorporate a statutory procedure or requirement for voter ratification of any major investment proposal, funded by direct appropriation into a guarantee loan fund; and (3) Whether a constitutional amendment would be required to allow the State to guarantee AGSOC's loans.

III. DEPOLITICIZING THE AGSOC

The proponents of the AGSOC have conceived of this entity as operating as a private corporation subject to the very few qualifications imposed on it by federal law. Thus, the corporation is subject to the standard provisions of the Alaska Business Corporation Act, AS 10.05, except where inconsistent with the state or federal enabling legislation. The proponents have argued that AGSOC stands the best chance of being a success, (i.e., operating at a profit which will be shared in by most Alaskan residents) if it is structured as a completely private corporation. However, it should be noted that there is nothing in the federal legislation which would preclude the AGSOC's establishment as a state agency or public corporation.

No matter how the AGSOC is ultimately designed, it would be foolhardy to believe that this entity would not quickly become highly politicized and ultimately, if it is successful, become an extremely powerful political force in

the State. Assuming it is established as a private corporation, it would present the following issues:

A) AGSOC: A Fourth Branch of Government

A successful AGSOC, representing as it would the residents of the State of Alaska would in essence, become a fourth branch of government. It will be a fourth forum in which State environmental, social, economic and tax questions will be vigorously debated. The Governor's control over this corporation is limited to appointing the first board of directors. After that the corporation will, as presently designed, operate completely independent of any state agency, albeit it will be subject to all applicable state regulatory provisions. Given the composition of the corporation, it would become quickly susceptible to the pressures of any cohesive organized group of residents within the State, such as large labor unions, native corporations, etc. That is, any private organization containing a large number of resident votes could well form a block in the nature of a voters' trust, which could be used to gain control, or at least to form an influential minority on the board of directors.

The board, and indirectly management, would be subject to election by the same or a similar constituency as the Governor of the State. Thus, the chairman of the board could conceivably end up representing a larger number of Alaskan residents than the Governor of the State. The Governor would be put in the somewhat anomalous position of dealing with a more popular, albeit apolitical, leader representing the fourth estate, i.e., AGSOC.

Although one could argue that AGOSC violates the fundamental political theory of the State Constitution which established only three branches of government, this objection is more of a philosophical one than a legal one, and it is not anticipated that any such challenge could be successfully formulated and presented to the State courts. Finally, under this general category of concerns relating to its impact on the present institutional balance of power as contemplated by the State Constitution, it should be noted that

management of the corporation, members of the board of directors of the corporation, could, and very well might, utilize their position as a forum for criticism of the Administration's economic policies and ultimately as a launching pad for State elective office.

B) Specific Constraints: Lobbying and Political Contributions. Since AGSOC will purport to represent the people of the State of Alaska, it could be argued that since that function is also served by the Governor of the State and by the legislature in the political arena, AGSOC should be prohibited from participating in that same arena, or at least be made subject to stringent restrictions. It is suggested that AGSOC should be prohibited from lobbying, from making political contributions to candidates for State offices, and that strict proxy review mechanisms should be added to the bill to ensure that the board of directors act in a politically neutral fashion. For instance, AGSOC's board, in its annual report, would be allowed to analyze the impact of State taxes on its percapita dividends. However, the board would not be able to affirmatively encourage the shareholders to write their legislators and call for a lower rate of taxation. The shareholders would have to draw their own conclusions. Obviously, the shareholders would then be allowed to contact their legislators and express their opinion on the subject.

Furthermore, a AGSOC endorsement of a political candidate would obviously be a cherished one. Even though AGSOC's proponents at present claim that this corporation is merely another private corporate entity, we have absolutely no guarantees that management in future years will not take full advantage of its position as representative of the residents of Alaska and try to see its political and economic policy preferences implemented by vigorous participation in the political arena. AGSOC endorsements and political contributions might therefore best be prohibited.

C) Litigation With The State. AGSOC, just like any other major corporate entity, would become subject to various State regulatory laws, and the

possibility for confrontation is obvious. For instance, should AGSOC become the vehicle for financing the gas line, AGSOC would have a corporate interest in raising the tariff on the pipeline which would be assessed against the State, and the State as producer and shipper would have an interest in lowering the tariff in order to maximize State royalty and severance tax revenues to the treasury.

In addition, the proponents of AGSOC have stated on several occasions that in order for it to result in tangible benefits to the individual Alaskan shareholder, it must invest in vast development projects which will involve vast returns (hopefully). Thus, there is every likelihood that AGSOC would become a major force for concentration of economic power in the State and might ultimately develop or acquire monopoly control over one or more economic sectors. This, in turn, would present anti-trust problems, both under state and federal law, and the following scenarios are possible: 1) Since AGSOC is not a State agency, it would not enjoy the "state action" exemption from the federal anti-trust laws and it would likewise be subject to treble damage actions for any economic injuries arising out of violations of the Sherman or Clayton Anti-Trust Acts, 15 U.S.C., §1, et seq., and (2) The State could find itself litigating at great expense against AGSOC in order to require it to divest itself of various interests, or to require it to cease and desist from some specific anti-competitive practice.

The anti-trust example is one of many. It could occur in the environmental sector, the banking and securities area, the tax area, or in any other area of commercial endeavor. The State and AGSOC, if engaged in litigation with each other, would be drawing on resources which ultimately affect the same individuals, i.e., the taxpayers versus the shareholders. Should the State prevail and obtain a fine, such a fine would, itself, seem counterproductive.

Some suggestions for mitigating the underlying irony of the State litigating against the people of the State, i.e., AGSOC, and the potential for enormous waste of common resources which is inherent in any extensive litigation such as a protest of a pipeline tariff, might be as follows:

1) When a dispute arises between the State and AGSOC, the matter could be held in abeyance until the next legislature to allow the latter to determine by legislation the proper resolution of the matter; or the matter could be submitted to an arbitration panel established by statute.

2) Other means of controlling litigation between AGSOC and the State would be to create a disincentive to any litigation. One such disincentive would be a modification of the court rules relating to the award of costs and attorney's fees to provide that the State would always be entitled to receive its actual costs and attorney's fees incurred in the litigation of any action involving AGSOC. In addition, AGSOC's right to costs and attorney's fees would arise only in those cases where the court makes an express finding that the State's prosecution or defense was frivolous or lacking in good faith.

IV. CORPORATE DEMOCRACY

One of the most important policy questions which must be addressed in any analysis of AGSOC is whether or not resident shareholders' right to participate in and to influence corporate decision making is adequately protected or assured by the normal corporate procedures set forth in AS 10.05. The following is a list of specific issues which the administration and the legislature should address in its analysis of the AGSOC legislation:

1) Classified Directors. The present sponsor substitute provides for a board of directors consisting of nine members divided into three classes of three members each. Three directors will therefore be eligible for an election during any one year. See AS 10.50.030. A highly classified

board of directors such as this would limit the ability of minorities within the State to obtain representation on the board of directors. Every shareholder has one vote, and if all nine directors were elected at the same time, there is a greater opportunity for minorities such as native organizations, etc., to elect at least one board member. A highly classified board would tend to heavily favor urbanized Alaska.

2) Cumulative Voting. AS 10.05.162 presently provides that shareholders may, at an election for directors, cumulate their votes by giving one candidate as many votes as the number of directors to be elected, multiplied by the number of that shareholder's shares. However, a corporation may provide in its bylaws (modified by board of directors' resolutions) that shareholders cannot cumulate their votes but must vote shares held by them on an election-by-election basis. Cumulative voting is another device to help ensure minority representation on the board of directors. By leaving it optional, as stated in AS 10.05.162, the board of directors could amend the bylaws to prohibit cumulative voting. It is suggested that it might be desirable for the AGSOC legislation to expressly state that cumulative voting cannot be prohibited by shareholder or by director action.

3) Voting Trusts. In accordance with AS 10.05.171, voting trusts may be created by any number of shareholders who wish to confer upon a trustee the right to vote or otherwise represent the shareholders for a period not exceeding ten years. The existence or toleration of voting trusts within the AGSOC context is a question which should be carefully analyzed. At this point in time, it is suggested that their prohibition might be advisable or at least a limitation imposed on the number of years that they can remain in existence. For instance, AGSOC proponents indicate that the original AGSOC will be coming back to the legislature for each major investment proposal. Thus, within a ten-year period, two or three major investment schemes may have been considered and acted upon, and a ten-year voting trust would allow a trustee undue amount of influence over any of these decisions.

4) Amendment of The Articles of Incorporation. AS 10.05.276 presently provides that the board of directors shall adopt a resolution setting out a proposed amendment directing that it be submitted to a vote at the annual or special meeting of the shareholders. Thus, it appears that the initiative to amend the articles must come from the board, and it may be desirable to provide for an amendment which would allow the shareholders to propose amendments to the articles of incorporation that can be taken up and voted on at annual meetings.

5) Quorum of Shareholders. AS 10.05.153 presently provides that, unless otherwise provided in the articles of incorporation, the majority of the shares entitled to vote constitutes a quorum in a meeting of shareholders. (The section provides for a minimum of one-third of the shares.) The quorum requirement is something that the legislature may wish to mandate by statute. Here, of course, the higher the quorum requirement, the greater the difficulty the corporation will have in holding an annual meeting. However, a high quorum requirement would necessitate vigorous promotional and educational programs to ensure the presence of the quorum at each annual meeting and might indirectly spur thcorporation to greater efforts to include or request the participation of all shareholders of the State in corporate decision making.

6) Notice of Meetings of Shareholders. AS 10.05.138 presently provides that meetings of shareholders may be held at the place (either inside or outside the State) as may be provided in the bylaws. In addition, an annual meeting of the shareholders shall be held at the time provided in the bylaws. Special meetings of the shareholders may be called by the president, the board of directors, and holders of not less than one-tenth of all the shares entitled to vote at the meeting.

AS 10.05.141 in addition requires written or printed notice of all meetings, such notice shall be delivered not less than ten nor more than fifty days before the date of the meeting, either personally or by mail.

Obviously, together these rules operate to favor incumbent management. Annual meetings could

be rescheduled by a change in the bylaws which requires a vote of the board of directors. The board could, on short notice, i.e., as little as ten days, present the shareholders with any major issue it chose, such as the election of new directors or consideration of a major investment proposal.

The legislature might well wish to consider statutory safeguards which would ensure adequate notice of the time, place and purpose of any meeting which would preclude manipulation of the timing of any meeting to the advantage of the incumbents.

7) Bylaws. AS 10.05.135 presently provides that the board of directors shall have the power to alter, amend or repeal the bylaws unless it is reserved to the shareholders by the articles of incorporation. Again, it is suggested that the amendment of the bylaws might be a power which should be reserved to the shareholders in order to ensure adequate public review of any change in the management's approach to the conduct of the corporation's business.

8) Financing of Proxy Fights, Access to Voting Lists and Mailing Machinery. Several commentaries concerning modern corporate battles note the inherent advantage which incumbent management has through its control of the corporate machinery for sending out mailings, soliciting support, and arguing its cause before the shareholders. This is done at corporate expense, whereas opposing or dissenting shareholders frequently have to finance such efforts from private sources. Amendments might well be considered which would allow shareholders who can obtain a certain number of qualified signatures to utilize the corporation's mailing machinery at the corporation's expense. This procedure should be especially encouraged in the context of elections for the board of directors. Candidates who can either obtain a nomination by the board of directors or the support of a predetermined percentage of the shareholders should be entitled to publish information concerning themselves, their experience, their policy preferences and their criticisms of existing management at the corporation's expense.

V. PRIVATE CORPORATION: CLOSED CLASS OF SHAREHOLDERS

Two other constitutional issues should be mentioned briefly in this context. First, the federal legislation authorizing the creation of GSOC mandates that the shareholder group be made up of a closed class (i.e., those residents who satisfy the eligibility requirements imposed by state law as of the date of the state charter, and who remain residents as of the date of the issuance of the shares). Thus, future residents would be ineligible for one of the free shares of AGSOC. Under Kelso's present plan, AGSOC shareholders who leave the state and become nonresidents would be entitled to retain their dividends and voting rights in AGSOC. Persons leaving the state who wish to sell their shares could, of course, sell to new residents who wish to participate in the AGSOC. In addition, oldtime residents could acquire as many as ten shares in AGSOC through purchase or inheritance.

These two factors, when combined, could lead to the following scenario: The initial one hundred percent of the AGSOC shares could be concentrated in as few as ten percent of the original shareholders. Those shareholders, in turn, could become residents of other states, and thus it is theoretically possible that ten or twenty years from the original issuance, AGSOC shareholders could be composed of a select group of resident Alaskans and nonresident former Alaskans. Ironically, it may be at this very time that the state may be called upon to honor its guarantee, and thus the state's credit rating and ability to issue bonds at favorable interest rates would be adversely affected, and the people who would be called upon to bear the burden of AGSOC adventures would be the taxpaying class of Alaskans at that time. This potential for a sharp dichotomy between the shareholder class of AGSOC and the resident population of the state deserves closer analysis. Kelso's report contains no estimates of the transiency rates of the Alaskan population and no projections as to the future composition of its AGSOC.

The legal issue which overlaps this general policy question is whether or not the closed class nature of the AGSOC offends the equal protection provisions of the state or federal constitutions. Wilmer, Cutler & Pickering, in their memorandum of December 15, 1978, on the constitutional issues, felt that such a provision might be successfully

defended against a federal constitutional challenge. A closer question is presented under the state constitutional provision which has been interpreted somewhat more stringently than its federal counterpart. See Isakson v. Richey, 550 P2d 359 (Alaska 1976). Under this provision, a substantial question is raised as to whether or not the AGSOC arbitrarily discriminates against future residents of the state.

Secondly, a derivative issue is whethe or not the use of the public credit for the direct benefit of a private corporation whose shareholders will, over time, form a distinct class within the state (possibly a minority class) qualifies under the "public purpose" requirement of Article IX, §6 of the Alaska State Constitution.

PARTICIPATION
DISTRIBUTION
LIMITATION

AGSOC

THE FINANCIAL PLUMBING

Hearings before the

State Affairs Committee

March 20, 1979

Submitted by:

Jeffrey R. Gates
Hewitt Associates
Lincolnshire, Il.

THE AGSOC - AN OWNERSHIP STRATEGY

The American Dream - A Piece of the Action

Iron Law of Development - consume less, invest more
Catch-22 - Iron Law of Ownership

The Financial Plumbing of Stock Ownership (See Exhibit 1)

Captive Capital - Less than 10% of stock transfers are for directly fostering new capital formation.

New York Stock Exchange 1975 shareowner census:
(1) 5-year decline of 18.3%.
Quantitative vs. qualitative measure.
(2) Average age of typical shareholder increased five years over 5-year span

Joint Economic Committee figures re stock ownership (1975):
(1) 0.5% own 50%.
(2) 1% claim 46% of dividends.
(3) Working non-professionals (76% of work force) own 19%.

(See Exhibit 2)

Debt:Equity ratio for U.S. manufacturers rose from 23% to 43% from 1964-1974.

Consumer Debt:
1960 - $56.1 billion
1976 - $217.8 billion

Comments from the Media - Why ESOPs are also called "Kelso Plans" (See Exhibit 3)

Historical Context

Industrial Homestead Act (See Exhibit 4)
Life, Liberty and ... (See Exhibit 5)

Contractual Context - Access to Ownership

The Evolving Social Contract
"A corporation is an artificial being, invisible, intangible, and existing only in the contemplation of the law. Being the mere creature of the law, it possesses only those properties which the charter of its creation confers on it, either expressly, or as incidental to its existence."

-John Marshall-

Market Context

Work Ethic - The Employment Act of 1946

"All we seek is an America where every person is given the chance to productively contribute to his country and where he can receive a fair and equitable share of the wealth that production creates."

-Coretta Scott King-

Industrial Context

Exchange Ethic

"Salary" vs. "Compensation"

Salary - salt; "not worth his salt", "In the sweat of thy face shalt thou eat bread."

Compensation - a balancing of accounts (See Exhibit 6)

Post-Industrial Context

Incomes policy designed as participation-in-production policy

The Affluent Society (1958) - "device for breaking the nexus between production and income security"

Breaking the nexus:

Federal Expenditures

1960 - $91.3 billion

1979 - $504 billion

Federal Budget

1960 - slight surplus

1978 - deficit of $61.7

Federal Transfer Payments

1960 - $20.6 billion

1979 - $198 billion

"There are no free lunches on welfare."

-Joseph Califano-
Secretary of HEW

"There is no more complete rejection of a person than to give them a job you know and they know is useless."

-F. Ray Marshall-
Secretary of Labor

Exhibit 1

A PIECE OF THE ACTION

VAN NOSTRAND REINHOLD

Copyright © 1977 by Stuart M. Speiser

FIGURE ONE

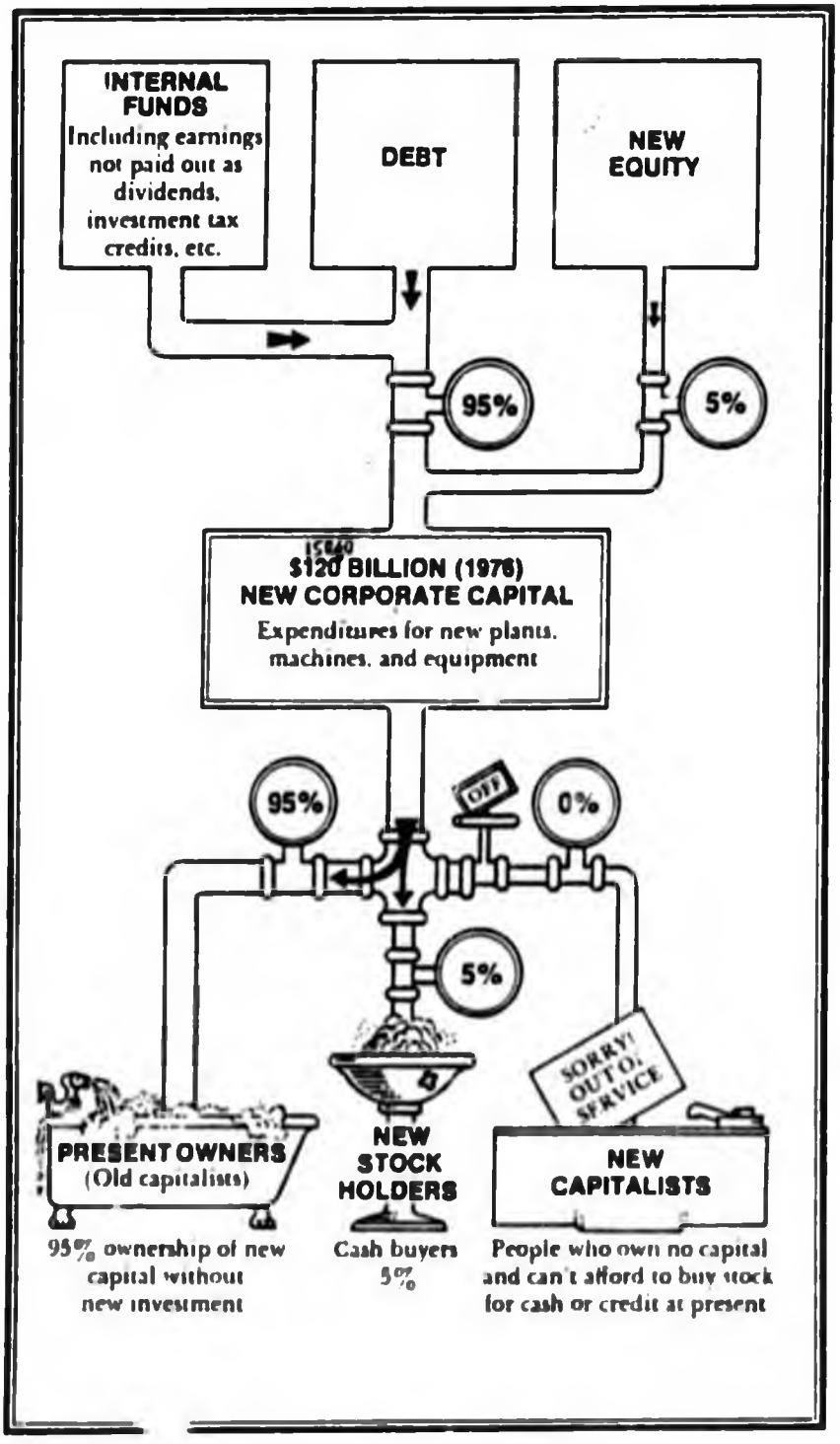
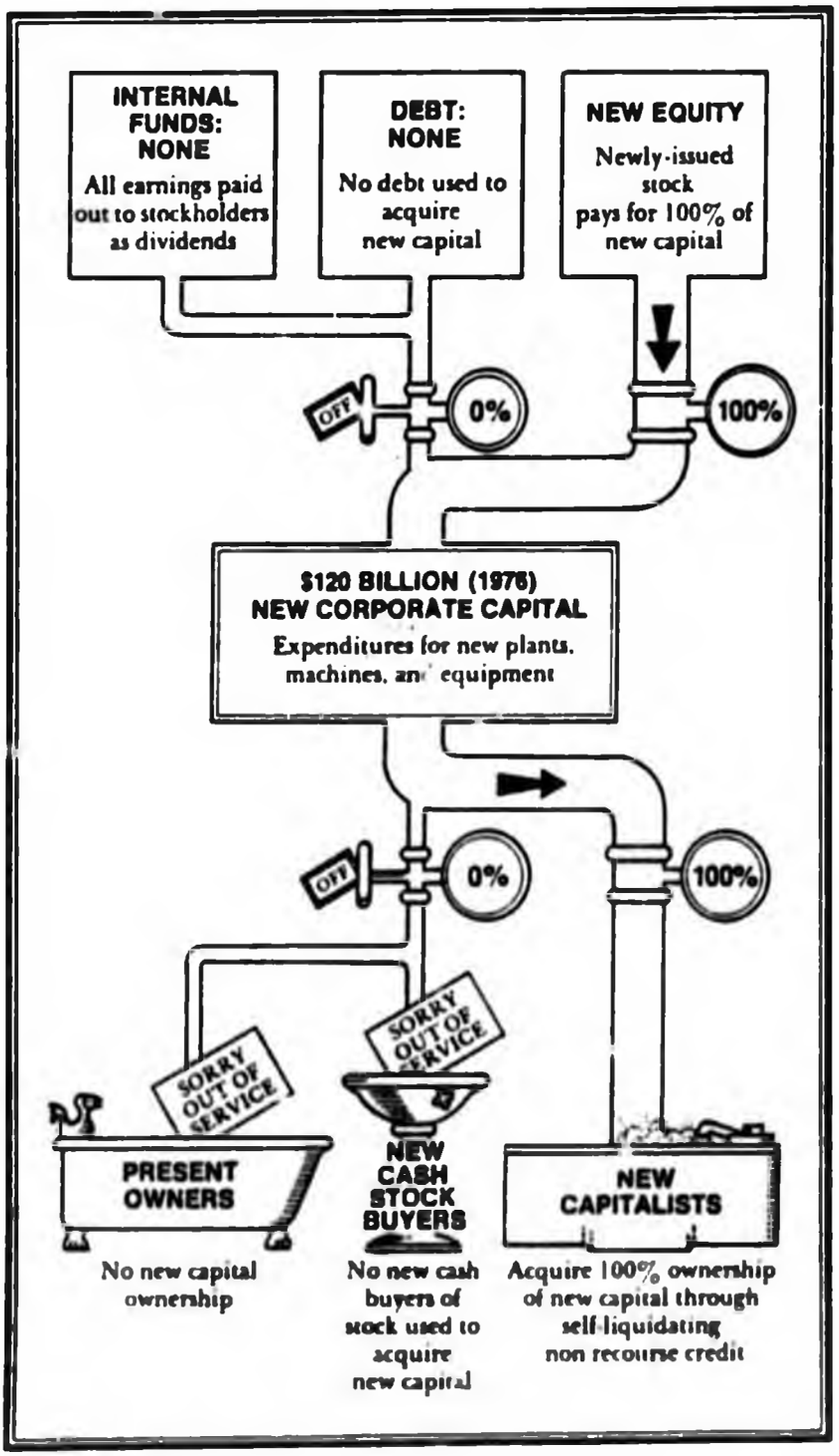


FIGURE TWO


INTERNAL FUNDS: NONE
All earnings paid out to stockholders as dividends
DEBT: NONE
No debt used to acquire new capital
NEW EQUITY
Newly-issued stock pays for 100% of new capital
OFF
0%
100%
$120 BILLION (1976) NEW CORPORATE CAPITAL
Expenditures for new plants, machines, and equipment
OFF
0%
100%
SORRY OUT OF SERVICE
SORRY OUT OF SERVICE
PRESENT OWNERS
NEW CASH STOCK BUYERS
NEW CAPITALISTS
No new capital ownership
No new cash buyers of stock used to acquire new capital
Acquire 100% ownership of new capital through self-liquidating non recourse credit

PERSONAL WEALTH: COMPOSITION AND DISTRIBUTION

Personal wealth in the U.S. in 1972 totaled $4.3 trillion while net worth totaled $3.5 trillion. Evenly distributed, this would mean that the average sized family would have a financial net worth of $59,200. Less than one family in eight approached that figure in 1972:

TABLE 1.—PERSONAL WEALTH, 1972

Asset	All persons	Value (billions) held by the richest—		Share held by the richest—	
		1 percent	6 percent	1 percent	6 percent
	(1)	(2)	(3)	(4)	(5)
Real estate	$1,492.6	$225.0	$645	15.1	43.2
Corporate stock	870.9	491.7	629	56.5	72.2
Bonds	155.0	94.6	124	60.0	78.5
Cash	749.8	101.2	278	13.5	37.1
Debt instruments	77.5	40.8	475	52.7	40.5
Life insurance	141.0	10.0		7.0	
Trusts	99.4	88.4		89.5	
Miscellaneous	853.6	83.3		9.8	
Total assets	$4,344.6	$1,035.9	$2,152	24.1	49.5
Liabilities	808.5	121.0	300	16.2	37.1
Net worth	3,535.9	915.9	1,852	25.9	52.4
Number of persons (millions)	209.0	2.1	12.5		

Source: Cols. (1), (2), and (4): James D. Smith and Stephen D. Franklin, "The Distribution of Wealth Among Individuals and Families," 1975. Cols. (3) and (5): Internal Revenue Service, "Personal Wealth," 1976.

From: "Broadening the Ownership of New Capital: ESOPs and Other Alternatives," A staff study of the Joint Economic Committee (1976) p. 7.

This JEC report notes that "... the distribution of income has remained virtually unchanged since World War II: the top quintile of the population holds just over 40 percent of the income and the lowest quintile has 5 percent. Even these figures understate how rich the rich really are for the top quintile of families have almost 80 percent of total wealth. Clearly, income will not become more equally distributed in this country until the base of wealth holdings is broadened." Id.

Other studies document that wealth is even more concentrated than the JEC indicates:

Robert J. Lampman, National Bureau of Economic Research, The Share of Top Wealth-Holders in National Wealth, 1922-1956, (Princeton University Press, 1962).

Marshall E. Blume, Jean Crockett and Irwin Friend, "Stock Ownership in the United States: Characteristics and Trends," Survey of Current Business, November, 1974 at 16.

Expanded Ownership, (Sabre Foundation, 1971). This contains a survey of the studies on "The Distribution of Wealth in the Twentieth Century," by Prof. James D. Smith of Pennsylvania State Univ.

COMMENTS FROM THE MEDIA

WHY ESOPs ARE ALSO CALLED "KELSO PLANS"

Kelso and Adler's book could start a revolution.

Casper Weinberger
February, 1958

In those discussions there is as much of the wanderings of a madman as there is of cannibalism.

Pravda, March 25, 1959
in a review of The Capitalist Manifesto (1958) by Kelso & Adler

A crackpot theory. Instead of saying labor's exploited, as Marx did, Kelso says capital's exploited. It's worse than Marx. It's Marx stood on its head.

Milton Friedman
Time, Jan. 29, 1970

I think some economists such as Milton Friedman have given too short a shrift to the Kelso plan. It's an example of one means of accomplishing a broadening of wealth ownership.... a quiet evolution in wealth ownership rather than the unquiet revolutions wealth owners have faced too often in the past.

Carl Madden, chief economist
U.S. Chamber of Commerce

A capitalist is someone who derives a substantial share of his income from his equity in producing companies. On this scale the figures are discouraging. Approximately ninety percent of the capital of this country is owned by five or less percent of the American people.

Louis Kelso of San Francisco, a lawyer-economist, has for years felt that he has a radical answer to the problem.

William F. Buckley
Feb. 24, 1970

There is a conspicuous void in the arguments and the programs of the counter-culture groups of this country, in that they have produced no well-formulated economic theories.

Unfortunately and ironically, Lou Kelso, who has some very imaginative economic proposals, has been offering them for many years to the establishment, the dinosaur culture.

So either Kelso is a lousy salesman or the dinosaurs are convinced their own designs will see them through.

The Whole Earth Catalog
Spring 1970

Louis O, Kelso, possibly the only genuine revolutionary in the United States.

Berkeley Daily Gazette
July 16, 1971

Kelso's formula sounds like Lydia Pinkham's Vegetable Compound. The whole theory sounds crazy. But, then, one may recall, they said all that of Copernicus too.

James J. Kilpatrick
Jan. 20, 1972

Kelsoism is not accepted by modern scientific economics as a valid and fruitful analysis of the distribution of income but rather it is regarded as an amateurish and cranky fad.

Paul Samuelson
The San Juan Star
April 27, 1972

Like the emperor's clothes, it looks beautiful. But when you look closely, you find there's nothing there.

Sar Levitan, economist

Taxation has its limitations as a method of achieving better economic distribution since for this purpose it is essentially remedial. We must also take a positive approach by finding new ways to spread ownership of future capital growth more broadly in our society. This will be a fertile field for creative ideas and experimentation in the years ahead by both government and the private sector.

One such approach has been developed by Louis Kelso. Kelso makes a convincing argument that many of the deficiencies of our economic system could be alleviated if ways were found to broaden the ownership of the means of production.

John D. Rockefeller 3rd
The Second American Revolution (1973)

If a Little Capitalism Is Good, What's Wrong with a Lot?

Fred Harris, former Senator
A chapter title from
The New Populism (1973)

In America, the greatest, most famous capitalist country in the world, there are almost no capitalists. The largest majority, silent and noisy, are job serfs, wage villeins. dependent on salaries for all the money they'll ever see.

The great, lazy, anti-Calvinist, hedonistic Kelsonian truth is that you can't get rich through labor because it doesn't produce enough wealth.

Kelso's idea won't solve all our problems; it can't possibly work out as nicely as Kelso thinks, but it can move us from this barren repitition of fifty-year-old disputes. There is no salvation either outside the Church or on this earth, but Kelso does bring a new way of looking, and if that isn't salvation it's at least an intermediary grace.

Nicholas von Hoffman
Esquire December 1973

If a country in which only a few men and women are citizens is politically unjust, the remedy is not to abolish citizenship but to make all men and women citizens. If an industrialized country in which only a few own all the capital is economically unjust, the remedy is not to abolish private capital but to make it possible for all to become owners of some of it.

Winnett Boyd, president
Arthur D. Little, Canada

Over one hundred years ago Abraham Lincoln signed the Homestead Act. There was a wide distribution of land and they didn't confiscate anyone's already privately owned land. They did not take from those who owned to give to others who did not own. It set the pattern for the American capitalistic system. We need an Industrial Homestead Act.... it is time to formulate a plan to accelerate the economic growth and production at the same time we broaden the ownership of productive capital. The American dream has always been to have a piece of the action.

Ronald Reagan
July 20, 1974

The Kelso plan is a gentle, non-Robi.. Hoodish approach to the redistribution of wealth which his father Huey always preached.

Charles Bartlett
Arizona Republic, Mar. 24, 1975

Kelso: McLuhan of economics?

The Village Voice
April 28, 1975

One of the great things that ESOPs have going for them is that they are such a natural from a political viewpoint: Who in populist Washington, whether liberal or conservative, would knock tne idea of spreading corporate ownership?

Forbes, May 1, 1975

Since the 1940s, a lawyer named Louis O. Kelso has haunted America's corporate corridors, spinning fables about the advantages of a fringe benefit known as an employee stock ownership plan - ESOP, for short.

Money, June 1975

The Kelso doctrine is the only economic doctrine introduced in generations that could become a plank in either tne Democratic of Republican platform.

Barron's, July 21, 1975

Bring on those tired, labor-plagued, competition-weary companies and ESOP will breathe new life into them. They will find ESOP better than Getitol. It will revitalize what is wrong with capitalism. It wi.. increase productivity. It will improve labor relations. It will promote economic justice. It will save the economic system. It will make our form of government and our concept of freedom prevail over those who don't agree with us.

Senator Russell B. Long
Chairman, Senate Finance Committee
October 20, 1975

These plans (ESOPs) have been heralded as the basic solution for many of our economic ills. Specifically, one of our chief proponents who will be testifying today, has said the widespread adoption of ESOPs will accomplish the following objectives: the restoration and acceleration of economic growth to unprecedented levels; create legitimate full employment for two or three decades; and lay the foundation for arresting inflation.

I must confess that these are some claims. Certainly no one since I have been chairing this committee has come before us with any program that promises that much.

Senator Hubert H. Humphrey
Chairman, Joint Economic Committee
ESOP Hearings, Dec. 11, 1975

Louis O. Kelso is an economic seer whose time may have come.

Milton Moskowitz
San Francisco Chronicle
May 24, 1975

No one is putting in an ESOP just to be a nice guy.

Pension consultant quoted in
New York Times, Nov. 5, 1975

Like the case for acupuncture, it sounds bizarre, even alarming - but a suspicion remains that there may be something to it.

Fortune, March, 1976

Some brokers are saying that the ESOP trend may be exercising as much influence on the future as the computer.

San Francisco Business
January, 1976

Kelso's plan is so radical that it is difficult to take seriously.

Fortune, March, 1976

Paneceas often have a way of turning into Pandora's boxes.

Business Week editorial
Mar. 8, 1976

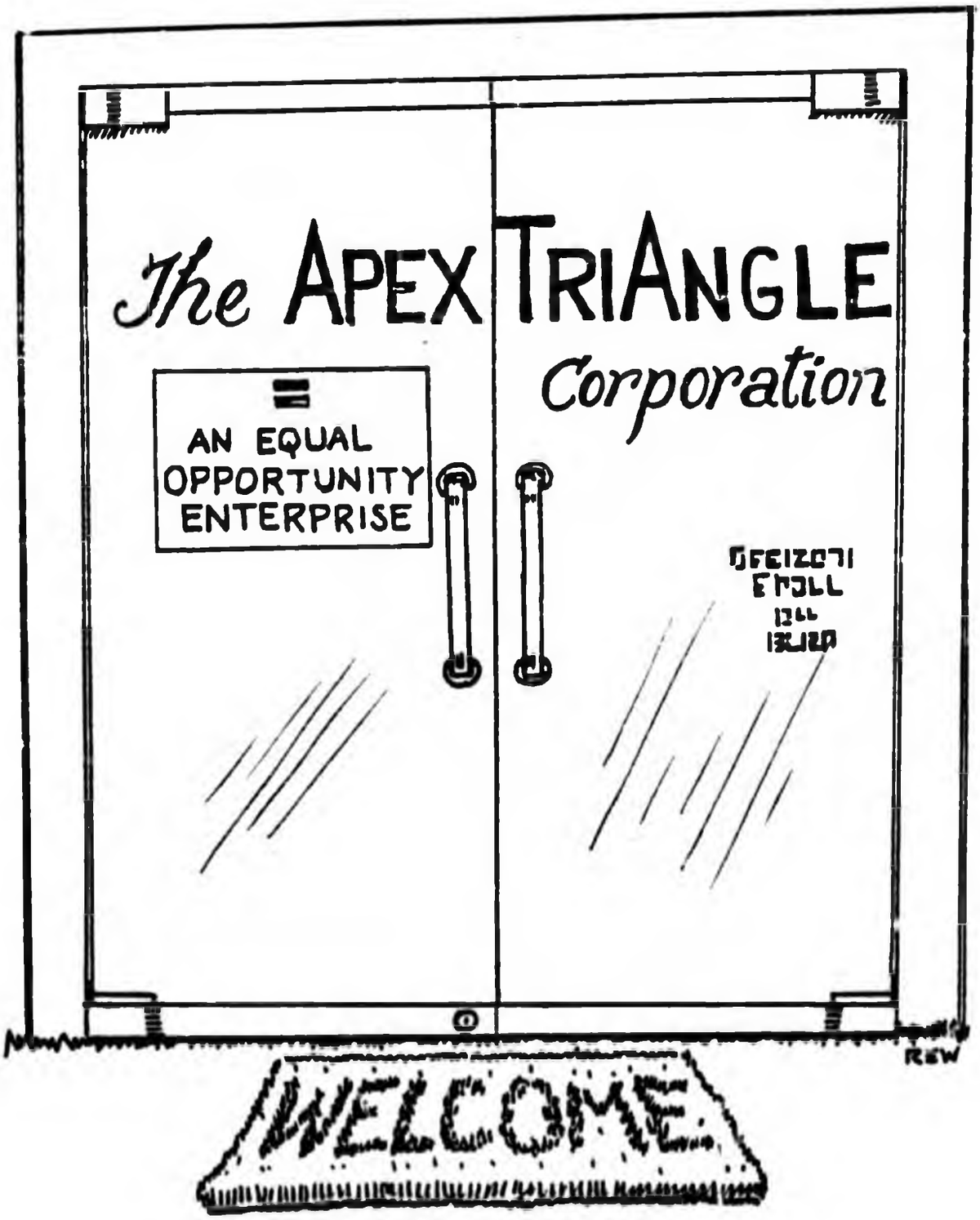
The conservative but populist chairman of the Senate Finance Committee has become an evangelical disciple of Louis O. Kelso, a San Francisco attorney who has long championed various forms of 'worker capitalism.'

The most powerful defense of ESOP comes from Long, who waxes as fervent on the subject as Kelso.

Time, Oct. 4, 1976

As one member of this committee, Mr. Kelso, let me express my appreciation to you for the tremendous contribution that you have made and the pioneering work that you have done in the interest of employee stock ownership. We are, in many respects, holding these hearings here because of the work you have done in the area.

Senator Russell B. Long
Chairman, Senate Committee
on Finance
July 19, 1978


The APEX TRIANGLE
Corporation
AN EQUAL
OPPORTUNITY
ENTERPRISE
WELCOME

The Washington Post OUTLOOK Columnists / Editorials

SUNDAY, MARCH 11, 1979

A Radical Idea As Old As Lincoln

By William Greider

THE TIME has come, perhaps, to ask the question modern liberalism has always ducked. Who owns America? Why is the wealth of this fantastic, egalitarian nation distributed so unjustly? Why must capital and its attendant political power be concentrated in the hands of the few while the masses have only a mortgage and, if they are lucky, a modest pension?

The questions themselves sound vaguely Marxist, which is one reason why welfare-state liberals have always ducked. Liberalism is defined and disciplined by its right-wing adversaries, whose red-baiting effectively scares off new ideas, even new questions. I could make an argument that the long march of liberal solutions to social injustice — tinkering with wage floors, moving cash from one group to another, propping up the poor and the weak, protecting the sick and the jobless from catastrophe — all these are evasions of the more fundamental questions about wealth and its gross maldistribution.

If liberal government could not do anything about the distribution of wealth, then it must concentrate on wages and particular benefits, propelling the welfare state deeper and deeper into private economic choices. Essentially, the federal government hands out coupons, little tickets that entitle qualified citizens to buy food at a supermarket, to occupy an apartment in a subsidized building, to buy medicine at the ghetto pharmacy, to pick up a little cash on the first of the month, to bill the Treasury for catastrophic illness.

No one who has talked to the recipients of these benefits or examined their actual condition can feel very satisfied with the results. Real pain and suffering, even hunger, truly are alleviated, but these people, still poor, have become prisoners of the government coupons.

The liberal imagination, knowing that real improvements in ordinary lives have flowed from the security programs, will insist on renewed dedication to the concept. If injustice persists, if some people still live in degradation while the rest of us live in royal luxury, then we must bother with the coupons. Increase their cash value. Or invent new coupons for other items that these people cannot afford. Cars? Air conditioners? French bread?

Roughly speaking, this is the road American politics traveled to its present frustrations. The liberal mindset, honorable and well-intentioned, cannot confront the natural limits that always will stand in its way. One crucial boundary in the politics of redistributing cash is the private wage system. Nobody really believes Washington should give a nonworker coupons that are more generous than the wages earned by his neighbor, the worker.

The other limitation is less obvious but more harsh: As the welfare state created safety nets for the poor and the weak, other, stronger groups in society invented their own versions of coupons, serving their own needs, and sold them to the government. Price-support systems for farmers, tax loopholes and housing subsidies for the middle class, guaranteed markets for industrial sectors, guaranteed jobs for unions strong enough to demand them.

I could argue that, in the final balance, the welfare state cares best for the prosperous, not the poor. But the main point is that virtually everyone, every economic sector, now participates in the government transfer of cash from one pocket to another. Meanwhile, the fundamental injustice of concentrated wealth is not altered in the slightest.

♦

WHO OWNS America? I am pleased to report that this question will be raised next winter when all conventional politicians are campaigning in the New Hampshire presidential primary. Not by a bunch of parlor leftists. Not by desperate liberals searching for jazzy new rhetoric. The question will be raised by a strange little group called the Ownership Campaign which, if one forced an ideological identity on this eclectic collection of individuals, probably would be called right-of-center.

The Ownership Campaign is an assortment of businessmen, government technocrats, old labor types, young idealists and blue-collar political neophytes. All of them came from different starting points to a shared conclusion: The welfare state fails ultimately to achieve justice; the government must intervene instead to create a broad distribution of capital wealth, stock ownership in the new productivity capacity of the future.

These inspired amateurs think this is the idea of the 1980s, since it did not become the idea of the 1970s. They see a way to renew industrial growth in America, to share the benefits of capitalism more equitably and to climb out of the cul-de-sac created by modern liberalism, the continuous elaboration of coupons. They believe labor should earn capital as well as wages. They believe citizens will never derive economic security, not to mention independence, as long as their well-being depends on government decisions.

This is the voice of economic individualism — the old American dream of yeoman independence that was buried in the modern era of big government, big corporations. These people are taking the original impulses of the American experience and trying to graft them onto modern corporate capitalism. At the edges, there is a barbarous yelp of protest borrowed from Ayn Rand. The heart of the idea, including the approach to banking and credit, is as old as Jefferson and Jackson, more radical than any reform entertained by the New Deal.

To grasp the full historical flavor, forget about all of the modern subsidy programs created in the last 40 years. Think instead of the really radical coupons handed out by government in the 19th century — Lincoln's Homestead Act. Through the national government, vast wealth was distributed free to ordinary Americans, including new immigrants, regardless of birth or education or economic status. The wealth was land and it was given freely, with one crucial condition: The people had to make it productive.

The ownership guerrillas believe stock in new industrial capacity can be distributed similarly, setting interest rates for ventures that represent real growth — not the paper games of borrowing and buying. Unlike the Marxist systems of shared wealth, nothing would be taken from the rich. Nor would the new factory become a state-owned industry, as in Britain or France. Anyone who has ever tried to use a telephone in France knows the limits of state socialism.

♦

THOSE WHO find single-issue politics nettlesome and disruptive

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Greider is the editor of Outlook. His column appears weekly.

Exhibit 4

may be especially aggravated by the Ownership Campaign. It is raising money to enter not one, but two candidates in the 1980 New Hampshire primary — a Republican and a Democrat who will campaign jointly, share advertising costs and generally try to make the other conventional candidates take them seriously.

Neither major party has the intellectual vitality to take the plunge on this idea, though either could claim it as consistent with its past. The Ownership Campaign may end up looking silly, but can count itself successful if the horde of presidential candidates begins stealing their material.

Hold the smug laughter, for now. Some folks out there already understand this ownership pitch. When the farmers took their tractors to the Federal Reserve Board, demanding 3 percent interest rates, they were responding to the credit arguments of Norman Kurland, chairman of the Ownership Campaign. Kurland knows little about politics but he is one of those brilliantly obsessed figures one encounters in Washington, a person who cares more about ideas then making a living. Kurland has been pushing stock-ownership plans for more than a decade, undaunted by his limited success. He is the rarest combination — a creature who understands the banking laws yet continues to believe in the possibility of economic justice.

His political director is 25-year-old Luis Granados, a newly graduated lawyer from Takoma Park, who knows the operations of a political campaign from serving local candidates but who lacks the jaded amorality of experienced operatives. Granados learned economics from ordinary experience:

"I grew up middle class," he said. "I got a scholarship to a fancy prep school and I saw that end. Then I saw the other end, campaigning in poor neighborhoods. I just think the distribution of wealth is wrong. There's not sufficient difference in people to justify the differences in wealth."

This observation matches my own experiences as a reporter. Over the years, I have had many encounters with people on the bottom rung of our society — white mountaineers, black youths in the cities, migrant workers, poor people urban and rural. I always come away with a chilly feeling, a fresh recognition that most poor people could perform just as well as the rest of us, if they had gotten a few lucky rolls of the dice.

Others in the Ownership Campaign are not exactly bleeding hearts. They include Tim Maloney, a young new state legislator from Prince George's County; Anthony M. Carey, partner in a high-toned Baltimore law firm; Joe Rourke, a retired Massachusetts labor leader, and Wally Johnson, a former Republican mayor of Berkeley, Calif., who runs an aluminum scaffolding company called Up Right Inc.

Johnson is the only one with experience in a presidential primary. He received 35,000 votes in New Hampshire in 1976, running for vice president in the GOP primary on a single issue opposing congressional pay raises. This was 12,000 votes more than Jimmy Carter got in New Hampshire, but the press ignored Wally Johnson because he was not deemed to be serious.

◆

SERIOUS political people will be hostile to this idea. They will endorse the rhetoric of broadened ownership because it sounds like Mom and apple pie, but the major power centers of American politics feel threatened by the idea of actually distributing capital ownership to everyone.

Organized labor sees it as compromising the hard and clean lines of worker-management bargaining. Corporate management distrusts it as an ultimate threat to its own control of corporate behavior. Technocrats devoted to managing the welfare state do not wish for its demise. No-growth environmentalists do want a new industrial boom for this country. Status-conscious conservatives are offended by the egalitarian premise.

Listen carefully to their objections. These people have impressive arguments on why this scheme will not work or why it should not be tried. Listen, then ask yourself what these experts would have told Lincoln about his crazy plan for homesteading.

Ownership History

...That the inhabitants of the English colonies in North America, by the immutable laws of nature, the principles of the English constitution, and the several charters or compacts, have the following RIGHTS:

Resolved ... That they are entitled to life, liberty and property: and they have never ceded to any foreign power whatever, a right to dispose of either without their consent.

-Declaration and Resolves of the First Continental Congress-, October 14, 1774

"The control over a man's subsistence amounts to a control over his will."

-Alexander Hamilton-

...That all Men are by Nature equally free and independent, and have certain inherent Rights, of which, when they enter into a State of Society, they cannot by an Compact, deprive or divest their Posterity; namely, the Enjoyment of Life and Liberty, and the Means of acquiring and possessing Property, and pursuing and obtaining Happiness and Safety.

-Virginia Declaration of Rights- June 12, 1776

...We hold these truths to be self-evident; that all men are created equal; that they are endowed by their Creator, with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed;...

-Declaration of Independence- July 4th, 1776

All men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing and protecting property; in fine, that of seeking and obtaining their safety and happiness.

- Massachusetts Declaration of Rights - October 25, 1780

Article V. No person shall ... be deprived of life, liberty, or property, without due process of law; nor shall property be taken for public use, without just compensation.

-Bill of Rights- December 15, 1791

Private property is a creature of society, and is subject to the calls of that society, whenever its necessities shall require it...

-Benjamin Franklin, 1783-

Law is a very good thing for men with property and a very bad thing for men without property.

-Rousseau, Social Contract-

The nations of our time cannot prevent the conditions of men from becoming equal; but it depends upon themselves whether the principle of equality is to lead them to servitude or freedom.

-de Tocqueville-
final comment in Democracy in America

Tenantry is unfavorable to freedom. It lays the foundation for separate orders in society, annihilates the love of country, and weakens the spirit of independence. The tenant has in fact no country, no hearth, no domestic altar, no household god. The freeholder, on the contrary, is the natural supporter of a free government, and it should be the policy of republics to multiply their freeholders, as it is the policy of monarchies to multiply tenants.

-Thomas Hart Benton-

Jefferson, though the secret vote was still unknown at the time had at least a foreboding of how dangerous it might be to allow the people to share a public power without providing them at the same time with more public space than the ballot box and with more opportunity to make their voices heard in public than on election day. What he perceived to be the mortal danger to the republic was that the Constitution had given all power to the citizens, without giving them the opportunity of being citizens and of acting as citizens.

-Hannah Arendt-
in On Revolution

...if you believe in democracy...distribute property as widely as possible.

-Aldous Huxley-

...In Harlem, for instance, all of the stores are owned by white people, all of the buildings are owned by white people. The black people are just there paying rent, buying the groceries; but they don't own the stores, clothing stores, food stores, any kind of stores; don't even own the homes they live in. They are all owned by outsiders, ... "When the thing is finally sparked, the white man is not there-he's gone. The merchant is not there, the landlord is not there, the one they consider to be the enemy isn't there. So, they knock at his property. This is what makes them knock down the store windows and set fire to things, and things of that sort.

-Malcom X-

Government has the responsibility to provide the climate in which Americans, all Americans, have an opportunity for good jobs; and not only for good jobs, but an opportunity if they have the ability and the desire, to be owners and managers, to have a piece of the action, because if they have a piece of the action, then they believe in the system rather than fighting against it.

-Richard Nixon-

Property performs the function of maintaining independence, dignity and pluralism in society by creating zones within which the majority has to yield to the owner. Whim, caprice, irrationality and 'antisocial' activities are given the protection of law; the owner may do what all or most of his neighbors decry. The Bill of Rights also serves this function, but while the Bill of Rights comes into play only at extraordinary moments of conflict or crisis, property affords day-to-day protection in the ordinary affairs of life. Indeed, in the final analysis the Bill of Rights depends upon the existence of private property.

-Charles A. Reich-

Profit sharing in the form of stock distributions to workers would help to democratize the ownership of America's vast corporate wealth which is today appallingly undemocratic and unhealthy.

-Walter P. Reuther-
President, United Auto Workers

"...democracy is a method of finding proximate solutions for insoluble problems."

-Reinhold Niebuhr-

THE UNITED STATES of AMERICA
THIS NOTE MAY BE USED FOR CAPITAL, INDIVIDUAL AND INSTITUTIONAL
CD129346712
WASHINGTON, D.C.
ONE
CD129346712
ONE DOLLAR

THE UNITED STATES of AMERICA
WORKS WHILE YOU SLEEP
XZ98731732
WASHINGTON, D.C.
FIVE
XZ98731732
FIVE DOLLARS

The UNITED STATES of AMERICA
MONEY IS THE ROOT OF ALL MONEY
AB1414375
TWENTY
AB1414375
ONE SAWBUCK
TWENTY DOLLARS

Share the Wealth

During three years in power, a socialist government succeeded in nationalizing or buying into a number of British Columbia's natural-resource companies. But in 1975, exasperated voters of Canada's third-largest province threw the socialist premier out and elected William R. Bennett, the millionaire son of a previous B.C. premier. A champion of free enterprise, Bennett, 46, has found a way to undo part of the socialists' work. Every one of the province's 2.4 million residents will be offered five shares of British Columbia Resources Investment Corp., a holding company set up by the government.

B.C. Resources owns 81 percent of Canadian Cellulose, a $153-million forest-products firm, and 10 percent of Westcoast Transmission Co. (1977 sales: $735 million), which operates a natural-gas pipeline. B.C. Resources also has two wholly owned forest-products companies, and valuable oil- and gas-exploration rights on some 2.3 million acres.

Under Bennett's plan, 80 percent of the stock—some 12 million shares—will be distributed to every man, woman, and child who has lived in the province in the last year and is a Canadian citizen. They will also be eligible to buy more stock—up to 5,000 shares—at a discount. Each share of B.C. Resources has a book value of $10, and the company will be listed on the Vancouver Stock Exchange. "We live in a rich province," says the premier. "Now my government wants to give the people the opportunity to share these riches."

The Washington Post

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SUNDAY, OCTOBER 22, 1978

Alaska Inc.: An Economic Experiment

Senator's Plan Would Distribute State's New Wealth to Citizens

By William Greider
Washington Post Staff Writer

Alaska, a state where pioneering is still a daily reality, wants to launch a grand experiment in economic democracy—distributing new wealth to all its citizens, giving each an owner's share in Alaska's bountiful energy development.

If the scheme works, every Alaskan—men, women, children—will hold stock shares in huge capital investments such as the Trans-Alaskan oil pipeline or the proposed natural gas pipeline or a future petrochemical complex. Every year, citizens would each receive dividend checks of several hundred dollars or more and, every year, their share of equity interest would grow.

In addition to spreading cash among the citizens, the idea might produce political benefits for the oil companies. If people have a personal stake in the profits, the public may be more sympathetic when private enterprise complains about government regulation and taxation.

Is the capitalist revolution upon us?

The "general stock ownership plan" (GSOP) is the brainchild of Sen. Mike Gravel (D-Alaska), who derived the idea from the economic philosophy of Louis Kelso, a prophet of broadened capital ownership for workers. Last week, without any fanfare, the federal tax-law changes necessary for the venture were enacted by Congress in its omnibus tax bill, now awaiting the president's signature.

"This idea has floated around for years and nobody has taken it seriously," Gravel said. "But wait until the day when the first dividend checks go out to every citizen of Alaska. When the long green touches their hands, you will see a revolution begin."

Gravel, his enthusiasm getting somewhat ahead of events, predicts the Alaskan venture will alter American politics and economics in profound ways, as other states rush to copy the model. The senator sells it as the alternative to welfare-state liberalism, as the way "to build a constituency for capitalism."

The potential political effects are almost as intriguing as the presumed economic benefits. Gravel's plan would make all citizens into minority partners with the major oil companies, a fact that could greatly alter public opinion on issues such as state taxation of energy ventures. If a citizen holds a personal stake in energy profits, albeit a small one, he or she may not like the idea of the state government increasing its taxes on those profits in order to finance public programs.

In the meantime, the state government of Alaska has not yet committed itself to do anything beyond studying the idea.

The legislature has placed Louis Kelso's San Francisco investment firm under a $180,000 contract to draw up the blueprint for this economic creature—a state-chartered corporation owned by everyone, empowered to borrow money, perhaps with a credit guarantee from the state, and to invest the money in private business ventures. Earnings from the venture would pay off the loan and the leftover profits would be distributed every year as dividends to each of the 405,000 citizen stockholders.

For starters, Gravel thinks the GSOP corporation might buy out British Petroleum's 16 percent share in the oil pipeline. Owned jointly by eight oil companies, the pipeline is already carrying North Slope crude oil south for distribution. BP has expressed an interest in selling its investment, valued at $1.5 billion, and the senator's staff calculates that, when the pipeline is at full capacity, BP's share of the revenue would run about $406 million a year.

This would be enough for the GSOP corporation, according to Gravel, to cover the operating costs plus the annual debt payments and still leave about $158 million a year for distribution in dividends.

That means about $390 per person. Nobody will get rich on $390, but a family of four would have four dividend checks coming every year, or $1,560. This could make a real difference to a poor family. Gravel reasons, offsetting some of the government obligations to provide welfare and subsidized services.

Since the value of an oil pipeline depreciates as it ages, the citizen stock would presumably be worth considerably less than $1.5 billion when the debt is finally paid off in 15 or 20 years. After five years, however, a citizen could sell his or her share for the going price.

To avoid concentrated ownership, nobody could hold more than 10 shares.

Each share of stock would have a single vote to elect the officers of the GSOP corporation, who in turn would have 16 percent worth of influence over the pipeline company itself.

Among other things, the Alaska legislature has to decide who qualifies as a "citizen." One idea is to set a cutoff date of Jan. 1 this year, so the state would not be flooded with new immigrants seeking a share of stock.

Down the road a way, Gravel envisions several layers of citizen investment on a grander scale—another stock issue to help finance the multibillion-dollar gas pipeline expected to be built in the 1980s, another to share in a vast petrochemical complex envisioned for the Kenai Peninsula. If Gravel's wish list were to become reality over the next decade, Alaskans would be drawing modest second incomes in addition to their wages—a collection of dividend checks.

At this point, the reader of normal intelligence is probably rolling his eyes and wondering if Sen. Gravel and the Alaska legislature have gone bonkers, not to mention the U.S. Congress, which has authorized the experiment. It all sounds too good to be true. Where is the hidden catch? And who pays the bill for this redistribution of wealth?

That is approximately the reaction that Gravel encountered last March when he first proposed the scheme to the state legislature and, again, this summer when he tried it out on the Senate Finance Committee. With a little persuasion from Sen. Russell B. Long (D-La.), the committee chairman and an advocate himself of broadened ownership, the Congress decided to let Gravel try out his mini revolution.

Long has said privately that, if Gravel's idea works, and it may or may not, it would become the most significant item in the 1978 tax legislation.

The heart of the scheme is credit, the power to borrow money. As Gravel and Kelso see the world, ordinary people, even poor people, could accumulate wealth in the same way that well-to-do people make their assets grow, if the government will intervene. A person who has sufficient assets or earnings to guarantee his or her credit can borrow money to make investments, pledging to pay back the loan with the new income expected from the investments.

If the venture is a success, the person winds up with new capital that paid for itself, but nobody calls this process a "giveaway." It's called "risk-taking" in the free enterprise system.

Gravel's notion is that government, which in effect aggregates the assets of all citizens, can provide a mechanism for extending a share of credit to everyone—a chance to buy something based on its anticipated future earnings.

That concept is the essential novelty of Gravel's scheme. Beyond that point, the proposition works more or less like ordinary business transactions, with the same tax benefits, the same risks. The citizen-owned corporation would enjoy the same tax treatment as a partnership or a certain corporation with a limited number of stockholders (known as "Subchapter S" Corporations). The GSOP would be exempt from paying corporate income tax on its own earnings, but it would have to distribute at least 90 percent of its profits every year to shareholders who would each pay individual income tax on the money. The GSOP could not, however, pass through losses, so its shareholders could not use it as a tax shelter.

The Treasury Department objected to Gravel's original version because he had tucked in additional, more exotic "tax benefits." When the tax experts studied his final proposal, however, they concluded that the U.S. Treasury would lose little or nothing.

Gravel contends the federal government will actually collect more revenue under his plan because the profits now collected by British Petroleum, for instance, are "sheltered" from taxation by various provisions of the tax code. If some of that profit goes directly to individuals, it could yield as much as $40 million in income taxes, Gravel claims.

If the GSOP decided to buy BP's share, it would have to go to a friendly banker somewhere, presumably on Wall Street, and [illegible] borrow the $1.3 billion needed. The banker would make a calculation on whether it is a good risk [illegible] collateral looked as if it wouldn't "pay out" as handsomely as the company's projections, then the GSOP would be turned down or be forced to pay high-risk interest rates that might kill the whole idea.

But if the Trans-Alaskan pipeline is such a good deal, how come British Petroleum wants to get out of it? That question leads into arcane subjects where only experts tread with confidence—pipeline economics, corporate debt structure and optimum rates of return for oil companies.

British Petroleum, which has expressed no more than an informal interest in selling, has complained about its low earnings from the pipeline so far, which suffered from an explosion and shutdown last year. It is the only major partner that doesn't also own a share of the North Slope oil field. The state of Alaska, like Exxon and Arco and the others, does own production shares in the oil field.

"If you own a share of the oil field," said John Gore, BP's Washington representative, "it's economic to own a share of the pipeline. If you don't hold a share of the oil field, it doesn't look so good."

BP has one of the highest debt-equity ratios among petroleum majors and some think the company would like to extract its investment from the Alaskan pipeline so it can spend the money closer to home—drilling more oil wells in Britain's North Sea fields.

In any case, one reason the pipeline looks less attractive to the British company today is that the state government of Alaska has been fighting the oil companies over how much the pipeline can charge to move the crude oil. The state collects a severance tax on all oil pumped in Alaska, but transportation costs are deducted from the tax—so a higher pipeline fee means less tax revenue for the state government and vice versa.

This is a political hook that could have important implications for the future development of energy projects.

Right now, the oil companies are asking federal regulators for a pipeline tariff of $6.35 per barrel, while state tax officials insist that a fee of $4.62 is all that can be justified. For the state treasury, the difference represents about $[illegible] million a year in severance tax revenue. But, if Alaskan citizens owned BP's share, the higher tariff would deliver an additional $106 million to their citizen-owned corporation.

Question: Would Alaskans prefer a lower tariff that sends more tax money to the state capital or a higher tariff that adds more money to their own dividend checks? The political message from the citizens could very well be: Get off the backs of the oil companies.

Sen. Gravel claims this possibility is one of the major benefits of his proposal. "You set in motion a conflict between the citizens and the government," he said, "and you give the citizen a handle for seeing what the government is doing."

Alaska Revenue Commissioner Sterling Gallagher, originally skeptical about Gravel's proposal because of its tax implications, is now a supporter. He agrees this political tension is likely, but he sees that as healthy. In any case, Gallagher doesn't think the GSOP would go forward with the pipeline purchase until the tariff issue is settled conclusively by the Federal Energy Regulatory Commission.

"It's hard for people to tell what government is doing for them," Gallagher said. "If there is wealth in the state — public wealth — I think we should distribute it to the people and let them decide how to use it."

Citizen ownership, in Gravel's argument, is an alternative to state socialism—a way to distribute the benefits of corporate capitalism without nationalizing private enterprises and turning over their management to politicians and bureaucrats. For several years, Alaska has been contemplating whether the state government should acquire shares of the new energy venture, so Gravel sees the GSOP approach as an alternative to state ownership.

Construction of the huge natural gas pipeline, for instance, still depends upon raising the capital, and some industry officials believe it can't be done without government participation of some kind, either direct investment or by loan guarantees.

If government is going to share in the risk-taking, Gravel thinks it makes more sense to pass on the benefits to individual citizens, rather than the public treasury.

In many ways, Alaska is a unique laboratory for this idea. It has a very small population and a promising, undeveloped future. But Gravel and Gallagher, among others, think the GSOP model can be widely copied in other states—as provided by the tax legislation — and applied to certain types of ventures seeking new capital, such as natural resource projects or public utilities.

Gravel likes to suggest that Potomac Electric Power Co., which sells electricity to metropolitan Washington, could be forced to obtain its new capital from a corporation owned by all of Pepco's customers, from the very poor to the very rich. Nobody would make a fortune, but it would take a little of the pain out of rate increases.

Despite Gravel's probusiness rhetoric, some conservatives are still offended by the idea of "giving" equity to people who haven't paid anything for it. In the Senate Finance Committee, Sen. John Danforth (R-Mo.) asked how he could explain this to his constituents, and Gravel responded rather tartly, considering that Danforth is an heir to the Ralston-Purina fortune.

"Here is how you explain it to the people of Missouri," Gravel replied.

"You say, if you are a citizen of Missouri and you inherited $10 million, you are well off and you got it for nothing and that is okay in our capitalist society . . . so we are going to fix it so that you can do like the wealthy people—go borrow money on your net worth and take that money and put it into something and let that simply pay the cost of the loan and then pay you wealth thereafter. I think the people of Missouri would jump up in the air and say, 'Hosanna! Somebody finally is letting us have a piece of the action.' "

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

Alaska State Legislature

Libertarian
Representative
RICHARD (DICK) L. RANDOLPH
1105 Cushman St.
Fairbanks, Alaska, 99701

While in Juneau
POUCH V
Juneau, Alaska
99801

House of Representatives

Dear concerned Alaskans,

Senator Gravel is energetically promoting his AGSOC proposal. In typical Gravel fashion he is employing every technique of professional "con-ism" available. Please do not swallow his big lie. AGSOC is not free enterprise! It is not capitalism of any kind! It is complete and total collectivism and it must be stopped!! I can appreciate the appeal of something-for-nothing "professta-tions," but it's full of holes, it won't work, and it will commit at least one and maybe many generations of Alaskans to its cruel hoax.

Gravel's altar-ego, Louis O. Kelso, has been promoting this "economic idiocy" for over 20 years and in Gravel he has finally found a politician who is politically oriented enough to promote it. It is a scheme completely void of any redeeming values to a free society.

I appreciate that this is a harsh indictment, but one which is completely defensible. I will, between now and however long it takes to expose and defeat this sham, provide information and leadership to those who agree with this indictment.

To begin with, it is important that we understand Kelso's so-called "economic theories" from which AGSOC is derived. Toward that understanding I have enclosed two critiques of his book, The New Capitalists.

The first critique was recently produced by Robert Shelley, a life-long Alaskan, attorney, and presently my administrative aide in Juneau. Bob does an excellent job of tying Kelso, Gravel and AGSOC together and pointing out their fallacies.

Percy L. Greaves, a free-market economist, in his critical analysis of this work comments: "This small book contains more economic fallacies than it does pages. The basic assumptions upon which it is built cannot withstand the light of careful scrutiny. Furthermore, the alleged facts are not documented and the logic employed is extremely loose. Its strong effect on the casual reader rests largely upon the repeated assertion of seemingly plausible statements

which, upon close analysis turn out to mean almost the exact opposite of what they first seemed to say.

Any attempt to put the book's proposals into effect would immediately reduce the incentive to produce and result in a rapid paring down of the American standard of living. At the same time, it would set up an economic dictatorship which would select the management of the nation's industries and determine all production goals. In short, it is an unwitting blueprint for the establishment of a Socialist America."

Please carefully read both, and then compare the AGSOC proposal in detail against this background. I am convinced that anyone who understands and believes in true free enterprise and capitalism will agree that this sham does not qualify in any aspect!

I would not dignify this proposal with a response if it were not apparent that many fine and normally right-thinking Alaskans are being drawn in by the insidious lure of this bankrupt proposal.'

It is my commitment to provide a well studied, articulate defense of the free market as opposed to this vicous, fraudulent misrepresentation of the facts! I am absolutely convinced that the adoption of the AGSOC proposal would have the most negative economic and social impact on the traditional Alaskan lifestyle conceivable.

I sincerely and emphatically request that you study the enclosed material and the other information which I will provide you from time to time. If you agree and want to help, let me know. Together we can expose and defeat this fraud and save 450,000 Alaskans from inadvertently creating a socialist Alaska!!

Freedom is the issue,

Dick Randolph
Alaska's Libertarian Legislator

AGSOC -- A FOOL'S PARADISE

prepared for

Representative Dick Randolph (L)

by

Robert Reed Shelley

AGSOC - A FOOL'S PARADISE

by

Robert Reed Shelley

In order to understand the meaning of the Alaska General Stock Ownership proposal presently before the legislature and the people of Alaska, it is necesary to become more familiar with the philosophy of its creator and to test some of the premises upon which its foundation is built.

Certainly any discriminating thinker who has encountered the AGSOC concept has realized that there must be more to the proposal than meets the eye. This is primarily because rarely in human experience does one get something for nothing. Try to picture Senator Gravel performing his political song and dance version of Jiminy Cricket's "Oh the World Owes Me a Living" on the Gong Show. Then compare The Sound of Music in which Julie Andrews sings, "Nothing comes from nothing, nothing ever could." Which one would you believe?

The creator of this attractive sounding 'horn of plenty' is a man named Louis O. Kelso who, along with myself, has combined the two professions of which the discriminating thinker is most skeptical, Economist and Lawyer, to form his background. From that point on, however, Mr. Kelso and I seem to diverge in our approach to human nature and the application of human nature to the economics of man.

Among Mr. Kelso's publications are two books with rather deceiving titles. The first in order is one entitled The Capitalist Manifesto, and its sequel is one called The New Captalists. This paper is primarily con-

cerned with The New Capitalists, with references made therein to The Capitalist Manifesto. It's the inclusion of the term 'capitalist' which makes these titles so deceiving. Upon close scrutiny it is clear that Mr. Kelso is to capitalism what Benedict Arnold was to the American revolution.

Webster's Dictionary (1979 Ed) defines 'capitalism' as: "the form of economic, industrial, and social organization of society involving ownership, control, and direction of production by privately owned business organizations" (as opposed to the government) In other words, capitalism means free enterprise without government interference in the economy. Mr. Kelso, on the other hand, has the audacity to try to pawn off his plan for governmental direction of the economy to unsuspecting readers as 'capitalism.' If he and Senator Gravel (Kelso's political promoter) are successful, they should be named the flim-flam men of the century.

Basically, Mr. Kelso sees only two factors in production: 1) Physical labor and 2) Capital goods (those goods which produce other goods). It is his contention that capital produces 90 percent of the gross national product in our economy, and that all but a small fraction of the capital instruments are owned by 5 percent of the households of the economy. In addition, he claims that despite this "concentration of ownership of capital, "70 percent of income produced is distributed through labor.

It is important to critically examine these contentions because they are the basic assumptions upon which his entire theory rests.

Any reasonably astute person knows that the initial factor in any kind of production is an 'idea.' While ideas are not exactly physical labor, they are essential to production. When physical labor and capital are added

to ideas, we may have production. Mr. Kelso seems to practically ignore ideas as the factor of production which is uniquely human. Instead, he classifies the factors of production into physical labor (his "human" factor) and capital (his "nonhuman" factor). One might wonder how capital can be termed "nonhuman" since it is only by human conception, creation, and operation that capital exists.

At any rate, contrary to Kelso's views, each factor of production is not mutually exclusive. Neither ideas, physical labor, nor capital can produce anything by itself. It is ludicrous to attempt to determine what percentage of any finished product was the result of the idea, the physical labor, or the capital goods used to produce it. We could argue forever as to how much of the production of the Wright Brothers' first plane at Kitty Hawk was the result of their idea, their physical labor, or their capital. For each item of capital produced, it takes ideas and labor to put it together, to operate it and to maintain it. Then, once the capital produces something, it takes ideas and labor to distribute and market the product. Mr. Kelso has conveniently determined, in an effort to support his theories, that 'capital' is responsible for 90% of all production. So much for the first of Mr. Kelso's premises.

Next, Mr. Kelso claims that this 'capital' is almost totally owned by only 5% of the households in America. While it is undoubtedly true that some Americans own more capital than others, Mr. Kelso's estimate is obviously misleading. The number of stockholders of publicly held corporations listed on the New York Stock Exchange now exceeds 20 million, or one out of every six adults in the United States. In addition, Kelso seems to ignore the multitude of privately owned closed corporations, partnerships, sole proprietorships, house ownership, real

estate holdings, life insurance and other forms of capital. The most important point to make is that a large extent of what capital concentration does exist in the United States is the result of government control of the economy, which results in political rather than economic allocation of available resources. In other words, through subsidies, regulation, and huge government spending, government, through politics, helps some wealthy people to unjustly remain wealthy and even become wealthier. In any case, it is the divergence in wealth between people in a free society that has given the world its highest standard of living and which makes life interesting. It is the opportunity to better one's well-being that stimulates all production. The extent of that opportunity should not be limited. Variance in wealth should not be disdained in itself as Mr. Kelso seems to do.

The third 'statistic' which Mr. Kelso uses to further his plans is that 70% of all income produced is distributed through labor. While one might be able to come up with such an estimate, careful thinking would certainly question the accuracy of such a figure. For instance, is the board member of a large corporation really earning $500,000 worth of labor in his salary, or is this a payment in lieu of dividends which could be taxed as high as 70%, whereas earned income has a 50% maximum tax rate? Even assuming Kelso's 70% of all income being distributed through labor, one could argue that this refutes his previous assumption

that capital produces 90% of all production, since one would assume that each factor would be rewarded in relation to its worth. Kelso, however, argues that this disparity between 10% of production being caused by labor and 70% of income being distributed to it proves that American labor is composed of primarily lazy people who just take up space and time but don't really produce anything. Kelso says that unemployment in a capitalist system is both desirable and inevitable. He supposes that soon machinery will do everything and humans will do nothing. This concept is so naive that it barely rates refuting. While it is true that capital equipment may eventually produce more products which were produced previously by labor, so far no machine can replace man's unique ability to reason and create new ideas. In addition, it will always take human physical labor to get the resources, to build the new capital equipment, to operate it, to maintain it and to distribute the product which it produces. In addition, it will be a long time before machines totally replace humans in the service industries. Perhaps technology has allowed mankind to concentrate on mental labor rather than physical labor, but even physical labor will never be totally eliminated. Kelso says his plan would cast out the irrational doctrine of full employment, indicating the people wouldn't have to work. As he says, "unemployment is natural and desirable in a technically advanced economy." Until human needs are totally satisfied, there will always be a demand for new and better products at a lower price, and this will keep most of us employed (if we so choose) through the next major evolution of man.

From these "statistics" as to production and the distribution of income, Mr. Kelso comes up with some incredible conclusions and recommendations.

One such conclusion is that the rich get richer and the poor get poorer. Mr. Kelso reasons that since "labor is being replaced by capital as the total factor of production," soon those who currently own capital will be the only ones who will survive economically. He further argues that it's nearly impossible to accumulate capital unless you already have capital. This, he says, is causing an increasing concentration of wealth in the country. Then Kelso wonders what these wealthy capitalists do with all of their extra capital. He comes to the conclusion that they just make themselves wealthier by reinvesting it, with no benefit to anyone else. This is a distorted conclusion indeed. Because when that 'extra' capital is reinvested, many people become employed, and we can assume that somebody's need will be fulfilled if the product sells. On top of that, it is <u>true</u> capitalist economic theory to believe that because of the increased supply of products on the market, the added competition by the new business venture, and the added growth to the wealth of the economy, both the particular price of <u>that</u> product and the general price level of the economy would fall to some extent. In turn, this lowering of prices and increased availability of goods on the market make almost everyone else in the economy better off (wealthier). It is clear, then, that Mr. Kelso's conclusion <u>should</u> have been that the rich get richer (assuming they make productive investments) and so do the poor. Everyone is made better off by the reinvestment of the capital which the wealthy man did not consume himself.

What's wrong with some rich people getting richer in relation to some poor people? In my view, nothing. In Mr. Kelso's view, however, it is somehow unfair, and he claims it will soon lead to socialism since the relatively less rich will use government to control the economy, and redistribute the wealth. The incredible inconsistency

in Mr. Kelso's thinking occurs when in the next breath he suggests the creation of a new governmental agency that would virtually take over the banking system and control the entire economy. This he calls the Capital Diffusion Insurance Corporation (CDIC).

Although Kelso doesn't like his plan to be associated with the redistribution of wealth, he believes that the government needs to take an active role in redistributing wealth so that there are many little "capitalists" rather than just a few. It shows his lack of understanding of capitalism that he should use the concepts of redistribution of wealth and capitalism in the same breath. In addition, Kelso defines a capitalist as "a member of a household which derives not less than half the amount the household spends on consumption from the ownership of capital." Under this definition, Leonid Breznev would be one of the biggest capitalists in the world (although he steals it) and an average American with a business, a house, a retirement system, and a small portfolio of common stock probably would not qualify (although he probably earned it honestly). Of course, when this average American retires and lives off the return on his investment rather than labor related income, he can suddenly call himself a capitalist even though he might do virtually nothing.

Kelso says government's objective should be to make sure that technological unemployment falls on those who can afford it (the wealthy). Does he actually advocate government retirement of successful people so that others can take their place?

The Capital Diffusion Insurance Corporation (CDIC) is the governmental mechanism by which Kelso plans to "create" lots of little "capitalists" out of nothing. In Kelso's view, the only thing that is preventing more

little "capitalists" from popping up is the present free market system of capital formation financing. Under the current system, someone who doesn't own capital can only get it in one of two ways: 1) forego consumption and accumulate savings (capital), or 2) find someone who will lend you money (capital) so that you can reinvest it and make a higher return. Kelso argues that most people can't afford to forego consumption so as to accumulate capital, and that this wouldn't be good anyway because it would cause a decrease in the demand for consumer goods and the economy would collapse. Again, Kelso fails to see that as the economy expands because of capital investment, the entire populace benefits due to more and better products at lower prices. If the average American of today was compared to the average American of 100 years ago, there is little doubt that today's subject is much better off economically than yesterday's. As the man of today rises higher and higher above a subsistence living, he ends up having more wealth to spend on both consumption and capital investment, thereby both keeping up the demand in the economy and giving himself more opportunity to own capital. Again, Kelso leaves out the Human idea factor of production. He almost assumes that an investment is just an investment. The truth is that a man with a big idea and little capital can make more wealth than a man with a small idea and lots of capital. Therefore, Kelso's view that there is no upward mobility in our society and that one can only acquire capital if he already has capital, is not entirely correct.

Kelso astutely observes that those lending capital to others want some insurance that they will be repaid. Under the current system of financing, this means that the lender will want collateral in the form of a claim upon the currently held assets of the borrower. Kelso claims those without currently held capital will then not

be able to get a loan to acquire their own capital. He fails to see that at some point all of us must forego some consumption (save) in order to borrow to accumulate capital. (Unless it's given to us, of course.)

In order to provide those who lack collateral with capital-producing potential, Kelso's CDIC would guarantee, in the name of the government, loans by commercial banks to borrowers who would otherwise be poor credit risks. These loans would not even provide for the personal liability of the borrower. Responsibility is totally removed for the borrower. Kelso compares his plan to the federal FHA program, which is noted for its bankrupt failings.

By the government becoming involved in capital financing, all of us, including those who make successful investments, would be paying for the mistakes of those who didn't deserve a guarantee in the first place and who would go belly up in their investment. There are only two ways the government could pay off such guarantees. 1) raise taxes on everyone else; or 2) start up the printing presses and pay the claims off in phony dollars thereby feeding fuel to inflation. Neither method is fair or honest.

But the fact that such a government program is not fair because it would force innocent people to pay for others' mistakes is only a small part of the real evils that such a scheme would create. In describing CDIC still further, Kelso discusses what 'policy' factors should go into the manner in which CDIC decides who should get the guarantee and in what business ventures these borrowers should be able to invest.

Included in these proposed policies are the following:

1. Anti-Monopoly Policy: This would be left to the political whim of bureaucrats who would likely insure through government power that the rich and powerful were well protected. Still Kelso calls

his plan capitalism.

2. Promotion of technological improvement policy: There could be no more detrimental effect on technological change than to misallocate resources for such change by political (government) means rather than by the free market. Leave it to competition! Still Kelso writes of capitalism?
3. Increase the number of capital owning households policy: This basically means redistribution of wealth by transferring opportunity and risk from those who deserve it to those who don't. The New Capitalists?
4. Investment preferences for new capital estates policy: Another form of the redistribution of wealth. Capitalist?
5. Prevention of speculation in stocks policy: Let's say goodby to the New York Stock Exchange. Kelso fails to see that stock speculation is the incentive for persons to first put money into a proposed development. He still refers to his plan as capitalist!
6. Coordination of consumer demand and new capital formation policy: This is plain and simply a planned economy proposal. Kelso the capitalist?
7. Inflation control and reduction of consumer credit policy: There are several reasons why Kelso's plan would in fact be inflationary. First, the misallocation of resources from the free market to borrowers with a poor credit risk will adversely affect economic expansion while the money supply either remains constant or expands. Second, it is likely that the government would honor guarantees made by CDIC by printing dollars (a hidden tax) rather than by raising actual taxes.

Additionally, once the government, through CDIC has guaranteed a major portion of outstanding loans

in the economy, it will have even a more vested interest in promoting inflation as a way to make the loans easier to repay.

8. Personal aptitudes and education requirements policy: This is perhaps the most appalling of the powers Kelso wants to place in government hands. Under this policy, a bureaucrat would direct the economy by giving preferences on loans to only those with a particular level of education or background. This would be a very hard part of Kelso's planned economy to swallow. I can just see a father telling his son that he must become an artist in order to get started in the world because that's what the CDIC decided he should be.

It is inconceivable to me that any reasonable person after reading Kelso's proposed policies could not see his plan as pure socialism -- governmental control of the means of production. This is definitely not capitalism.

A good rule of thumbis that any government policy means govenment control -- unless that government policy is freedom. Kelso's "new capitalism" is in fact a blueprint for a totally socialist society. The most incredible thing is that he claims to propose his plan to avoid socialism.

The CDIC would have to make countless arbitrary rules about who was eligible for the program and who wasn't. By Kelso's own description, bankers would basically become govenment agents interpreting regulations and helping to operate a government program. Their decisions would be based on political governmental edict rather than good solid business factors.

Only a fool would believe that CDIC guaranteed loans would not soon permeate the capital market, drying up available capital to non-government approved enterprise. Eventually, anyone not qualifying for the CDIC program would be at a tremendous competitive disadvantage to those using

the program. Why should anyone strive for financial well being if government programs will eventually discriminate against them?

Creating the CDIC would substitute a political economy for a free market economy. It would open the whole system up to graft and corruption both in terms of bureaucrats wielding undeserved power and in terms of crafty entrepreneurs ripping off a shoddily run government program.

Eventually, the government, through CDIC, will literally be controlling the economy by deciding who's going to get loans, and for what purpose. No better plan could be conceived to destroy free enterprise and substitute socialism in the name of "capitalism."

Even beyond Kelso's CDIC blueprint for socialism, he advocates several changes in free market corporate operations. For instance, Kelso wants some kind of legal requirement that all earnings of corporations be paid out in dividends rather than allow investment for future expansion. This goes right along with his plans to eliminate speculation on resale of stock certificates. He wants an end to consumer credit so that people will be forced to become capitalists by foregoing consumption. (This is despite his fear that less consumption will hurt the economy.) Even if all corporate earnings were paid out in dividends, there is no assurance that people would spend the money on capital investment rather than consumption. The fact is that the government would get a larger part of it since dividends are taxed as non-earned income, and the sale of speculated stock is taxed at capital gains rates.

As an additional tool for the redistribution of wealth (which Kelso claims he does not advocate) he suggests major increases in inheritance tax rates. This proposal would give even less incentive for a man to build up his capital estate.

So as to not let Mr. Kelso off the hook too easily, let's look at some additional inconsistent remarks made by him which indicate a lack of understanding about capitalism and the free market.

At one point Kelso remarks that in Russia, industrialization is achieved at the cost of totalitarianism. Actually, industrialization isn't achieved very well in Russia, and even then only by almost completely foregoing consumption. In addition, Kelso is promoting totalitarianism here by creating an economy based on politics rather than the free market.

Kelso also claims that "conventional business financing falls far short of satisfying the basic principles of economic justice." The truth is that the free market finance system is the only one which does create economic justice. Justice means no more nor less than one deserves. Kelso's plan would, through government intervention, give some more than they deserve at the expense of others. At another point, Kelso says wealth should be distributed to those who produce, yet he comes up with plans like CDIC, and increased inheritance taxes.

Consistent with Kelso's something for nothing theory, he attempts to create capital wealth for those who he thinks don't have it by bookkeeping entries brought about by government guarantees without any abstaining from consumption. This is economically ridiculous and amounts to government increasing the money supply without additional wealth, thereby fueling inflation.

Placing his personal value judgment on everyone else, Kelso states that "society's first economic duty to its citizens is to enable them to be or become productive." True capitalism, meaning economic freedom, is the only way that individuals will have the opportunity to be or become productive. "Society" is a group of individuals, and individuals should have no duty to anyone other than

those they choose to contract with. It is individual freedom that sparks economic growth even for less productive people. Kelso's meddling in the economy is nothing but anti-productive.

Elsewhere, Kelso states that we "need even more intensive efforts by government and government supported power blocs to divert the wealth produced by capital to those who do not own capital." If this isn't a proposal for the redistribution of wealth and socialism, then neither was the Communist Manifesto.

Later Kelso states "every major increase in new capital formation that is not accompanied by an increase in the number of new 'capitalists' is a leap in the direction of socialism." Not only is this an untrue statement in itself, but if there is any leap to socialism, it would be to adopt Kelso's proposals.

While Kelso indicates that it's impossible for those without capital to become capitalists, he complains that "today owners of a hotel suddenly become owners of a chain of hotels" and says the same about restaurants and warehouses. This only points out the fallacy of his theory. If someone has a good idea, and foregoes a little consumption, then there's no reason why he couldn't become a wealthy capitalist. If someone doesn't do that, it's primarily because they don't have the qualities necessary to be capitalists. One of the most dangerous aspects of Kelso's theory is that he wants to make the government the insurer for people who probably don't have the qualities to be capitalists, are poor credit risks, and don't deserve loans.

At another point, while speaking woefully about inevitable socialism if we don't adopt his plan, Kelso states "socialist methods of new capital formation are more efficient and quicker than traditional methods of business finance now employed by the free world." This

is called talking out of both sides of your mouth.

Kelso virtually ignores that there is a skill involved in choosing good capital investment which should be rewarded. Instead, he figures that by putting capital into anyone's hands, benefit will result.

In short, Kelso's theory closely follows that of another economist who advocated, 'from each according to his ability, to each according to his need.' Kelso further admits the failure of his theory by stating that, with it in effect, "the government would wield considerable power."

It is unfortunate indeed that so many pages of words need to be produced describing Kelso's illogical economic theory, but when the legislature and the people of Alaska are asked to swallow the demagogic AGSOC proposal of Senator Gravel, they should know what the ultimate theory is behind the AGSOC plan. After examining Kelso's inconsistent and illogical reasoning, it would be incredible that any legislator could lend their support to AGSOC. Let's look at how the AGSOC proposal fits into Kelso's overall plan, and why certain parts of Kelso's plan are conveniently being left out at the initial stages of AGSOC.

In brief, AGSOC would hand out shares of stock "free" to most every Alaskan. The corporation would be formed by the initial appropriation of millions of your tax dollars by the government, with no guarantee or liability by the state or the stockholders (at least for the time being). One indicator of the deception built into AGSOC is that while its initiative literature only mentions initial government aid to the project, the Alaska House State Affairs Committee and Senate Finance Committee plans call for the likely guaranteeing of loans to AGSOC by the state. Ownership of the "free" shares would have all kinds of restrictions including the number of shares, how and when they could be sold, and who could own them. Then, this paper corporation would supposedly be able to

to borrow all kinds of capital to invest in money-making projects that would make us all wealthy since it would be required to pay all hoped-for earnings out in dividends without investing in itself. Even though there is talk of AGSOC buying various companies, one might wonder at the viability of such companies if they're willing to sell to AGSOC.

Comparing such a plan to Kelso's theory, it's easy to see what essential feature of Kelso's plan is missing from AGSOC. That missing piece is CDIC and the government guarantee of any part of the operation.

The question might be asked how could such a plan work when even Kelso admitted that some kind of a guarantee or collateral is absolutely essential to the formation and acquisition of capital? The answer is that it won't.

For AGSOC to go begging to a lender for money would be ridiculous. Can you imagine yourself, or any other intelligent person, readily lending huge amounts of capital to some immature youngster with no experience, no well-formed ideas, no collateral, no guarantee, and no strong sense of direction? Of course not. And this is exactly what AGSOC will be when it attempts to get a loan.

The only reason anyone would lend money to such a scheme would be if there were some hidden factors involved. I can immediately see at least one possibility of such a hidden factor.

The most dangerous of such hidden factors would be the unwritten assumption that based on political experience, the government, (State of Alaska) would eventually step in and guarantee, loan, or subsidize to AGSOC if it should ever find itself in bad finances (which it is doomed to from the outset). Any astute political observer (such as Senator Gravel) knows very well that if the state had already invested millions into AGSOC's start-up costs, had

perhaps lent money to AGSOC, if powerful legislative political figures had supported the AGSOC concept, and if politically appointed 'leading citizens' had been appointed to its directorship -- then the State of Alaska would politically be forced into saving the sinking ship of AGSOC before it went totally under. Such a bail-out of AGSOC by the state would be inevitable, and would complete Kelso's blueprint for socialism. There is no way that those demagogic promoters of AGSOC would allow AGSOC to go under, and if there's one attribute which politicians like to maintain, it's the characteristic of infallibility. Senator Gravel's primary concern is getting re-elected in 1980. The AGSOC 'something for nothing' appeal might get him over that hurdle and set him up for another six years, by which time he would find another distraction with which to attempt to fool the voters.

It would be this unwritten, but politically sound assumption of bail-out by the wealthy state of Alaska that might actually find someone willing to 'risk' a loan to AGSOC. An analogous situation would be a child's (AGSOC's) first loan, with the father (politicians) winking in the background that he will actually guarantee the loan even though it's not on paper. Such a risky loan would particularly be possible by the application of political pressure or offer of political gain by a powerful promoter of AGSOC to some government protected holder of extra capital which could be loaned to AGSOC (political payoff).

The next question to ask is, why wouldn't the AGSOC proposal include government subsidy, loans, and guarantees right from the beginning? The answer is simple. It would be easier for Kelso and Gravel to hold AGSOC up as "capitalistic" and not socialistic if they can minimize the aspect of government involvement. They may also be clever enough to realize that it wouldn't be necessary to include government guarantees at the outset. If they just feed

AGSOC to the people a little at a time, they'll be hooked by the time it's too late to do anything about it. Promoters of AGSOC would know that once the corporation was created on paper, and stock was issued to all Alaskans, it will be easy to get the missing government guarantees and subsidies worked into the picture later on. When those subsidies and bail-outs occur later on, individual owners of AGSOC shares may not be personally liable as stockholders, but they would certainly be liable as taxpayers.

In addition to the possible devious scheme behind AGSOC, there are many other aspects of it which make it undesirable. For instance, promoters claim that the fact that AGSOC would not be subject to taxes on its earnings (even though shareholders would be on their dividends) will make it attractive enough for investors to lend to it. That not only points out the ridiculous level to which taxation has risen in this country, but it should be obvious to the observer that by exempting AGSOC from taxation, the government is actually subsidizing it, since all of us will probably have to make up the revenue lost by tax exemption.

Another aspect of AGSOC is its political control from the outset. Politicians would be appointed to its board of directors at the beginning, and because of its diversified ownership, those directors would be nearly impossible to dislodge. These political directors would have AGSOC competing with other businesses in the Alaskan economy with the competitive edge of no taxation and no capital requirements. Through a slow process, this politician's boondoggle would begin to control and affect more and more of the Alaskan economy, with government's help.

Since AGSOC would be prohibited from retaining earnings for reinvestment, it couldn't help itself grow even when reinvestment might be economically feasible.

Even if the claimed purpose of AGSOC is to somehow return wealth to the people, there is no question that there are many better ways to do so. The people of Alaska are already in a dangerous situation with a state government holding billions of dollars of surplus funds while individual Alaskans go without. The simplest, most reasonable, and most consistently capitalistic way to solve the problem is to take that dangerous surplus away from the government and give it to each individual to choose for himself whether to consume or invest with it. This can be achieved through the elimination of taxes, among other means. We must assume that each person knows his own happiness better than the government does.

I have laid out my observations about the theories promoted by Mr. Kelso and Senator Gravel. If you have been concerned enough to stay with me to this point, you may ask yourself, "What can I do?"

The thing that must be done is for all of us as individuals or in groups to oppose AGSOC now, before it's too late.

The most effective group to begin this effort is the hard-working, self-sufficient businessmen and businesswomen of Alaska. They are the ones who keep this economy limping along despite government interference, and they are among those who would be affected most adversely by the adoption of the AGSOC foolishness.

If Kelso's scheme is allowed to happen, capital accumulation, the source of our high American standard of living, would soon begin to dry up. Men do not save and invest when they know it will be confiscated from them.

Schemes like AGSOC would set up an economic dictatorship which, through the political application of capital, would select and manage the economy's industries and determine production goals. There is no more devious a plan for a socialist economy.

THE NEW CAPITALISTS

by

Louis O. Kelso and
Mortimer J. Adler

A CRITICAL ANALYSIS by Percy L. Greaves, Jr.

This small book contains more economic fallacies than it does pages. The basic assumptions upon which it is built cannot withstand the light of careful scrutiny. Furthermore, the alleged facts are not documented and the logic employed is extremely loose. Its strong effect on the casual reader rests largely upon the repeated assertion of seemingly plausible statements which, upon close analysis, turn out to mean almost the exact opposite of what they first seemed to say.

Any attempt to put the book's proposals into effect would immediately reduce the incentive to produce and result in a rapid paring down of the American standard of living. At the same time, it would set up an economic dictatorship which, through the political allocation of capital, would select the management of the nation's industries and determine all production goals. In short, it is an unwitting blueprint for the establishment of a Soviet America.

A complete analysis of all the book's fallacies would necessitate a theoretical treatise of several large volumes. However, the following brief analysis of seven of the book's basic fallacies should be helpful in indicating why the book is unworthy of serious consideration. These seven basic fallacies are:

I. Capital produces at least 90 percent of the gross national product. (pp. 5, 6, 38-40, et al.)

II. A progressive concentration of the ownership of capital exists; the great bulk of capital is owned by 3 or 4 percent of the households (pp. 14-15, 28-37, et al.)

III. Savings are not required for capital accumulation. (pp. 53, 55, 59, et al.)

IV. No real shortages of labor and resources exist in Western nations. (pp. 4, 41, 46, 86, 101, 104 et al.)

V. Government redistribution of income is now necessary. (pp. 6, 31, 32, 41, 45, et al, ad infinitum.)

VI. Bank credit expansion can create wealth. (pp. 17-18, 55-56, 58-59, 60-63, 100-102, et al.)

VII. Proposals provide for a free society. (Implicit throughout and stated in conclusion, pp 108-10).)

I. Capital produces at least 90 percent of the gross national product.

The early classical economists and Karl Marx believed that human labor produced all economic values. Today, most labor union leaders, as well as those who write our laws, believe that human labor is responsible for producing almost all economic values and that employees, as employees, are entitled to all increases in production.

The authors of this book believe that capital is responsible for the production of almost all economic values and that the share attributable to capital is ever increasing with each addition to available capital. They assume that this is an apparent fact and make no attempt to document it or defend it logically. They apparently assume that because the increasing use of capital results in higher physical volume of goods, all the increased human satisfaction resulting from such increased quantities must be attributed to capital.

This neo-capital theory of value is just as indefensible as the labor or neo-labor theory of value. They both ignore the essential factors of time and abstinence as well as the factor of profit and loss which results from the uncertainty of future demand at the time businessmen commit their capital to the time-consuming process of producing particular goods. Attributing 90 percent or more of all production to any one essential factor and belittling the contributions of the other factors as insignificant and no longer needed is a little like attributing all football victories to the backs who score the touchdowns and thus implying that the linesmen are no longer necessary. Attention is concentrated on the sensational at the expense of other very essential contributions. No football game can be won without linesmen. Similarly, no economic production can take place without human foresight and the combination of capital and labor over a period of time. Each of the four factors is both important and essential.

Capital is always the result of human action. To obtain capital, men must first save, i.e., consume less than they produce. Only such savings can give them the time and ability needed to produce capital goods. Human ideas and foresight of future needs must also precede the introduction of every new capitalistic method. Then men must not only produce the capital goods but also direct and manage their use in production of other goods. Without the human factor, there would be no production, capitalistic or otherwise. Capital alone is incapable of producing anything.

Men do not value all labor or all capital. Men only value the specific units of labor or capital which they are considering in connection with a specific situation. Men think in terms of the value to them of one more, or one less, unit, that is the marginal unit. If they are buying, they compare the value to them of one more unit of labor or capital of a specific type and the price they must pay for it. They then buy until one more unit is no longer worth its market price to them. When they consider selling, they compare the value to them of one less specific unit with the value to them of the sum of money they receive in return ofr it. The market values of all types and units of both labor and capital are traceable to the values consumers are expected to place on their final products.

In the market place all identical units sold at the same time and place are sold at the same price. The market process thus tends to allocate every available unit of capital and labor to the production of those products which are expected to bring the highest prices from consumers. This means that each additional unit of capital tends to be used to produce something considered less valuable than what was produced with previously available capital. Otherwise, the previously available units of capital would have been used to make those products.

So, with any given population, each additional unit of capital is not only worth less than the units of the previously existing supply of capital units, but it also reduces the value of every other existing capital unit with which it competes. Thus, with any given population, every increase in the amount of available capital reduces the importance of every existing unit of capital. Man can then have more of the things he wants but the additional things are not as important to him as the things he desired when less capital was available. So more capital makes capital less important (valuable), rather than more important (valuable) to man.

Let us attack t[illegible]em in another way. As man is constituted, his desires are insatiab[illegible]. As soon as some desires are satisfied, other unsatisfied desires arise to take their place. If they did not, man would stop eating and all his other acitons. He would, in fact, lie down and die.

As long as man lives, he has unsatisfied desires. This means there is always a demand for more of what labor can produce with available resources. There are always ores that are not mined, land that is not planted, waters that are not fished, and goods that are not made because there is an insufficiency of labor. Labor, a necessary factor of all economic production, is the limiting factor in almost all areas of production. Every new person born on this earth brings his own unsatisfied demands for more things than can be produced with available supplies of labor. There is no such thing as a sufficiency of all kinds of labor.

Some types of labor are always in short supply. The economic problem is how to use available supplies of labor so as to produce the highest valued possible products, that is, how to prevent the waste of avai[illegible]le supplies in idleness or producing less valuable products than such types of labor are capable of producing. All men have a point at which they prefer rest or leisure to the results of more labor, but up to that point men desire more of the goods and services that they can obtain only by more of their own labor or by spending money they are paid for contributing more of their labor.

Millions are unemployed today because political conditions either make them unemployable or create a situation in which they prefer to be unemployed, even though there is a great unsatisfied demand for the things they could help to produce. These political conditions are the laws and customs which hinder or prohibit the employment of persons where they could be most productive in terms of what consumers want more of most. These laws and customs include those that permit unions

to raise wages above free market rates, thus reducing the number employable in unionized industries; minimum wage laws, which prohibit the employment of those for whose products consumers will not pay the equivalent of the minimum wage; unemployment benefits, which encourage men to remain unemployed; and employment taxes, including social security taxes, progressive income tax rates and higher rates for overtime, all of which increase the costs of labor to employers and thus to the ultimate consumers.

It must be remembered that businessmen are merely middlemen between the workers and consumers. They will always hire every possible person they can afford to pay, up to wage rates that raise costs above what they can expect to recover from consumers. If they can make a penny by hiring one man more and selling his product, they will do so. Businessmen constantly strive to hire all who are willing to work at the free market wages which are set at the point which it is expected can be recouped from the ultimate consumer. Laws and customs which interfere with such free market wages also interfere with employment. They either cause unemployment or shift men into poorer paid jobs where they compete with less skilled persons who are driven further down the economic ladder, some of them being pushed below the minimum wage and thus into compulsory unemployment. These interventions have produced mass unemployment but in a free market society there can be no surplus of labor as long as men have unsatisfied desires which the employment of labor could satisfy. As mentioned above, such unsatisfied desires are a fact of human life.

One of the values of owning capital is that it saves men time. If we have the capital, we do not have to take the time and trouble to produce it. The payment for capital is thus a payment for time saved as well as for the labor needed to produce it. The payment for time is called interest. The rate of interest is determined by man's time preference, that is, by how much he prefers to have some things now rather than a year from now. Businessmen devote time and labor to the production of specific types of capital goods when they foresee that the cost of producing such capital goods will be less than their expected market value at the time of their completion. Not even the best businessman can always foresee future market conditions perfectly. This imperfection of human foresight is responsible for the factor of profit and loss. A period of time must elapse between the time businessmen decide what to produce and its later availability for sale. Those who turn out to have been relatively the most proficient in foreseeing correctly future demands make a profit. Those who do not suffer a loss.

In this connection, it should be remembered that profits are the amounts they receive over and above their labor costs, expenses for supplies and raw materials, and interest charges on necessary capital for the necessary period of time. When businessmen recover only their expenses for labor, supplies and raw materials and do not recover sufficient funds to pay the interest rate they could have obtained by lending their capital funds, they have suffered a loss. No one goes into business without the hope of earning more than he could by lending his money out or putting it in a savings account. On the other hand, profit or loss is merely the relative difference in expected market values between the time production is started and when it is completed, that is the time when the producer can transfer its ownership to another who then assumes the responsibility for future changes in its value.

For the fallacy of this book, all this means that the contributions of capital to production must be traced back to the contributions of the four essential factors that are necessary for the creation of capital. These four factors are human foresight, scarce goods consumed (savings) human labor and time. The scarce goods consumed in producing capital are the tools, supplies, and raw materials which, in turn, represent savings produced by human labor over a preceding time period.

The more capital savings there are available, the more apt we are to undertake projects which take a long time to produce to the point of operation and which will last a long time before their value is fully consumed. This means that interest payments are likely to be a larger factor in the costs of such enterprises. Any profits above the basic interest rate will attract competition which will pare down and finally eliminate the profit item. However, with the passage of time and changes in consumer preferences, new opportunities constantly arise for the re-emergence of new profits and losses.

As men are constituted, human foresight in deciding what to produce is imperfect and always will be. Likewise, our time, labor and capital are in short supply and always will be. The competition of a free market will allocate available supplies so that in the long run they will be combined to produce the highest possible values known to mankind. Should any investment temporarily obtain profits over and above labor, material and interest charges, competition, if not politically prevented, will soon tend to eliminate the profits. All profits are at best only fleeting in character and must be re-earned if they are to reappear.

In this connection, it should be pointed out that every increase in capital permits the production of goods and services not previously produced. Each new addition to capital goes to work by bidding up wages and the prices of raw materials before it can obtain the factors needed to go into production. Then, the newly produced goods must compete with existing goods and services and offer consumers a better buy before the contributor of the capital can receive a cent back on his investment. Further, the capital goods and the products they make must continue to compete for their originally estimated life if the capitalist is to get back his full investment with interest and possibly a net profit.

Another popular fallacy, inherent in the logic of the book's authors, is that it is thought that if corporate income taxes are reduced or repealed, the present profits before taxes would continue to be about what they are now and that this would be a windfall for the owners of capital. This is a gross error.

As long as a market economy exists, competition will determine the allocation of the reduced taxes among the various market participants as each specific condition dictates. This means that the repeal of 50 percent corporate income taxes would not double available corporate income as the authors seem to think when they estimate the share of production they attribute to capital. Actually, market competition would rapidly force the sharing of the tax savings in lower prices, increased production and higher wages. No doubt such an event would affect interest rates (time preferences). It would also change the

pattern of goods and services produced and thus those on which the highest profits of the future would be made. However, these changes in the allocation of produced income would be determined by the existing market forces and not by corporations trying to maintain the same wages, prices and production pattern as prevailed before the reduction in corporate income taxes.

Corporate income taxes are indirect taxes levied on market operation. Such taxes tend to hide the real burden of government spending from the general public which in the long run must bear the full burden. Unfortunately, many high and low income people, as well as the authors of this book, tend to think that it is the capital stock holders who now bear the full burden of corporate income taxes. This is just not so. Investors still earn the market rate of interest plus profits or less losses, depending on the foresight of each company's management, under existing conditions, in supplying what consumers want most as shown by how they spend their money.

In the long run, those who accumulate capital by consuming less than they produce must receive interest on their savings. If they did not, they would not invest their savings in capitalistic production. No law short of a complete dictatorship can force a man to save and invest without payment of interest. Nor can any law eliminate the uncertainties of the future. Any attempt to reduce or eliminate profits from business enterprise would only result in reducing the efforts of business to provide more efficiently for the uncertain human wants of an unknowable future.

While laws can and do reduce the return on capital, they cannot do so without at the same time reducing real wages and increasing the costs of the goods and services people want. Every government tax, rule or regulation which is not for the purpose of protecting or defending life, health, property or the activities of the market place must be a burden on all market participants. What is more, it is the market and not the government that allocates that burden and it does not spare those with low incomes. Except for their proposal to remove all corporate income taxes, the proposals of this book would increase the present burdens of every American. Its authors have no real concept of how a capitalistic society functions and how the benefits from the increased use of capital are shared by all market participants.

II. A progressive concentration of the ownership of capital exists; the great bulk of capital is owned by 3 or 4 percent of the households.

There is a slight plausibility to this argument. However, such plausibility is entirely due to political interferences rather than free market operations. One little known result of the political interventions before, during and since the New Deal is that they have tended to protect the positions of those already at the top of the business heap by making it considerably more difficult for new and struggling new competitors to replace them.

This is particularly true of the tax laws. Under present tax laws, it would be impossible for any man or family to duplicate the contributions to society of Henry Ford. He raised wages and benefited millions by making autos available for a few hundred dollars because he was able to

plow back his profits into expansion of his original small plant. This process could not be duplicated on a similar scale today. In this connection, it should be further stressed that the benefits of his increased capital investment did not all go to him or his family. The market compelled him to share his gains with his workers, his suppliers and his customers.

Other laws also help to protect those who have arrived from the competition of newcomers. This is most apparent in the labor area where union members can keep the unemployed from competing for the highest paid jobs. This unfortunatley is the underlying cause of the economic distress and unrest among American negroes. However, all interventionary laws have this effect. It is quite evident where permits or licenses are required for the sole purpose of limiting competition. Laws which prevent the use of new materials or more economic methods or protect featherbedding are other instances. So also are the farm laws which curb the most efficient use of land. So also are oil import quotas, export licenses, interstate commerce regulations, certain food and drug regulations and many many more types of government owned and operated activities.

However, it is not such intrenchment of established business that the authors of this book have in mind. Nonetheless, it is the results of such interventions that opened the door to their approach. They build heavily on the results of government directed expansion of bank credit and the progressive income tax. They constantly stress the point that much present day capital accumulation is amassed by corporations plowing back their earnings rather than paying them out in dividends. They even admit that personal income taxes at higher rates than those on capital gains are a major factor.

However, they neglect to mention another contributing factor---that interest payments on corporate bonds entirely escape corporate income taxes. This fact, plus the effects of inflation, encourages the accumulation of capital in the form of corporate debts and capital gains upon the retirement of the bonds. They do not seem to realize that many of the conditions they deplore could be eliminated by simply removing the double taxation now levied on corporate dividends and levying the same tax rate on all personal and corporate income.

Unfortunately, the error in their reasoning is still greater. They assume that because a great part of capital accumulation takes place within existing corporations that almost all of it does and then as they proceed they not only assume that all capital accumulation happens in this manner but also that the owners of capital stock always remain the same persons. Actually, where corporations accumulate capital in order to provide their owners with capital gains rather than dividends, the stockholders must sell some of their holdings in order to realize their capital gains. The authors ought to visit the stock market some day, or at least read the figures on the turnover of stock ownership every business day. It runs into millions of shares.

While the authors with ever increasing emphasis proclaim the ever narrowing number of the nation's stockholders, the actual figures belie them. On June 24, 1965, the New York Times and Wall Street Journal

published figures of the New York Stock Exchange reporting that the number of stockholders of publicly held corporations has increased with every count made since 1952. The total figure now exceeds 20 millions and includes one out of every six adults in the United States This is a far cry from the claim of the authors and this is only for the publicly owned corporations.

Many of our wealthiest men are owners of closely held privately owned corporations. So are many of our middle class citizens, including millions who place their savings in their own businesses with which they are more familiar than with the affairs and management of publicly owned corporations. The facts indicate that over the years the ownership of capital has become ever wider as has the resulting benefits to workers and consumers who use the many products made possible by the increase in capital. Many more than the Ford family are now benefiting from the existence of the Ford Motor Car Company. And so it is with every large corporation that earns profits.

The authors completely overlook the huge savings of the masses in many areas, including home ownership and other real estate. Take life insurance for example. There are now more than 120 million individual policy-holders insured with legal reserve life insurance companies holding more than $141 billions in assets. In 1960, 89 percent of all family heads were insured, including 71 percent of those with annual incomes under $3000. In 1963, American families received from life insurance companies payments amounting to 10 billion dollars. Such payments as well as the assets held by life insurance companies for their policy-holders are increasing with every passing year.

By the end of 1964, insured deposits in mutual savings banks had risen to more than 42 billion dollars, compared with only 10 billions at the end of 1945. This quadrupling was not done by any 3 or 4 percent of the nation's households. In the same period the savings capital of the savings and loan associations had increased from less than 8 billion dollars to almost 102 billion dollars. This is not where a few enormously wealthy capitalists are concentrating their savings. Individuals also now hold more than 49 billion dollars worth of the national government's baby bonds. This figure is up by more than 6 billion dollars since the end of World War II.

There is absolutely no evidence that there is a progressive concentration of capital in the United States. In fact, all the available evidence points in the opposite direction. Unfortunately, too much of the increasing savings have gone into forms that are hard hit by the inflationary policies of our national government.

There are two lesser points that should also be mentioned. First, the authors consider depreciation, amortization and depletion, along with withheld earnings, as "internally generated funds" which contribute "today almost three-fourths of new capital formation." Such funds are merely a replacement of capital consumed in production. While they may represent a demand for new capital goods, they are not an increase in capital, but merely a maintenance of prior capital accumulations.

Second, the book makes no mention of the effects of inflation on corporate earnings as figured by tax authorities, in general, a part of what is considered "taxable profits" is in fact only illusory profits. Under the tax laws, taxpayers are allowed to amortize or depreciate only the original costs and not the eventual replacement costs. Thus, when inflation increases the dollar costs for replacements, the government is actually taxing as a profit what is in fact a loss, or technically a consumption or depletion of previously accumulated capital assets. So the authors actually consider the mere replacement of such consumed capital as further evidence of their imagined concentration of the ownership of capital.

III. Savings are not required for capital accumulation.

This is one of the most idiotic ideas on which the entire book is based. The authors bluntly assume that capital can be created from scratch and without any abstinence by the application of the future earnings from capital created by the mere bookkeeping addition of sums to bank deposits. The only basis furnished for such illogical reasoning is a study that Harold G. Moulton made some thirty years ago. That study indicated that historically capital accumulations have on certain occasions increased most rapidly during periods of "high-level consumption."

Dr. Moulton made this study for Brookings Institution early in the New Deal. It was part of a four volume series in which each succeeding volume pyramided its own fallacies on top of those of the preceding volumes. However, Dr. Moulton and his Brookings associates, including Dr. Edwin G. Nourse, later, 1946-49, Chairman of President Truman's Council of Economic Advisors, are not to blame for the extreme interpretation placed on their findings by the authors of the book under review. In boom times, particularly those induced by expansion of bank credit, there are more dollars for both consumption and investment.

The fact remains: all capital accumulation must be the result of savings on the part of someone. Capital can only be amassed by abstaining from consuming all that is produced and available. Before goods can exist, they must be produced. Those who consume all that they produce have no savings or capital. Those who consume less than they produce have some savings. These savings are their capital. It is as simple as that.

Unfortunately, the authors of this book have been fooled, as have many others, by the illusion that the granting of bank loans by bookkeeping processes is a wealth creating process. This illusion will be dealt with under VI. Here, it is sufficient to state that physical capital goods, the only kind that can be used in production, can not be created by accounting manipulations. Capital accumulation requires abstinence on the part of the owners of wealth. They must first live on less wealth than they, their ancestors or other benefactors have produced.

In the market economy, people are paid in money for their contributions to the market. When they do not spend all their money income for consumption of goods and services, there must remain in the economy a portion of their contribution to society which is available as capital. They can use that capital themselves or transfer title to it by lending or investing that part of their money income. When one lends his savings, he merely transfers title temporarily to existing wealth.

This, of course, assumes no theft or manipulation of the money supply such as the authors of this book endorse when they propose making their proposed capital-creating bank loans redeemable in newly created Federal Reserve Notes. When one borrows or spends artificially created bank credit, one merely exercises a claim on previously existing wealth---wealth which in a free and moral society would be allocated to someone spending funds that were received in return for a contribution to society.

Capital cannot be created out of thin air or by the bookkeeping opening of a bank credit. The authors believe that capital can be so created. All that they ask is that the bank borrower pay an insurance premium to a government agency which will insure the bank against any entrepreneurial error by the user of such accounting-created-capital. They expect that such accounting created capital will earn sufficient profits and interest to pay off the original loan with interest. This is pure nonsense. Yet the entire plan of the book is based on it.

IV. No real shortage of labor and resources exist in Western nations.

If this were so, there would be no economic problem. A prime factor of life here on earth is that the things men want and can produce are in short supply. Where they are not in short supply they are free goods and there is no economic problem.

The top shortage is labor. As mentioned under number I, many resources are not fully developed to the extent of present technological knowledge because there is a shortage of labor. The usual expression is that labor costs would be too high, or that it would be uneconomic or simply that it would not pay. All of which means that there are better uses available for the labor on hand. Unfortunately, governments are not always guided by such economic logic. The present development of atomic power for peaceful uses is still uneconomic. The labor and capital so consumed could produce higher values if there were no government interference with market processes. This is true of almost every government activity except those of defense and the peaceful settlement of disputes. If this were not so, men would find it profitable to undertake such activities in a free market.

Nothing can have value in the market place unless the supply is less than the demand for it as a means for satisfying some human need or want.

It goes without saying that there are many resources around the world that men could and would exploit if governments did not hinder or prohibit such exploitation. However, there is a real shortage of labor and resources in the form that men find them useful and there always will be.

V. Government redistribution of income is now necessary.

The only justification for such a belief is that of Marx and Engels in the Communist Manifesto, where they state that every government intervention makes matters worse and creates a demand for further intervention until the point is reached where the whole capitalistic system is overthrown and replaced by a dictatorship of the proletariat.

A good argument might be made that because government spending, taxing and inflation policies have destroyed considerable private savings and potential private savings the government now has an obligation to those it has impoverished. However, that is not the argument of the book. The authors imply that all present deplorable conditions are the natural result of a free and unhampered capitalistic system which must be reformed by governmental action. They thus offer their plan for the political creation of capital with the promise that Congress will vote to give every person his fair share of the capital created by bank loans. The owners of such capital will then somehow be entitled to receive 90 percent or more of all production.

It is true, of course, that there are people in this country who are in need of financial help. That this number is now large is due primarily to political interferences with the operations of a free market as well as uneconomic fiscal and monetary policies. However, it is still likely that private charity could and would take care of all cases of real need, particularly if political restraints on employment were lifted.

Present day political programs only serve to encourage and sustain poverty and unemployment by dampening the spirit and ability of people to find self supporting jobs where they could contribute to society as they improve their own lot in life. Present programs lead people to believe that they are entitled to a living without any contribution on their part. In fact, they are even encouraged to think they are contributing when they are living on and distributing largesse obtained through taxes collected from the more successful citizens. The illusion that the burden of such taxes fall entirely on the well-to-do is encouraged at every opportunity. It is popularly considered a form of economic justice. Actually, as explained previously, the market allocates the tax burden on every citizen of the land, even those with the least to spend.

This book encourages the popular fallacy that only a few own capital and if the government did not intervene, these few would receive 90 percent of the nation's production. This is pure nonsense. Market processes, if left free from government interferences, allocate all production to those responsible for its production. Everyone is then free to choose the most attractive opportunity open to him. Every worker is assured of the market value of his wages before those advancing his wages can get back a cent. The market processes thus see to it that the capitalists are the last to receive any of the gains from their contribution. This book encourages its readers to think otherwise. They declare that every person is entitled to become owners of capital without any contribution or sacrifice on their part, except for the

payment of a small insurance fee to a government agency. Their plan is a plan for the redistribution of 90 percent of total production. It would rapidly reduce total wealth to the point where many would starve. They simply do not understand that every honest and moral person would attain his maximum possible income in a free and unhampered market economy.

VI. Bank credit can create wealth.

It would take a volume to present fully the monetary explanation of the trade cycle as expounded by Ludwig von Mises. However, Mises has clearly demonstrated that modern recession and depression problems are basically the result of political attempts to stimulate economic activity by the expansion of the money supply through the creation of circulating bank credit. Should the holders of such bank credit desire to convert their artificially created bank accounts into cash, the central banks, in our case the Federal Reserve Banks, are empowered to print legal tender paper money against evidences of debt owed to banks. In the United States, such printed money is in the form of Federal Reserve Notes.

The authors of this book would extend this disastrous principle still further. They propose the printing and issuance of Federal Reserve Notes against bank loans with no security except government insurance and the hope that the sum created will be put to work as capital in such a way that it will before too long repay the loan with interest. They blithely assume that such government insurance can be sold for a mere trifle just as the National Government now insures mortgages on real property.

Actually, banks perform a useful social function when they operate as middlemen between savers who want to lend money and borrowers who need and want funds they expect to be able to repay with interest at the maturity of the loan. Such loans are merely temporary transfers of monetary savings (purchasing power) from one person to another. They do not increase the available amount of spendable money in the economy. What the borrower can now spend, the lender can no longer spend. Such voluntary loans help all parties concerned, whether made through a bank or not.

However, when a bank makes a loan merely by adding the sum to the checking account of the borrower, it is not transferring to the borrower the title to someone's actual monetary savings (purchasing power). The bank is merely adding this sum to the available amount of spendable money in the economy. This addition to the money supply empowers the borrower to go out and buy something, leaving less available for all previous owners of money. Thus, those who have obtained their money in payment for their contributions to society find that they cannot buy as much as they could have bought if the bank had not issued an artificially created claim to its borrower. Such bank loans merely transfer a part of the existing wealth from those who helped create it to the borrower from the bank. Such bank loans add no wealth to that previously existing. They merely transfer titles to existing wealth at the expense of all those who have earned or saved their dollars which will now buy less.

Needless to say, such expansions of bank credit cannot create any useful capital goods. All that such bank credit, as these authors propose and endorse, can do is to transfer ownership of existing capital goods from their rightful owners to those receiving the proceeds of the bank loan. It is done by a process that probably not one in a million can detect, for each loan reduces each person's purchasing power only infinitesimally. However, over a period of time such loans have a tremendous effect. Any expansion on the scale proposed by these authors would quickly depreciate the already shaky value of the dollar.

The authors propose that their plan will make everyone a capitalist merely by the creation of such bank credits. They believe that future earnings from the capital so created will pay off the loans with interest and that thereafter the borrowers will be entitled to all further earnings for evermore. Such income is then supposed to make it possible to sustain millions without any further effort on their part.

Such a program is absolute nonsense. It could not work once people realized what it meant. It would certainly not encourage an increase in real savings, the only kind businessmen can use. The greatest incentive for the increase of capital is for people to believe that their savings are safe from either direct or indirect confiscation. The scheme proposed is an indirect confiscation of the wealth of others. It could not and would not increase wealth in any useful form. It would merely dilute titles to existing wealth until the point was reached when people no longer found it profitable to invest their savings in capitalistic production. They would then put their savings in gems, jewelry and precious metals that they could hide and quickly move should the authorities become too nosy.

VII. Proposals provide for a free society.

The first fifty or more pages of the book make no mention of the government controls involved. However, starting on about page 55, such controls are mentioned on almost every succeeding page. In short, the scheme provides that a governmental agency would insure all lending banks against all future human errors of their borrowers in investing their loans so they can be repaid by earnings without any further claim on the sum lent or what was bought with the sum so lent. A government agency would thus be forced to determine all future investments as well as the amounts banks might lend for the purpose of creating capitalists out of bank borrowers. By such a fantastic scheme of government controls of the very life-blood of business we would "start the process of industrialization without resort to past savings." (Pg. 55)

To get the plan started, they would force present corporations to pay out all earnings in dividends. To keep it going and put an end to uncontrolled investments, they would enact inheritance taxes which equalize the dividend income of the entire population, or so they think. They would prohibit those owning a certain amount of income from capital from working and thus competing for jobs. The government could control all monopolies by shutting off capital and creating competitors. The government would, of course, prevent all malinvestment.

"Each loan would be made in accordance with policies established by Congress and administered by the Federal Reserve System" or some other agency "as Congress might determine." (Pg. 61) If the politicians would decide which industries and which managements could have capital, pray tell where would any free enterprise exist??

On page 75 we learn that the government would impose "high standards for demonstrating feasibility of new enterprises or new expansions before their securities could qualify for CDIC-insured loans." Shades of Thomas A. Edison !!! Could he have gotten the capital for his inventions?

On page 69 we learn that American political history has been characterized by changes "required to increase its efficiency in the face of its large-scale tasks by eliminating much of its original decentralization." Shades of Adolf Hitler!!!

They do admit, "there is no doubt that government would exercise considerable power." However, they do not admit that it would exercise totalitarian power over the access to capital, without which no business could even exist. If men were not free in the economic realm, they would soon find that they had lost all that freedom had ever meant. Who could print books and papers? Those the politicians selected and allocated the needed capital. Who could build churches and schools? Those the politicians selected and allocated the needed capital. Who could work? Those the politicians decided were eligible.

One could go on and on but the reader who has read this far should easily see that it is merely another scheme for milking those who have produced, saved and invested wealth for the benefit of those who will keep the politicians in office. The book's authors would make everybody a capitalist by giving them a share of the wealth already produced by others.

If such a scheme were ever attempted, capital accumulation, the source of the ever higher American standard of living, would soon dry up. Men do not save and invest when they know their savings will be despoiled or confiscated. Workers and consumers alike are heavily indebted to those who have saved in the past. Without such additions to capital by every succeeding generation, our standard of living would have stood still. If the capital so carefully accumulated over the decades should be dissipated by any such illogical wild scheme as this proposal, Americans would be compelled to return to the living standard of the Indians. Our population would also have to shrink to that of a century or more ago.

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

A Discussion of the Financial Foundation for General Stock Ownership Plans*

by

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(April 1979)

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I. Preface and Summary

A General Stock Ownership Corporation (GSOC) is not a magical money machine. In the absence of external support in some form, a GSOC cannot be expected to earn a net cash flow simply by borrowing from one group of capital owners in order to finance asset acquisitions from other capital owners. Inappropriate analogies are sometimes drawn between financed asset acquisitions that a GSOC might undertake and those that wealthy individuals and solvent firms undertake as a matter of routine. By definition, wealthy individuals and solvent firms have equity bases to cushion temporary or chronic operating deficits. In constrast, the financial condition of an unsubsidized GSOC, is similar to that of any other firm whose liabilities exceed its assets; it is insolvent. Like any other insolvent firm, a GSOC can be made to show an operating profit if given sufficient subsidies in the form of donated cash or assets, tax benefits, and/or credit assistance. However, since these subsidies would have earned a normal return if put to alternative uses, it is erroneous to attribute a GSOC "profit" to its leverage-acquisitions. Any such "profit" is simply a residual of the normal return on the subsidies invested in a GSOC, after the GSOC's own expenses have been deducted.

Therefore, despite optimistic claims by a few exhuberant supporters, a GSOC is more accurately described as an elaborate financial device for capturing and redistributing the federal taxes currently paid on privately owned assets. Since these tax payments can be sizable, the implicit federal subsidy represents a potentially valuable source of State revenue. However, under the federal "enabling" legislation a GSOC's tax liability is not forgiven but instead is passed through to (and borne fully by) the citizen shareholders of the GSOC. Technically, the federal tax "break" is limited distributions in excess of the

GSOC (pass through) tax liability. This provision carries important implications both for the financial viability of the GSOC and for the form of the distribution of the federal subsidy.

In terms of financial viability, the pass-through restriction, reduces the portion of the federal subsidy that a GSOC can use to cover its own overhead and debt-service expenses. Projected GSOC operating deficits (which any pure leverage investment company would run) must be funded from some other source. Most likely, State assistance will be required on a continuing basis and in an amount that is significant when measured against the after-tax benefits received by the citizens of the State.

In an attempt to lessen its own subsidy burden, a State might direct its GSOC to acquire assets that would generate a low (or even a zero) pass through tax liability. However, to the extent that such assets also generate low tax liabilities for existing owners, the federal subsidy is reduced as well. The "solution" that seems implicit in the federal legislation is for the GSOC to acquire assets that are eligible for tax credits and/or accelerated depreciation charges from owners who have already exhausted such benefits for themselves. Since nonsubsidized firms have a similar tax incentive for acquiring such assets, a GSOC must expect to pay prices above those that would otherwise prevail in the secondary market for depreciated assets. Sales at inflated prices would allow the selling firms to capitalize a greater portion of their scheduled tax payments to the federal government, reducing the portion of the subsidy captured by the GSOC.

GSOC advocates have suggested that careful investment analysis might eliminate such overpricing. However, the GSOC's investment team, will be virtually totally dependent on projections provided by the selling firms. Experi-

enced negotiators for selling firms also have been known to cite pressing cash needs or other smokescreens in an effort to convince buyers that the assets are actually offered below the prevailing market prices. Experienced buyers recognize, of course, that if such were in fact the case, a rational seller would always sell at the higher market price unless the sale at the lower price constituted an implicit payment for some past or future consideration. Such might be the case in a "pilot" program where a selling firm has a clear incentive to "prove" that the GSOC is viable in order to establish a future flow of subsidy benefits. In other cases, selling firms may simply rely on the observation that even at inflated prices, the GSOC will show a "profit" as long as the federal subsidy is less than fully capitalized by the seller.

Despite the apparent inevitability of the diversion of GSOC subsidies to selling firms, even GSOC directors with impeccable standards may be hard pressed to determine the true extent of these diversions. Efforts at extensive investment analysis might succeed in limiting the subsidies to selling firms but only by creating another type of subsidy diversion in its place since the required analysis is apt to be quite expensive, and these costs must be subsidized as well. Regrettably, it is unlikely that even an outside "watch dog" agent (perhaps established by the State legislature) could successfully monitor GSOC activities. On the contrary, the risk appears far greater that outside pressure will be exerted on the GSOC directors to use their considerable subsidy powers in support of particular firms or banks that might be deemed "essential" to the State or local economy. In fact, it might be argued by some that the GSOC has a "moral obligation" to provide such support as long as it can do so and still show an operating "profit." For example, subsidy diversions to the shareholders of particular firms might be regarded as necessary to continue employment for

workers who might otherwise face a loss of jobs. Unfortunately, the firms destined for subsidy diversions are capital intensive rather than labor intensive so that GSOC subsidy diversions are apt to be extremely inefficient (in terms of cost per worker) as a means of providing job security.

When the inherent disadvantages of the GSOC concept are measured against the ambiguous federal support for the program, a State may decide that the "price" it must pay for a GSOC is too high in relation to the potential benefits. Even if a State determines that GSOC benefits are "offered" at a bargain under the federal legislation , the State should be aware that the citizen-shareholders in a GSOC will share the federal and State subsidies with the GSOC bureaucracy and with the firms that sell assets or lend funds to the GSOC. While subsidy diversions in small amounts might be regarded as "normal" operating costs, the potential for large-scale subsidy diversions cannot be ignored. Such diversions are not necessarily "bad," but they defeat the expressed purpose of the GSOC concept by funnelling benefits to existing capital owners rather than to new capital owners. At present the "unintended beneficiaries" of a GSOC program appear to be the shareholders of capital intensive firms, as well as banks and other lending institutions that might win the favor of a particular board of GSOC directors. The federal immunity from personal income taxes on distribution in excess of the GSOC pass-through tax liability obviously benefits citizens in the highest tax brackets the most. Those who pay little or nothing in the way of taxes obviously receive little or no benefits from this tax "break." Those suffering the most from the proposed GSOC program would be firms that would have to compete with the GSOC, either in the market for credit or in the market for depreciated assets. In addition, despite the fact that the costs of the federal and State subsidies would be dispersed, every dollar of benefits distributed

by the GSOC will have to be made up, either in the form of additional tax revenues to replace those diverted or in the form of greater inflation if the lost tax revenues are not made up.

Economists note that asset transfers do not create new cash flows. In fact, transfer programs, no matter how socially desirable they might be, absorb rather than generate market value as new costs are merely grafted onto the existing economy. Thus economists place a heavy burden of proof on the proponents of particular plans to show that their plans are adequately funded (or subsidized) and that the benefits actually accrue to the targeted groups. Unfortunately, despite the force of a highly emotional call for action, the GSOC backers have not satisfied these basic requirements. "Faith" and "vision" are all that have been offered in support of the contention that a GSOC can achieve its intended goals and avoid becoming simply one more program that promises broad-based benefits but instead imposes broad-based costs and funnels the benefits to familiar recipients, the banks, the capital intensive industries, and of course, bureaucracy itself.

II. Financial Viability of a GSOC

Case 1: Viability without external support

To appreciate the limitations of the federal GSOC legislation, it is important to understand precisely how and why a GSOC is not financially viable without external support. To do so, let us reexamine a hypothetical example of financed capitalism found on p. 71 of the report submitted by Kelso & Co. to the Alaska State Legislature, "Design of an Alaskan General Stock Ownership Plan, Volume I" (February 15, 1979). In that example, a Mr. Adams borrows $200,000 and builds a fourplex which he rents out for a total of $24,000 per year. For simplicity, the drafters of the Kelso & Co. report abstract from vacancy risk, from taxes, from overhead expenses, and even from interest on the loan. Such simplifications might have served the narrow purposes of the commission issued by the State to Kelso & Co. They do little, however, to reassure a potential lender who is concerned with the financial viability of a GSOC. For example, with an interest rate of 10% (generous by today's standards), the annual debt service on a ten-year fully amortized loan is $32,500 rather than the $20,000 figure used in the interest-free example. Thus even if the $24,000 earnings figure is reinterpreted as net taxes and net of all expenses, the financed acquisition plan would fall considerably short of the goal of self-liquidation. Instead of an excess annual cash flow of $4,000 found in the zero-interest example, Mr. Adams would have to cover a short-fall of $8,500 per year over the life of the loan. The loan could be amortized over a longer period, thus reducing the annual debt service. However the interest alone amounts to $20,000 per year so that a self-liquidating the mortgage would have to be written with exceptionally long maturity. At an interest rate of 12% or better, the mortgage could never be paid off out of the projected rents alone.

Advocates for the concept of financed capitalism might observe that the rental rates chosen by the drafters of the Kelso & Co. report were arbitrary and just happened to be too low in order to make sense when representative charges are introduced. Therefore, it is important to recognize that even if the example were restructured so that Mr. Adams would have been able to arrange self-liquidating financing for his investment, that does not mean he would sell his fourplex to the GSOC at a price that (in the absence of external support) would allow the GSOC to finance the acquisition with a self-liquidating loan. On the contrary, rather than sell at such a price, Mr. Adams would simply refinance any outstanding mortgage against his fourplex, in order to raise the same amount of additional cash that the sale would have produced (after repaying the loan). Thus even though the financed capitalism concept might work for original investments, the model breaks down when it is applied to asset transfers. As long as asset sellers require full compensation for the stream of earnings they relinquish, the debt service on loans to provide such compensation must exhaust the full value of the asset's earning potential. Otherwise, the alternative of financed asset retention dominates the decision to sell the asset.

In reaching this general conclusion, it must be remembered that external factors, such as tax considerations, have not yet been introduced. Similarly, differences in borrowing capacities have not yet been considered. Thus the general conclusion is not contradicted by examples of asset acquisitions that are entirely financed via self-liquidating loans to individuals or firms who can secure the loan pledging more than just the asset's own earnings. Implicit in such arrangements is the very important premise that, if needed, the borrower can draw on other funds or resources. In contrast, a GSOC has no equity base to use

as supplemental collateral for loans. Thus in the absense of external support, a GSOC would be unable to acquire assets via self liquidating loans even though equity firms and some individuals might be able to do so. GOSC's are by no means unique in this regard. Extensive analysis of investment companies (including mutual funds) confirms that these equity institutions would not be viable as pure-debt firms. I.e., they do not earn a rate of return equal to their risk-adjusted cost of capital.

Case 2: Viability under the federal legislation

The federal "enabling" legislation is not a legal requirement for the operation of a GSOC. It is merely an open admission that a GSOC is not financially viable without external support of some form. On its own a GSOC would not earn leverage arbitrage profits, it would make leverage arbitrage losses as would any other pure-debt investment company. Without an equity base or an external subsidy to offset these losses no lender would extend funds to a GSOC. This observation, more than any other single factor, explains why pure-leverage investment companies have failed to materialize on their own despite promises of sure profits offered by advocates of financed capitalism.

Recent federal legislation grants qualifying GOSC's immunity from the federal corporate income tax. Had immunity been granted in an unrestricted form, a GSOC would have been able to use a greater portion of the pretax earnings on assets to cover GSOC overhead and to service the debt raised to finance asset acquisitions. Any excess subsidy would then have been available for distribution to citizen-shareholders or for accumulation as equity in the GSOC. To illustrate this point, let us return to the previous example, and assume that the pretax earnings on Mr. Adams' fourplex had been $40,000, of which he was required to pay $10,000 in federal taxes and another $6,000 in state

taxes, leaving $24,000 for expenses and debt service. Under federal (but not state) immunity, the GOSC would have the use of $34,000 per year, and thus, over some price range, could afford to offer Mr. Adams more for the asset than he would be able to raise via his own self-liquidating loan. At such a price, Mr. Adam's would capitalize all of the after-tax earnings plus a portion of the earnings stream otherwize lost to the federal government. In such a case, both Mr. Adams and the GSOC would benefit at the expense of the U S. Treasury.

Apparently the U.S. Congress did not intend that the federal legislation reduce to merely a tax dodge (at least not so simply). Therefore, in granting GOSC's immunity, the "enabling" legislation also mandates that the equivalent tax liability be passed through to the citizen-shareholders without regard for the special tax status of the recipients. Had the GSOC been a viable-self-supporting firm, the pass-through restriction would not have been especially significant. A GSOC would simply pass through its own tax savings in order to cover the tax liability that it must also pass through. However, the GSOC requires these (or some other) funds to cover the amount by which its overhead and interest costs will exceed its (after-tax) earnings. Thus, as presently structured, the federal legislation does nothing to improve the financial condition of a GSOC. To qualify for the tax subsidy, the GSOC must accept an offsetting financial committment.

Despite this negative assessment, a GSOC would have the same opportunities for tax-arbitrage exchanges as any other firm would, and it might be able to make use of such opportunities to strengthen its financial base. Tax savings arise if the tax payments that would have been made by an existing owner (by Mr. Adams in the hypothetical example), are less than those that a GSOC would incur and this difference is less than fully capitalized in the sale of the asset to

the GSOC. The corresponding portion of the pre-tax earnings flow is, in effect, donated by the federal government rather than purchased from the previous asset owner. Such opportunities arise as a matter of routine because of federal tax laws that provide acquisition tax credits and/or accelerated depreciation charges which are renewable only if the qualified assets are transfered to new owners. Thus a GSOC might earn a tax-arbitrage profit by acquiring depreciable assets from owners that have already exhausted the liberal tax benefits for themselves. Unfortunately, these assets offer similar tax advantages for acquiring firms other than GSOC's. Thus GOSC's must bid against other firms for these assets, and this competition will allow the selling firms to capitalize even greater portions of their projected tax payments.

Since a GSOC cannot earn tax-arbitrage profits by acquiring assets from firms in lower tax brackets than the GSOC (based on the pass-through computation), the only way that a GSOC might be able to strengthen its own financial base is to divert a portion of the federal tax subsidy to the shareholders of large capital-intensive corporations seeking to unload some of their depreciable assets after the initial tax benefits have been gutted.

This description of the federal legislation is vastly different from the expressed intentions of the backers of the GSOC concept. So much so in fact, that it is difficult to imagine that the U.S. Congress had a similar goal in mind in settling on the form of this particular "enabling" legislation. It would be far easier to explain the federal "enabling" legislation as an attempt to provide large capital-intensive firms with additional relief from federal taxation.

Case 3: Viability under alternative forms of State assistance

At pre e extent of federal support for a GSOC appears anything but overwhelming. Kelso & Co. or some other source may be able to furnish a

description of the type of asset acquisitions that would recover enough of the federal subsidy to render a GSOC financial viability. As yet, however, no such encouragement has been provided. Nor is there any evidence for a legitimate reference to required State assistance as "start-up" costs. Surprisingly few of the proposed budget items are truely nonrecuring. On the contrary, virtually all of the GOSC's expenses contribute to the annual deficits that a GSOC must run in the absence of continuing financial assistance. These annual deficits are projected as substantial and must be supported from some external source. Moreover even after these deficits have been absorbed (by the State), the State must directly or indirectly provide for every dollar of benefits distributed by the GSOC (in excess of the GSOC tax liability). Recall the federal "contribution" is limited to forgiving the personal taxes that citizen-shareholders would otherwise owe on these excess disbtriubtions.

Although there are many forms that State assistance might take, any such assistance reduces to two basic dimensions, perpetual year-by-year maintenance, and/or an initial endowment. As a substitute for equity capital in a normal firm, an initial endowment of cash or earning assets would provide an income flow needed for an initial operating margin. To the extent that such an initial subsidy is insufficient, supplemental annual subsidies will be required as well. One obvious possibility for an annual maintenance subsidy is immunity from the State corporate income tax. In essence, the State could donate its own tax flow in support of the federal subsidy. Assuming that this benefit is less than fully capitalized in the sale prices of assets, the GSOC would then capture at least a part of the State subsidy (with the balance accuring to the seller of the asset as with the federal tax subsidy).

Credit assistance provides an alternative form of a maintenance subsidy. Instead of furnishing additional revenue, a credit subsidy is designed to reduce

borrowing costs and hence lower debt service claims against GSOC income. Agency status would provide the GSOC with direct access to the tax exempt borrowing market. Equivalently, the State could borrow (or divert funds from other uses) and lend to the GSOC at rates less than those charged in the fully taxable market. In either case, however, the State could have earned the higher (market) rate, on its funds and thus the State, should regard the difference in revenue as a subsidy to the GSOC.

Loan guarantees have been proposed as a low cost form of subisidy. Unfortunately, it is only the visibility of the cost that is low. In any insurance situation, such as a loan guarantee, it is not the visible or out-of-pocket expense that determines the true cost to the insurer. Far more important is the associated risk that must be borne. Without a highly diversified asset base to support precise accuarial assessments, the invisible costs of insurance are usually regarded as prohibitive rather than as negligible. If lenders (who are apt to be more highly diversified than the State) believed that these costs were negligible, they would not offer a substantial reduction in rates in exchange for a loan guarantee. The fact that lenders <u>are</u> willing to accept less interest in exchange for a loan guarantee indicates that they presume that the implicit risks are high. In effect, lenders are betting the difference in interest charges that even with massive federal and State subsidies, the GSOC may be overextended in relation to its financial committments. It is important to note that financial overextension can arise even if the asset portfoli of a firm is of the highest possible quality.

A normal firm that is overextended but otherwise sound is referred to as undercapitalized. In order to raise debt capital, such a firm may first have to raise additional equity capital. In the case of a GSOC, there is no initial equity capital, only a subsidy base. If this base is insufficient to assure an adequate

operating profit margin, the condition of the GSOC is analogous to that of the undercapitalized firm. Loan guarantees provide an additional subsidy, and eliminate the lender's risks. But, since there is no reason to presume that the State has any advantage over lenders in terms of bearing such risks, any apparent "profit" from selling loan guarantees (in exchange for lower borrowing costs) is purely illusory.

In terms of pure cost effectiveness, direct cash payments provide by far the most efficient form for subsidies since they are the least costly to administer . However, these payments are also the most visible and therefore they are often the least attractive from a political standpoint. Opting for less visible but also less efficient forms of subsidy makes it difficult, if not impossible, for the State to assess the extent of its own subsidy. (Just as it is already difficult to assess the extent of the subsidy implicit in the federal GSOC legislation.) For a State that is truely concerned about the extent of its own subsidy to the GSOC program, it is especially important to consider only the most cost-effective and visible subsidy program. It is difficult to imagine what is to be gained, other than short-run political expediency, by burying the unavoidable costs of a GSOC through a series of complex financial arrangements.

III. Distribution of the federal and State subsidies

A GSOC may useful as a device for capturing and redirecting federal tax revenues on earning assets. However, the GSOC's own budget, no matter spartan, can only draw from the subsidy pool. Moreover, even before the subsidies get to the GSOC, a portion will be diverted to asset sellers in the form of inflated market prices. An additional portion of the subsidies will be absorbed by banks and other lenders who earn more money from engaging in leverage-arbitrage of their own than they do by creating those opportunities for others.

This observation explains why the powerful bank lobby did not oppose the "enabling" federal legislation. That lobby would almost certainly have opposed any serious attempt at diffusing stock ownership since it is precisely this issue--disintermediation--that the banks have lobbied against for so many years. However, the GSOC lesgislation promises to cut banks in on the subsidy (at least those banks who win the favor of the GSOC directors).

Under scrupulous and cold-blooded financial management, it might be possible to hold the subsidy diversions to a minimum. But to do so, the GSOC's directors must turn a deaf ear to the pleas of special interest groups. It is to be expected, however, that the GSOC directors will be beseiged with requests for help from particular firms or industries that might be deemed essential to the State or local economy. Moreover, the subsidy diversion would be largely hidden in the sense that the GSOC still would be able to show a "profit" as long as it retains enough of the subsidy. Thus it may be difficult for GSOC directors to defend a decision to "support" some firms and some banks but not others. Such dilemma's always raise the possibility that political or other nonfinancial factors may influence the operating decisions of a GSOC.

In sum, while supporters may yet be able to show that GSOC benefits outweigh the additional costs that a State must bear under the federal "enabling"

legislation, thus far, little evidence has been offered in support of that contention. Instead, the case that has been presented is long on moral posturing, and long on railing against the sorry state of affairs that now exists, but painfully short in terms of sound economic reasoning that would lead one to believe that a GSOC offers any reasonable hope of achieving the expressed objectives. If left unattended, the existing biases in the federal legislation would funnel benefits to existing capitalists, as stockholders in banks and capital intensive firms, and to new GSOC bureaucrats, leaving an as yet undetermined fraction for (excess) distribution to citizen-shareholders. Even this distribution is regressive in the sense that the federal tax savings is greater for those in higher tax brackets. Since the same citizens must pay for the State subsidies (as well as their portion of the federal subsidy) either in the form of increased taxes or in the form of increased inflation (assuming that taxes are not raised), it is far from clear that the benefits outweigh the costs for <u>any</u> group of citizens. It should be clear, however, that the society as a whole loses since new costs are created but no <u>new</u> revenues are created to pay for those costs.

In the absence of "clarifying" analysis, the decision before the Alaska State Legislature appears to be one of whether or not to assist capital intensive firms in recovering part of the taxes they currently pay to the federal and State government. If so, a GSOC might be an appropriate vehicle, one that would also benefit selective banks and would create supporting jobs through its own bureaucracy. If sufficiently subsidized through tax benefits, loan guarantees, etc, a GSOC might even produce a modest excess cash flow to citizen-shareholders. However, if this is the ultimate goal, the State would be far better off to scrap the proposal for a costly administrative structure (the GSOC) and eliminate the subsidy diversions by simply distributing to its citizens the equivalent of the

proposed State subsidies to the GSOC. If it is deemed essential that checks be considered as "dividend" dispersements rather than as transfer payment (which they will be in either case), then the State might adopt a more ennobling title such as "the return on a citizen's share in State Wealth." It is doubtful that many citizens will feel all that different once they have cashed their checks. Only the banks and the capital intensive firms appear to have a strong financial incentive for favoring the more cumbersome and costly GSOC alternative.

Two-Factor Theory And ESOP Financing

Why, In An Advanced Industrial Economy, Substantial Income-Producing Capital Must Be Owned By Corporate Employees

And

How--With Very Slight Changes In Basic Business Strategy--This Can Be Effectively Accomplished Through Employee Stock Ownership Plan (ESOP) Financing:

°The Most Potent Instrument For The Purpose

°The Most Advantageous To The Corporation

°The Most Beneficial To Employees

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Specialists in ESOP Financing
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Although two-factor economics is a new and fundamental concept, it is simple and straightforward. The reasoning runs as follows:

1. While it is true that people, participating in the economy through the performance of their various tasks, are a basic source of productive input, they are not the only source of productive input.

2. Non-human things, such as land, structures and machines, also make productive input into the economy.

3. The division of the input sources into two types is both necessary and adequate, because the ownership of labor power cannot be concentrated, while the ownership of non-human things can easily be concentrated. It is, after all, an individual's property in an input factor that entitles him to receive what it produces.

4. Under the logic and morality of a market economy, productive input into the economy is the basis for the individual's right to receive income from it. Economic outtake is conditioned on economic input. To accountants and businessmen, this relationship is simply double-entry bookkeeping. To economists, it is "Say's Law" or "Say's Identity". To moralists, it is the Puritan Ethic, or simply the principle of economic justice defined by Aristotle. To lawyers, it is the principle of private property, under which the owners of capital and the individual owners of labor power are accorded the income equivalent of what each privately-owned input factor contributed to production.

Figure 1: SAY'S LAW THE BASIC LAW OF TWO-FACTOR ECONOMICS

For every dollar spent, somebody gets a dollar in economic value. Say's Law is simply a prose statement of the principle of double-entry bookkeeping, which is the logic of a private property, market economy.

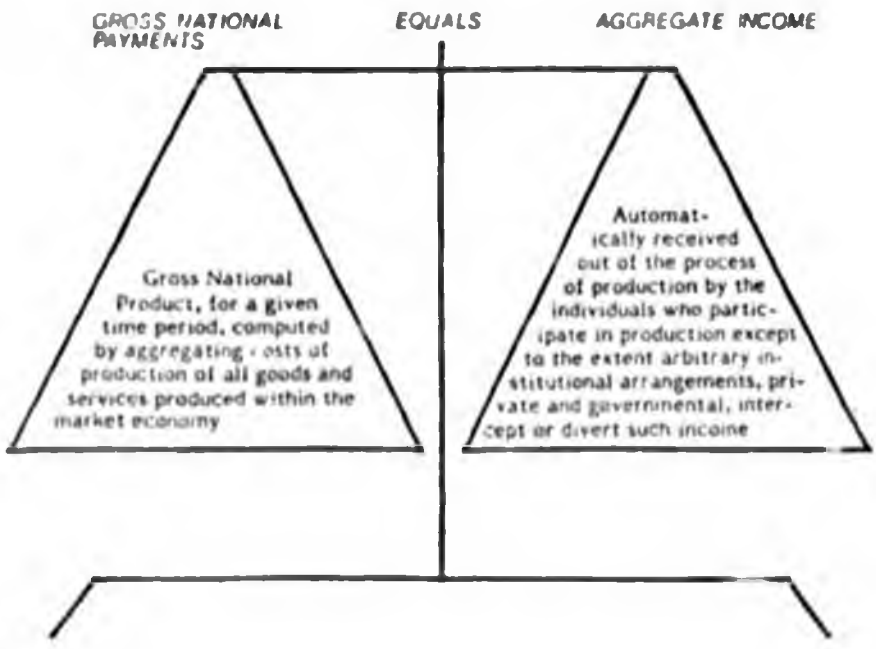

Figure 2: *SAY'S LAW ILLUSTRATED ON THE BASIS OF 1973 STATISTICS (IN BILLIONS)*

Gross National Product	
Less adjustments for capital consumption allowances, indirect business tax and non-tax liability, business transfer payments and other minor adjustments.	
CONSUMER COSTS OF:	
Agriculture, forestry, and fisheries	$ 37.8
Mining	9.7
Contract construction	57.5
Manufacturing	291.9
Transportation	39.3
Communications	21.7
Electric, gas, and sanitary services	19.8
Wholesale and retail trade	151.5
Finance, insurance, and real estate	118.9
Services	133.6
Government and government enterprises	162.9
Foreign trade and transactions	9.6
	$1,054.3

Pre-tax Income	
Pre-tax Income Automatically Arising out of Production and Received by the Participants in Production	
INCOME OF PARTICIPANTS IN:	
Agriculture, forestry, and fisheries	$ 37.8
Mining	9.7
Contract construction	57.5
Manufacturing	291.9
Transportation	39.3
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Wholesale and retail trade	151.5
Finance, insurance, and real estate	118.9
Services	133.6
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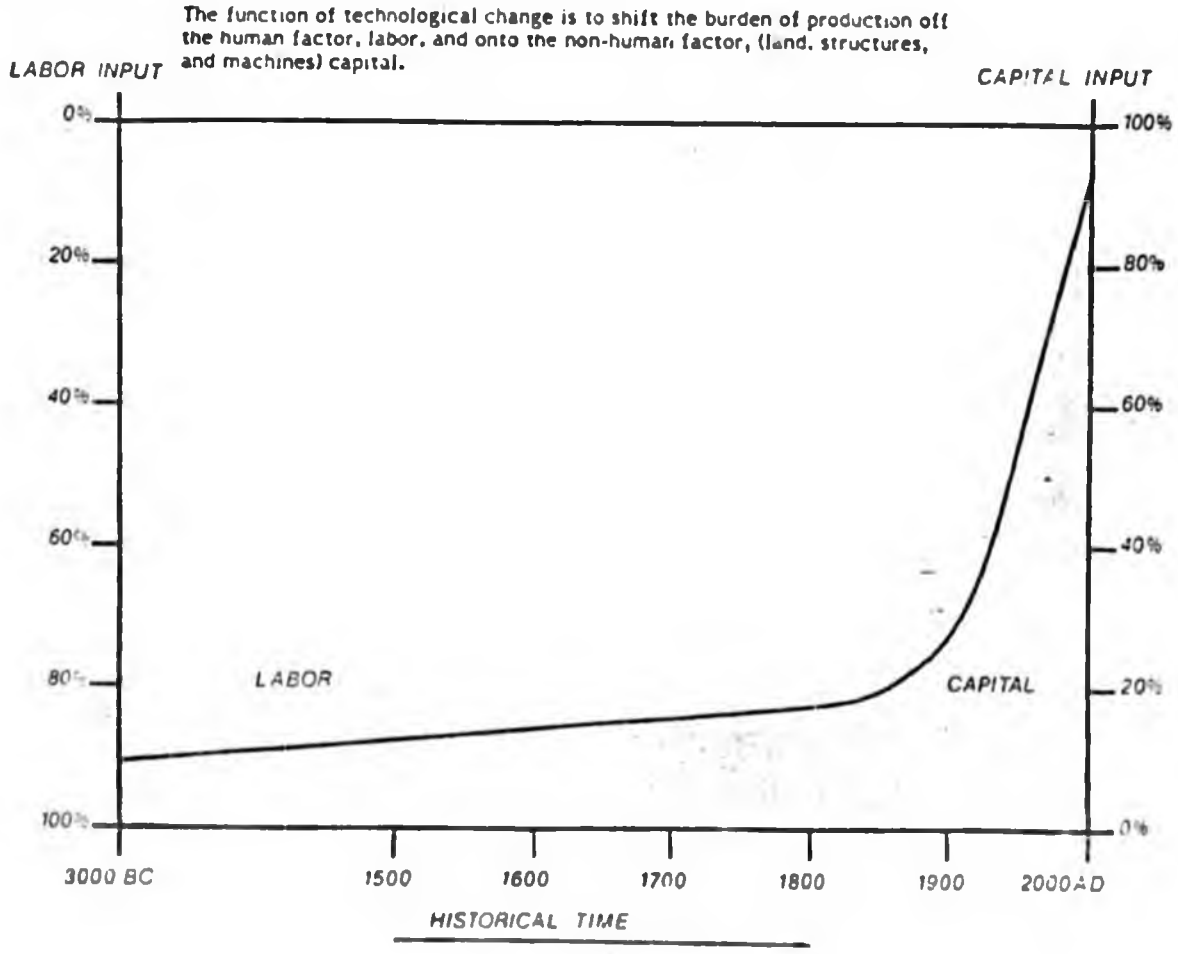
Foreign trade and transactions	9.6
	$1,054.3

5. Technological advance, which is the phenomenon responsible for the Industrial Revolution, as well as our own automation revolution, and all of the intermediate revolutions brought about by science and technology, changes, and is intended to change, the input mix. It shifts the burden of production off labor (the human factor) and onto capital (the non-human factor). Technological change does not operate directly on labor. It cannot increase the productiveness of an individual worker. It increases the productiveness of machines, tools, structures, land and processes. The economic productiveness of human workers--what they can accomplish with their unaided muscles or minds has not changed during the course of history, if the value of that productiveness is determined objectively and competitively by the free operation of the law of supply and demand.

Figure 3: *THE FUNCTION OF TECHNOLOGICAL CHANGE*



6. In the United States economy, the world's most advanced, the process of technological change has gone so far that most of the goods and services today are produced by capital instruments; only a minor portion of the productive input is made by people. With rare exceptions, it is capital that produces affluence. Labor, in a free labor market, can normally produce only subsistence. The relative distribution of aggregate personal income between workers (roughly 3/4ths) and the owners of capital (1/4th) does not reflect the relatively higher productive input by capital because our governmental economic policy (the Employment Act of 1946), and implementing legislation, attempts to repeal the law of supply and demand as it applies to the value of labor. This is the purpose of minimum wage laws, coercive fixing of wages, vast governmental make-work programs, government subsidies to industry and other government entities to "create" jobs, etc.

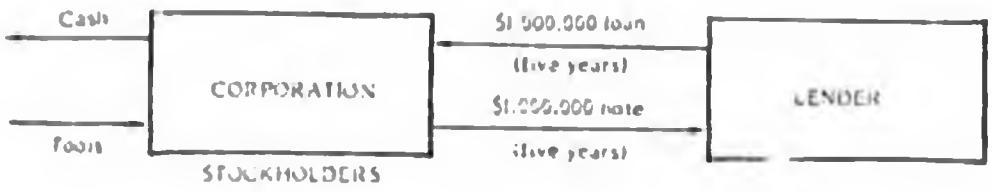
The costs of all such efforts enter into the costs of production, directly or indirectly, and thus are inflationary precisely because they are not reflected in the increased production of goods and services by labor. Such costs, neither representing increased labor input nor labor shortages, are, in fact, disguised welfare. They are injected into the costs of the same quantities of goods and services that, prior to the coerces increases, would have been produced at lower costs. These attempts to overvalue labor constitute the monetization of welfare.

7. The shifting of the input mix from labor to capital would cause no economic problem, even under competitive labor markets, if the declining productiveness of labor were offset by increasing capital ownership, i.e., if, as technology diminished the productive role of the human factor, workers simultaneously acquired ownership of enough productive capital to compensate for their loss, or even better, enough capital to provide what few labor-dependent persons have ever achieved, a truly affluent standard of living.

8. Unfortunately, traditional techniques of finance do exactly the reverse of what the situation logically requires. They insure that all newly-formed capital will be automatically owned by those who own all existing capital. Under these techniques, the $100 billion-plus of new capital formation that comes into existence each year in the U.S. economy becomes owned by a tiny proprietary class--5% of consumer units at most. If averaged over the past 15 years, about 98% of new capital formation in the corporate sector (which produces more than 85% of total private sector goods and services) is financed out of direct cash flow or borrowings repaid out of cash flow.

Figure 4: *CONVENTIONAL CORPORATE FINANCE*

Including internal cash flow, borrowings repaid from after-tax cash flow, accelerated depreciation, depletion, and investment tax credit, but excluding sale of new stock to the public for cash

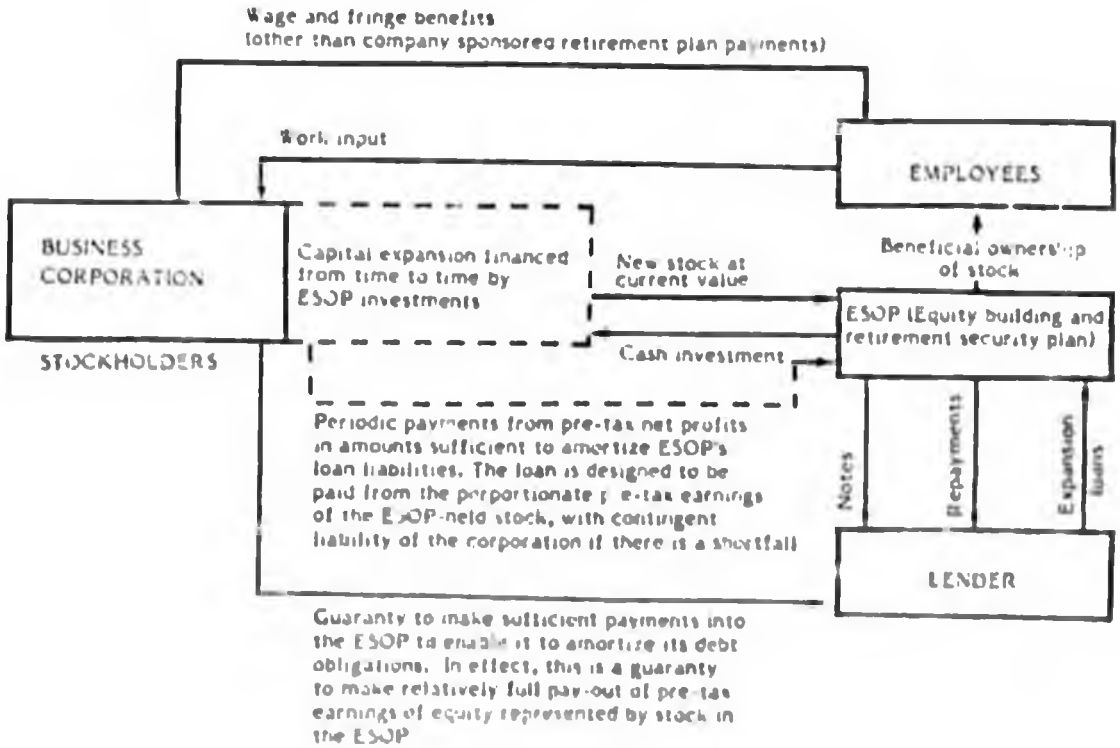


These methods of financing new capital formation have one common characteristic: they do not create a single new stockholder. The portion of new capital formation (about 2%) financed by sale of equity stock to the public does not alter this propensity. Every qualitative study of stock ownership to date shows that ownership of virtually all individually-owned productive capital is lodged in the top 5% of consumer units. These are the families who have excess funds to buy newly-issued stock. Conventional finance has created this monopoly.

9. The logic of business finance is to invest in productive capital that will pay for itself within a reasonably short space of time, normally three to five years, and then go on throwing off wealth indefinitely, its productive power being replenished through depreciation funds set aside out of gross income before net income is computed. Two-factor financing techniques, of which the most widely used today is the Employee Stock Ownership Plan or ESOP, makes this logic available to employees.

Figure 5: *BUSINESS CORPORATION FINANCED BY A PROPERLY DESIGNED ESOP*

Intended to simultaneously (1) finance growth of the corporation, and provide second incomes for the employees (if the stock is dividend paying and, after shares are paid for, the dividends pass through the ESOP currently to the employees) and (2) to build retirement security in the form of equity capital ownership.



10. ESOP financing, on the one hand, provides low cost capital, through the use of pre-corporate-tax funds, to finance corporate growth, and on the other hand, builds ownership into workers without diminishing their take-home pay or calling upon their small or nonexistent savings.

11. With minor legislative changes to provide capital diffusion insurance (modeled after FHA insurance) for lenders that make sound ownership broadening loans and to make the financing paper held by lenders discountable at a rate not in excess of the administrative costs of the Federal Reserve Bank, two factor techniques provide means for financing unlimited growth, while building market power, economic security, and growing current second incomes from capital* into the masses of workers; thus the market power of potential consumers rises in step with the productive output of the economy.

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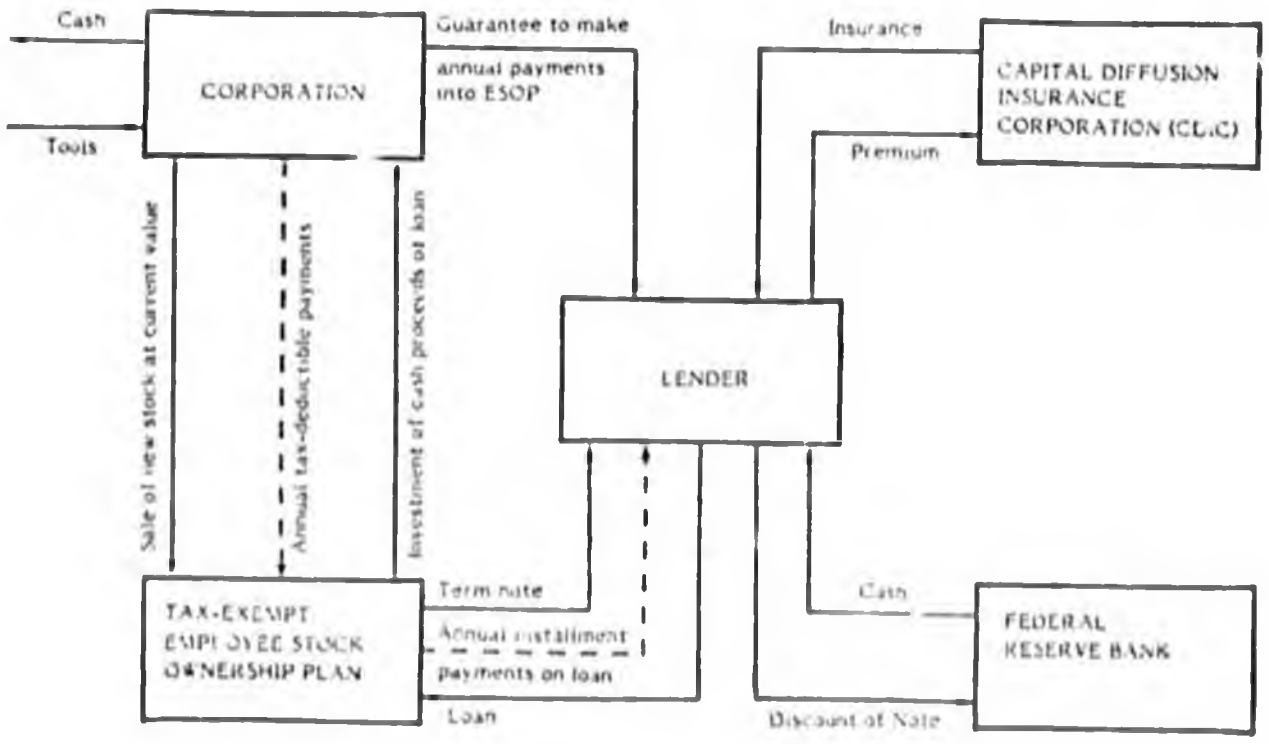
*Where the stock in the ESOP pays a dividend, the plan often provides that, after each particular share of stock is paid for, the dividends on it shall currently pass through the trust into the workers' pockets.

Figure 6: *FINANCING ECONOMIC GROWTH*

Financing economic growth by monetizing productive capital while building market power into consumers through ESOP financing

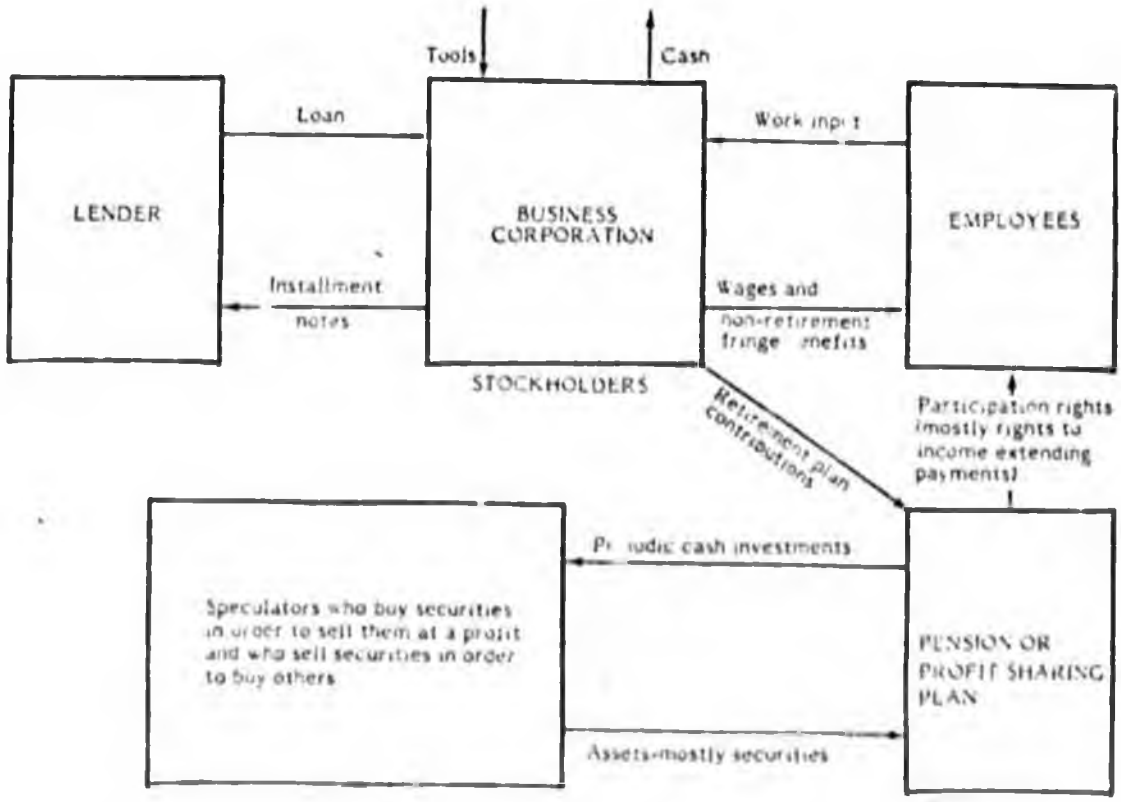


12. Inflation is eliminated. Institutional barriers, such as lack of "money" to finance solid, self-liquidating economic growth are eliminated; legitimate leisure, built upon the ownership of a holding of productive capital that will enable a man or woman to produce a viable income, becomes possible over a reasonable working lifetime; and the burden of public taxes imposed upon producers to support the non-productive and under-productive can ultimately be virtually eliminated. Fully productive households and individuals do not need to be subsidized.

13. The ESOP is an enormous cost-saver for the corporation which--sooner or later--can substitute it for a fixed-benefit pension plan, or any other pension plan or conventional profit-sharing plan. All payments by the corporation into these conventional plans are pure cost.

Figure 7: *CONVENTIONAL FINANCING OF A BUSINESS CORPORATION*

Conventional financing of a business corporation, other than by sale of new stock to the public for cash, with conventional pension or profit sharing plans invested wholly in assets purchased from sources other than the employer-corporation.

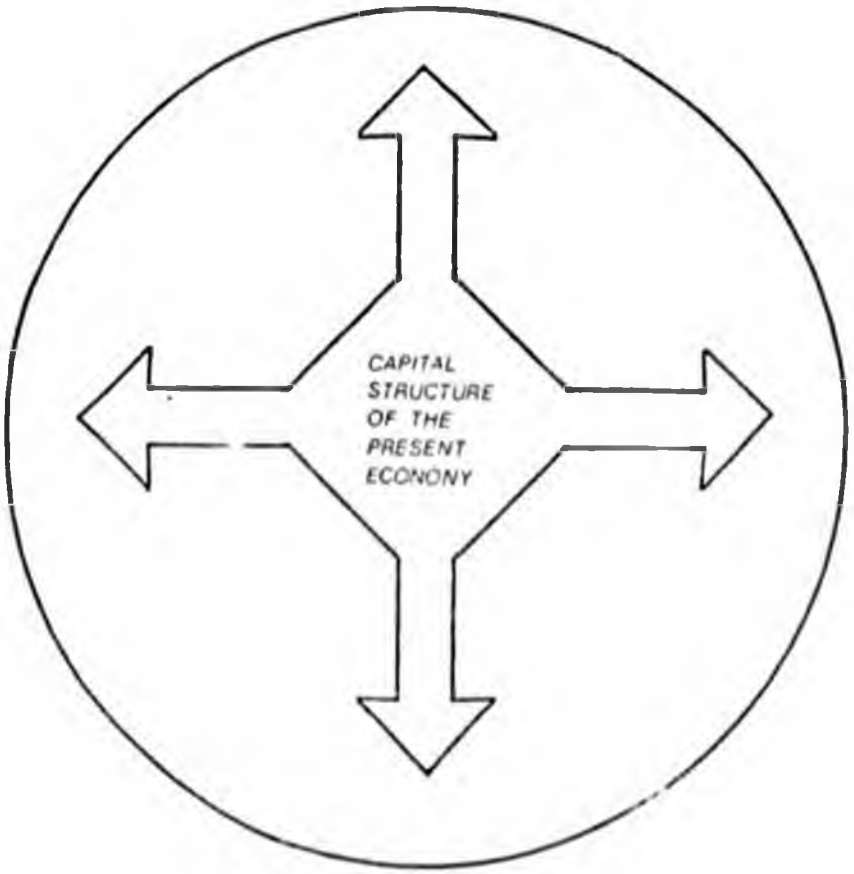


Compared with the ESOP (see Figure 5), not only does the identical dollar paid by the corporation to build stock ownership into employees also finance corporate growth, but corporate growth can be accomplished on pre-tax dollars. By comparing the ESOP (Figure 5) with conventional economic security-building plans (Figure 7), you will see that the ESOP enables the corporation to gain $3 of advantage for each dollar spent. And it conforms to the sound economic goal of enabling employees, who work hard and well over a reasonable working lifetime, to retire singularly well off.

14. Finally, because the economic goal implicit in Two-Factor Theory is to expand the U.S. economy (and any other economy that adopts it) sufficiently to enable all consumers to live well--general affluence--while also producing the technology to protect the environment, a change to a two-factor policy by business and government could give us twenty-five years or more of legitimate full employment. This would be time enough for society to adjust to a world in which each person will spend less time in economic work and more time in the work of civilization.

Figure 8: *OBJECTIVE OF TWO-FACTOR ECONOMICS*

Capital structure of the present economy, owned by 5% of consumers, expands ten-fold to create the SECOND ECONOMY, owned primarily by the 95% of consumers who now own no capital



SUGGESTED READING ON TWO-FACTOR ECONOMICS

Books

THE CAPITALIST MANIFESTO by Louis O. Kelso and Mortimer J. Adler (Originally published by Random House, New York, 1958. Republished 1975 and presently available through Greenwood Press, 57 Riverside Avenue, Westport, Connecticut 06880, Tel. (203) 226-3571.)

THE NEW CAPITALISTS by Louis O. Kelso and Mortimer J. Adler (Originally published by Random House, New York, 1961. Republished 1975 and presently available through Greenwood Press, 57 Riverside Avenue, Westport, Connecticut 06880, Tel. (203) 226-3571.)

TWO-FACTOR THEORY: THE ECONOMICS OF REALITY by Louis O. Kelso and Patricia Hetter (Random House, New York, 1967; Paperback Edition, Vintage Press, 1968)

Testimony

Testimony by Louis O. Kelso before the Joint Economic Committee, U.S. Congress, December 11-12, 1975, on "Employee Stock Ownership Plan Financing and Other Financing Concepts Based on Two-Factor Economics"

Testimony by Louis O. Kelso, Norman G. Kurland and Patricia Hetter before the Senate Finance Committee, U.S. Congress, March 31, 1976, on "Major Tax Revisions and Extension of Expiring Tax Cut Provisions"

Reports and Publications

"ESOPS: An Analytical Report" prepared for the Profit Sharing Council of America, Chicago, Illinois, by Hewitt Associates, Deerfield, Illinois

"Employee Stock Ownership Plans" prepared by The Committee of Publicly Owned Companies, New York, New York

"A Symposium on Employee Stock Ownership Plans", The American University Law Review, Spring 1977, Volume 26, No. 3, prepared by The Washington College of Law, American University, Washington, D.C.

"Making New Capitalists -- A Creative Response to Income Inequities" prepared by the 1977-78 Twentieth Session, Executive Seminar in National and International Affairs, Department of State

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SCHOOL OF LAW

DAVIS, CALIFORNIA 95616

April 4, 1979

The Honorable Mike Miller
Chairman
State Affairs Committee
Alaska State House of Representatives
Pouch "V" State Capitol Building
Juneau, Alaska 99811

Dear Chairman Miller:

I am enclosing the promised specific, suggested amendments to SSHB 240 which are addressed to the questions of accountability of the Board, the rights of shareholders, and procedures for Board and Board Committee meetings. In each instance I have attempted to describe the content of the proposed amendment and to offer an explanation of why I hold the view that such an amendment would be desirable. I have then attempted to break the amendment down into its component ideas and to give the Committee an opportunity to vote them up or down. My further function in this regard is then to draft statutory language which carries into effect the decisions of your Committee.

A number of critical questions concerning SSHB 240 are not addressed in this transmission. We have yet to discuss the regulation of proxies, their content and the vexing issue of how they will be financed. If the legislature desires to influence these thorny problems, now is the only opportunity. Another unfinished item is the future political activities of the GSOC. We can anticipate substantial first amendment problems if we embark on a project to muzzle the directors in their individual capacities. If the directors can speak to the public, the limitation on the "corporation's political activities" is, at best, theoretical. Working on this problem should present quite a challenge!

Finally, there are the proposals I advanced on the first evening of my testimony regarding criminal liability of directors in certain instances. I will work on these in the course of the next week.

If I may offer a suggestion: As I spend more and more time with SSHB 240 and the Alaska Business Corporations Act the more I become convinced that the better course is not to amend the existing corporations code to make room for the GSOC, but to begin anew and design a fully developed Code to regulate the GSOC, a set of laws designed with the special attributes of a general stock ownership corporation in mind and not as an afterthought. This project sounds bigger than it will turn out to be. I sincerely believe that working with your staff people it could be accomplished in a matter of weeks although I would prefer to have the summer months to fine-tune the statute but, in the final analysis, having come this far with you, I am the servant of the Committee.

I hope that this material proves of use to the Committee. When you have reached your decisions simply mail them back to me and I will sit down and draft the content of suggested legislation.

The Honorable Mike Miller
Chairman
State Affairs Committee

April 4, 1979

May I take this opportunity to thank you, the other members of the Committee, the various nonmembers who sat in on our discussions and the staff people for a splendid experience. People here have remarked that they have never seen me so energetic. One student commented that I seem to be following the "North Star." In any event, it has been an experience beyond the imagination of the scriptwriters for the "Paper Chase." I thank you all.

Best personal regards,

Sincerely,

Daniel Wm. Fessler
Professor of Law

DWF:hf

Enclosures

TO: THE STATE AFFAIRS COMMITTEE OF THE ALASKA HOUSE OF REPRESENTATIVES

FROM: Professor Daniel Wm. Fessler, King Hall, the Law School of the University of California at Davis

SUBJECT: Suggested Amendments to Sponsor Substitute for House Bill 240: "An Act Creating the Alaska General Stock Ownership Corporation; and providing for an effective date."

DATE: April 4, 1979

Preliminary statement: At the conclusion of my appearance before the Committee last week I agreed with the members to prepare a series of written proposals for your consideration. Depending upon the sentiment of this body I will be directed in the drafting of amendments to the Sponsor's Substitute for House Bill No. 240. As will quickly become evident, it is time for the Committee to make some basic choices concerning the nature of the General Stock Ownership Corporation which it may wish to pass to the floor for consideration in the whole House. The suggestions which follow represent nothing beyond the scope of our discussion last week unless specifically indicated as "NEW." In each instance I will set forth the proposal and a brief statement illustrating specifically what it is that I am suggesting be accomplished if you elect to follow my recommendation.

I. SUGGESTIONS DESIGNED TO MAKE THE BOARD OF DIRECTORS MORE RESPONSIVE TO THE DESIRES OF SHAREHOLDERS OF THE GENERAL STOCK OWNERSHIP CORPORATION:

My perception of the need for revision: The pending proposal is that the legislature create the AGSOC as a "private" corporation essentially regulated under the terms of Chapter 05 of the Alaska Statutes (The Alaska Business Corporation Act). As I indicated in my testimony, this general statute is a bare bones version of the "Model Act" which is, in turn, fashioned after the

Illinois Business Corporation Act. Its essential feature is to give a corporation a license to create a very strong board of directors, a board which is effectively insulated from shareholder pressure during its tenure in office.

This is a crucial assertion. Once this corporation is created and deemed "private" the legislature will part with its major chance to have an effective voice in the behavior of such an instrumentality. If the GSOC is a successful economic venture the power of that unchecked body will rise dramatically and its ability to pursue conduct which subsequent legislatures may deplore is a real danger which ought to concern this present body.

Why is the board of directors of a corporation organized under a statutory framework such as the Model Act virtually unchecked in these circumstances? To begin our assessment we should think in terms of the content of three documents: the statutory framework, the articles of incorporation, and the bylaws. It is no accident that the Kelso Report presents this legislature with a package containing a recommended content for each of these essential documents. Here is a point the Kelso Report does not stress: the legislature has control only over the statutory framework (the enabling legislation now before the Committee). Once the GSOP is formed by this legislation, the incorporators (See, Sec. 10.50.010(a), p. 1 SSHB 240) will adopt the articles of incorporation and it will then be beyond the powers of this or subsequent legislatures to interfere with the content of that fundamental document. Once the incorporators have elected themselves as the initial board of directors (See, Sec. 10.50.030(b), p. 3 SSHB 240), they will act in that capacity to adopt the content of the bylaws. Again, it will be too late for the legislature to exert its will. Thus unless changes are made you will have surrendered to these nine appointed individuals sole determination over the content of the documents which will become the framework in which the corporation will actually be structured and function. Your only chance for effective influence

is with respect to the content of the statute. If you adopt the current content of House Bill 240, you will hand these appointed individuals (only a majority of whom need be Alaskans) a blank check to narrow their accountability to all of the citizens of this state in their capacities as shareholders in the GSOC. The express terms of SSHB 240 already give to this Board the strong power position of "classification" meaning that the directors will serve three year terms with the nine members segregated into three classes so that only one third of the membership is up for election by the shareholders at each annual meeting. (See, 10.50.030(a)(b), pp. 2-3 SSHB 240). There is a pragmatic advantage in this proposed classification in that insures to the incumbent board the continuity inherent in the fact that a working majority of the Board will not be facing election. There is also a grave danger. Such a Board could ignore the wishes of a majority of the shareholders and yet maintain effective control and management over the corporation for two years. The people in their role as shareholders would be powerless. This body in its role as representative of the people would be equally powerless. True, it could deny the GSOC cooperation to the extent that it was requesting the legislature to call for an election to authorize a state guarantee of GSOC debt instruments (although see the Memorandum of Attorney General Gross under date of March 20, 1979, raising a question as to whether recourse to the people would actually be required). Yet this is a very indirect way of attempting to discipline the Board or correct the excesses of that body as viewed from the perspective of the legislature. I do not wish to belabor the point: if the members of this House feel that a different distribution of power as between the shareholders and the board, and as between the GSOC and the government of Alaska is desired . . . now is the time to act and the content of the enabling legislation is the proper forum for that action.

///////

PROPOSALS DESIGNED TO INCREASE THE ACCOUNTABILITY OF INDIVIDUAL DIRECTORS AND THE BOARD AS AN ENTITY:

PROPOSAL NUMBER ONE: THAT DIRECTORS BE SUBJECT TO REMOVAL BY ORDER OF A SUPERIOR COURT UPON SUIT BY 100 OR MORE SHAREHOLDERS OF THE GENERAL STOCK OWNERSHIP CORPORATION.

> I propose that the enabling legislation be amended to provide that a superior court may, at the suit of 100 shareholders or more or upon petition of the attorney general, remove from office any director in case of fraudulent or dishonest acts or gross abuse of authority or discretion with reference to the corporation and may bar from reelection any director so removed for a period prescribed by the court. In any such proceeding the corporation should be made a party to the action.

Explanation: This proposal is based upon Section 304 of the 1977 California Act with two important modifications: first, I propose that you alter the "standing requirement" from California's [". . . shareholders holding at least 10 percent of the number of outstanding shares. . . ."] to one hundred shareholders. To follow the California percentage would be most unreal given the total diffusion of shareholdings in the GSOC (one share per resident). It would require a petition of 40,000 Alaskans or more! In any other private corporation it is perfectly possible for a single shareholder to own 10% or more of the outstanding shares and thus have standing under the California Act. Requiring one hundred Alaskans to join in this suit should ensure that a single angry shareholder could not inaugurate a vexatious complaint. The second modification is to specially grant to the Attorney General standing

to initiate this removal litigation. I do this because while the attorney general may well have personal standing as a resident of Alaska to join in such a suit we must recognize that litigation may be costly and that frequently only the office of the attorney general may have the human and financial resources to prosecute a removal suit upon which may depend the welfare of the corporation (and with that, welfare and interests of Alaskans).

Now it must be immediately evident that this type of removal can only be for the most gross violations of the fiduciary responsibilities assumed by a director and that the statute only grants standing to potential litigants and subject matter jurisdiction to the superior courts. Naturally, the plaintiffs would have to prove the allegations of their complaint by a preponderance of the evidence before the superior court would be warranted in exercising the power vested in it by this statute. I should add that it is quite possible that if the legislature does not act to provide for removal of directors in circumstances such as are covered by this proposal, a superior court might entertain such suits on a theory that such a grave matter is within the court's inherent jurisdiction. There is precedent. See, California Fruit Growers' Assn. v. Superior Court, 8 Cal.App. 711, 97 Pac 769 (1908). In my opinion, this is not a desirable alternative because the legislature would be without control over the vital questions of who had standing to initiate the litigation and what would be deemed sufficient grounds for this grave remedy.

DIRECTIONS TO YOUR DRAFTING AIDES: Does the Committee favor in principle the concept of having directors subject to removal by order of a superior court? YES ____ NO ___. If "yes," is the Committee in favor of the proposed formula

granting standing only to one hundred or more shareholders? YES ____ NO ____. Does the Committee favor granting standing to the Attorney General of Alaska to initiate a removal suit? YES ____ NO ____.

PROPOSAL NUMBER TWO: THAT ANY DIRECTOR OR THE ENTIRE BOARD MAY BE REMOVED BY THE SHAREHOLDERS WITHOUT CAUSE.

I propose that at any annual meeting or a special meeting properly noticed for the purpose at which a quorum is present, a majority of the shares voting in person or by proxy may remove the entire board and elect replacement directors. I further propose that the shareholders have power to remove less than the entire board provided there are appropriate safeguards to minimize the chance that an angry faction of shareholders could oust a single director.

Explanation: Both California and Delaware have found it expedient to pass recent legislation enabling shareholders who have lost confidence in the Board of Directors to remove either the entire Board or individual members at a meeting especially called and noticed to entertain such a motion, and that such removal may be for any cause deemed sufficient by a majority of the shares. In both California and Delaware, the statutes grant the right of removal to an absolute majority of the shares (50% plus 1 share). Again, we must recognize that there may be individuals or institutional shareholders who, though a handful in number, would command an absolute majority of the outstanding shares. Such a potential coalition of large shareholders is a strong check upon the Board of Directors. Unfortunately, there will be no such potential shareholder

coalition in the GSOC. We must deal with the fundamental characteristic of a corporate entity, the shares of which are held in lots of one . . . and by more than 400,000 individuals.

The Kelso Report recognizes the problem of human inertia inherent in such diffuse shareholdings when it proposes to set a quorum for shareholder attendance at annual and special meetings at one-third of the shares voting either in person or by proxy (an absentee ballot). At any meeting at which such a quorum is ascertained to be present, a vote of a majority of that quorum is sufficient to elect directors. Simple arithmetic will reveal that a simple majority of one-third is one-sixth of the shares plus one. Such a scheme is permitted by Sec. 10.05.153 of the Alaska Business Corporation Act if the articles of incorporation are so drafted. I favor this aspect of the proposed articles contained in the Kelso Report because I fear that setting a higher quorum requirement might preclude the shareholders from effectively meeting. How then does this guide us as to the machinery for removal of directors by shareholder vote? I propose that the entire board might be removed for any reason either at an annual or special meeting of shareholders for which notice of such a proposal had been given (as provided in Sec. 10.05.141) upon the vote of a majority of a quorum of the shares present in person or by proxy.

If the shareholders desire to remove less than the entire board, we have a different problem. Here is a danger that a special interest group or other faction might attempt to gang up on a single director for his or her policies and seek to accomplish this at a special meeting which may well be attended by fewer shares than were present at the annual meeting which elected the targeted director. We can guard against this possibility by drafting the statute to provide that in the event that there is an attempt to remove less than the entire board, the resolution shall fail

unless the number of shares cast for removal exceeds the number of shares which originally elected the director. Thus if he was elected by a majority of 261,000 shares at an annual meeting, a special meeting noticed to entertain a removal resolution would not accomplish that objective unless 261,001 shares voted "yes" (in person or by proxy) on that question. If the director was appointed (as in the case of the initial Board), or elected by the Board to fill a vacancy arising by death, incapacity, or resignation mid-term, I would propose that a simple majority of a quorum would be sufficient to remove that director.

DIRECTIONS TO YOUR DRAFTING AIDES: Does the Committee favor in principle the concept of having directors susceptible of removal by vote of the shareholders? YES ____ NO ____. If so, is the Committee content with the suggested formula for that removal? YES ____ NO ____.

PROPOSAL NUMBER THREE: THAT THE ENABLING ACT REGULATE THE STANDING OF SHAREHOLDERS TO INAUGURATE ACTIONS AGAINST DIRECTORS OR OFFICERS BROUGHT FOR THE BENEFIT OF THE CORPORATION (SHAREHOLDER'S DERIVATIVE ACTIONS)

I propose that the enabling act be amended to regulate the standing of shareholders to inaugurate actions seeking declaratory relief or money damages as against officers and directors of the GSOC for the benefit of the corporation (shareholder's derivative actions); lodge discretion in the superior court respecting whether and in what amount a security bond for expenses of litigation should be required of such a plaintiff; preclude non-judicially approved out-of-court settlements of such actions; and, provide for an accounting to the corporation of any proceeds received by the litigating

shareholder(s) whether by judgment, settlement, or compromise.

Explanation: One of the most important developments in the past half century in seeking to hold directors and officers accountable for harm they bring upon the corporation is the concept of the shareholders' action or derivative suit. If you adopt the hypothesis that the Board or certain of its members is guilty of action or inaction which has brought great harm to the GSOC and which violates the duties of care or loyalty to the corporation, it is unrealistic to assume that those very directors will authorize or encourage corporate counsel to bring an action naming them as defendants! For this reason it is necessary to give individual shareholders the right to bring the litigation in the name of the corporation. Any recovery of money damages goes to the corporate treasury, not to the litigating shareholder (save for reimbursing him/her for the costs of the litigation).

Nearly every jurisdiction permits such actions and most regulate the conduct of such litigation by statute. Alaska is one of the few jurisdictions which permits but does not regulate by statute. Fortunately, the Supreme Court has acted to fill this void by providing in Rule 23.1 of the Civil Rules certain regulations for derivative actions by shareholders. (Added by Supreme Court Order 258, November 16, 1976.) The Alaska rule is predicated upon and nearly identical to Rule 23.1 of the Federal Rules of Civil Procedure. In my opinion, it does not go far enough in policing derivative actions by shareholders in the context of the General Stock Ownership Corporation.

The matters which should be covered by statute include:

* Who among the shareholders may bring such an action?

I suggest that standing be limited to a shareholder who held his or her share at the time of the transaction of which complaint is made

else an unscrupulous shareholder might merely "buy a lawsuit." And standing should be limited to a shareholder or shareholders with sufficient resources to be able to vigorously prosecute the action since a judgment will bind all of the other shareholders by its result.

* Should the shareholder be required to exhaust intra-corporate remedies (e.g., make a demand upon the Board that it bring the action) as a precondition to commencing the action?

Modern statutes do not require the shareholder to make demands upon the Board if that would be a futile act (e.g., if the directors are named as the defendants it is unlikely that they would respond to the demand by directing suit against themselves). Thus I would propose that the shareholder be required to make demand upon the Board for corrective action or to allege in his complaint before the superior court the reasons why he deems such a demand to be a futile gesture.

* Should the shareholder be required to post a bond as a precondition to maintaining any derivative action?

Defending a derivative action is time consuming and expensive and there is always a danger that a shareholder will bring an ill-founded or vexatious action simply to harass management or in the hope that he will be "bought off" with an out-of-court settlement. To minimize the instance of such "strike suits," many states in the 1940's adopted the practice of requiring a litigating shareholder to post a bond as a precondition to maintaining the action, a bond which would hold the defendants harmless against their costs of litigation (including attorney's fees) in the event the shareholder should fail to prevail. There is no current Alaska law on this point. Rule 23.1 is silent. My suggestion is that the Committee borrow the best

features of modern California and New York statutes on striking a balance on this vital question. Section 800 of the California Act leaves the trial court with substantial discretion to entertain a timely motion from defendants for the posting of such security. Thus the court could consider the nature of the plaintiff's allegations and project the likelihood of success. It would then exercise sound discretion in requiring that a bond be posted or in denying the request of the defendants. If a bond is required the court has further discretion to determine the amount of the bond. California presently limits the bond to a sum not more than $50,000. This ceiling is viewed as posing some protection against a judge who would simply price the plaintiff out of court with a bond requirement substantially beyond reasonable means. Again, the California Act provides that the amount of the bond may be raised or lowered (subject to the $50,000 ceiling) at any time during the course of the litigation upon the motion of either party or upon the court's own initiative as it seems the interests of fairness to require.

* Should the shareholder who has commenced a derivative action be allowed to compromise or "settle out of court"?

No, not in my opinion. This is very dangerous and tolerates "strike suits"--actions commenced with no solid ground but with the hope that management will tire of the time and expense of defending the litigation and "buy plaintiff off." New York is far ahead of other jurisdictions in warding off this danger. No action in the nature of a derivative suit may be settled or compromised without the approval of the court in which it was commenced and without notice to the other shareholders. This last feature is essential to protect the interests of both the court and the other shareholders. The court is protected

for a judicially approved settlement precludes any shareholder from attempting to relitigate the same questions. The notice requirement permits other shareholders to come forward and object either to the terms of the proposed settlement or to offer to take up the suit and carry it forward in the event of an afterarising unwillingness of the original litigant.

* Should the litigating shareholder in all circumstances be forced to account to the corporation for any proceeds realized from such an action?

Yes. In all jurisdictions this is mandatory if the court returns a judgment against the defendant officers or directors. All proceeds of the judgment are paid into the corporate treasury on the theory that the action has vindicated harm done to the corporation and not the litigating shareholder. The shareholder receives an allowance from these funds sufficient to cover the costs of the litigation. But what if the resolution is by way of an informal settlement? This is the dark side of this type of litigation. Frequently shareholders are offered a tidy sum (e.g., $20,000) if they will dismiss their suit. They keep the money and none of the other shareholders are the wiser. New York simply prevents this. There can be no informal settlement. Any dismissal predicated upon a compromise must be presented to the court, its terms noticed to the other shareholders, and any proceeds paid into the corporate treasury.

If all of these features are incorporated into the enabling act, I am of the view that Alaska will have the best of all possible positions with the virtue of derivative actions and none of the vices inherent in strike litigation.

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DIRECTIONS TO YOUR DRAFTING AIDES: Does the Committee favor in principle the concept of permitting derivative actions by shareholders in the General Stock Ownership Corporation? YES ____ NO ____. If "yes," does the Committee favor regulating the derivative action by special provisions in the enabling act? YES ____ NO ____. If "yes," does the Committee favor:

* The suggested standing rules? YES ____ NO ____.
* The suggested provision on exhaustion of intra corporate remedies? YES ____ NO ____.
* The suggested provision on the posting of a security bond for the defendants' costs of litigation? YES ____ NO ____.
* The suggestion that there be no compromise or dismissal of such an action without court approval? YES ____ NO ____.
* The suggested provision that the litigating shareholder in all circumstances be forced to account to the corporation for any proceeds realized from such a derivative action? YES ____ NO ____.

II. PROPOSALS DESIGNED TO INCREASE THE INFORMATION AVAILABLE TO AND THE POTENTIAL ROLE OF SHAREHOLDERS IN THE GENERAL STOCK OWNERSHIP CORPORATION.

PROPOSAL NUMBER FOUR: THAT THE ENABLING ACT BE AMENDED TO PROVIDE LIABILITY FOR AN OFFICER OR AGENT WHO WRONGFULLY REFUSES TO ALLOW A SHAREHOLDER, OR A SHAREHOLDER'S AGENT OR ATTORNEY, TO EXAMINE AND MAKE EXTRACTS FROM CORPORATE BOOKS AND RECORDS.

I propose that an officer or agent who refuses to allow a shareholder or the agent or attorney of a shareholder to examine and make extracts from corporate books and records

of account, minutes, and record of shareholders, for a proper purpose be made liable to the aggrieved shareholder for the penal sum of $1,000 in addition to other damages or remedy given such shareholder by law.

Explanation: Currently Sec. 10.05.240 of the Alaska Business Corporations Act confers upon shareholders a right to examine books and records. Section 10.05.243 provides a penalty for any officer or agent of the corporation who refuses to permit this inspection. Unfortunately, the penalty there provided (10% of the value of the shares owned by the aggrieved shareholder), is not much of a sanction in the context of the GSOC. In other contexts it may be very effective for it is obvious that the larger the number of shares owned by the aggrieved shareholder the more substantial are the consequences of denying the right of inspection. But a shareholder in the GSOC can never own more than 10 shares. Thus I propose to follow the current content of Alaska law in all particulars save for suggesting that a flat penal sum of $1,000 be established as the sanction.

The effective use of any of the shareholder checks upon management which are set forth in Suggestions One, Two and Three depend upon an effective ability to gain information as to the conduct of corporate affairs by the officers and the Board. Thus an effective right of inspection is essential. Indeed, the Committee might desire to see the penal sum imposed for each day there is a wrongful denial of the statutory right of inspection conferred by Sec. 10.05. 240.

DIRECTIONS TO YOUR DRAFTING AIDES: Does the Committee favor the concept of a statutory right of shareholders in the General Stock Ownership Corporation to inspect corporate books and records? YES ____ NO ____. Should this sum be levied: (a) per

refusal _____; or, for each day of a refusal _____?

PROPOSAL NUMBER FIVE: THAT THE SHAREHOLDERS BE GIVEN THE POWER TO INITIATE AMENDMENTS TO THE BYLAWS.

The current statutes in Alaska provide that the articles may restrict the power to adopt, amend, and repeal bylaws to the Board of Directors. The Kelso Report recommends articles which do so restrict the power to the Board and it is likely that this is what a Board would do. I propose that the enabling act be amended to reserve a power of adoption, amendment or repeal of the bylaws to the vote or written assent of shareholders entitled to exercise a majority of the voting power of the GSOC. I would also propose that the act permit the Board to enjoy this power save for the fact that the Board could not, on its own motion, repeal or amend a bylaw which had been adopted by vote of the shareholders.

Explanation: As was dramatically illustrated by the content of the Kelso Report, the document which is most likely to contain the crucial provisions which govern the structure and operation of the General Stock Ownership Corporation is the bylaws. A significant feature in what is, in my opinion, the excessive grant of power to the Board in SSHB 240 is the potential for vesting this power exclusively in the Board. The balance can be redressed by simply amending the enabling act to provide for a sharing of this power in the case of a General Stock Ownership Corporation.

DIRECTIONS TO YOUR DRAFTING AIDES: Does the Committee favor the concept of permitting the shareholders to adopt, amend or repeal bylaws in the General Stock Ownership Corporation? YES ____ NO ____. If "yes," does the Committee favor the

suggestion that this power be vested by statute in both the shareholders and the Board? YES ____ NO ____.

III. PROPOSALS DESIGNED TO IMPROVE THE QUALITY OF BOARD DECISION MAKING.

PROPOSAL SIX: THAT THE BOARD BE ENABLED TO TRANSACT BUSINESS BY USE OF A CONFERENCE TELEPHONE OR SIMILAR COMMUNICATIONS EQUIPMENT.

Given the significant distances as barriers to travel within the State of Alaska plus the strong likelihood that a minority of the directors will be non-Alaskans, I propose that the enabling act be amended to authorize the board to transact business by use of a conference telephone or similar communications equipment so long as all members participating in such a meeting can hear one another.

Explanation: One of the difficulties inherent in a body of nine members is to physically gather them in the same place at the same time for the transaction of Board business. In large corporate entities this is frequently difficult. The result has been a tendency to permit the Board to divide itself into smaller working committees or an "executive committee" to which is delegated most of the Board's function and authority. There is a price paid for such a solution. Decisions are made without the participation of the full membership. Yet a n classical solution is at hand, and from my personal observation, a very familiar aspect of life in Alaska--the use of modern communications equipment to hold board meetings notwithstanding the fact that the members are not in the same place at the same time. Both California and Delaware now permit this and the reported experience is very satisfactory. I would suggest that such a provision be made a permanent amendment to Sec. 10.05.198 for all corporations formed in Alaska. It certainly merits adoption in the special case of the GSOC.

DIRECTIONS TO YOUR DRAFTING AIDES: Does the Committee favor the concept of permitting the directors to hold meetings via the use of conference telephones or similar communications equipment with participation in such a meeting constituting presence in person? YES ___ NO ___.

PROPOSAL NUMBER SEVEN: THAT REGARDLESS OF COMMITTEE ASSIGNMENTS EVERY DIRECTOR HAVE A RIGHT TO ATTEND THE MEETINGS OF ANY COMMITTEE AND BE PRIVY TO ALL BOOKS AND RECORDS.

Current Alaska law permits the Board to divide itself into committees including an executive committee and to delegate board functions and authority. I have no quarrel with this concept but do suggest that the enabling act be amended to make it clear that regardless of committee assignments any director shall have the right to attend (but not participate in) any meeting of any committee and to have access to books and records pertaining to the activities or responsibilities of such committees as may, from time to time, be created.

Explanation: Again we illustrate what one jurist has termed the "law of laws" . . . that every advantage is purchased at a price. The desire to streamline and specialize the functions of directors is understandable but the price is the exclusion of those directors who are not appointed to key committees. Sometimes this problem assumes serious dimension as those directors who are perceived by the majority as raising vexing questions and airing dissenting views are simply shunted aside by exclusion from committee assignments. The legislature can go some distance toward minimizing this harm by providing by statute a right of each director to attend the meeting of any committee and to have access to books and records.

DIRECTIONS TO YOUR DRAFTING AIDES: Does the Committee favor the concept of granting directors a statutory right to attend the meetings of any Board committee and to have access to minutes and records? YES ____ NO ____.

END OF THIS TRANSMISSION -- SEPARATE LETTER BEING TRANSMITTED NEXT.

SUMMARY OF TESTIMONY

Robert D. Hamrin

In 1976, the Joint Economic Committee recommended to Congress that it "be made national policy to pursue the goal of broadened capital ownership" and a follow-up staff study concluded that "serious consideration should be given to plans that are open to all individuals."

I wish to congratulate the state of Alaska for taking the first bold steps toward implementing such a plan. I also wish to emphasize that a primary virtue of the proposed AGSOC is its simplicity in dealing with one class of stock distributed equally to all citizens. It is most likely that refinements will be made over time but for now, it is important that a track record begins to be established and people's reactions gauged. I firmly believe that the AGSOC, if established, will long be heralded as the first move toward "economic democracy."

As an economist who has examined all the major ideas for broadening capital ownership, I feel the AGSOC is the right step at the right time. The current national policy for broadening capital ownership, ESOPs and TRASOPs, is good so far as it goes, but that is not far enough since the majority of individuals would not significantly benefit from such employee-centered plans.

The AGSOC would benefit every citizen; it would allow all Alaskans to share directly in their highly productive economy; it should establish a stronger foundation for future economic growth due to the increased consumption demand flowing from the augmented incomes of consumers; it is the best plan for providing a more equitable distribution of income and wealth without disturbing present holdings; and by enabling all citizens to "participate" in production through capital ownership, they should gain a better understanding of the workings of the private enterprise system.

The full text of my prepared statement presents a critique of the Kelso study which focuses on a number of inaccurate statements made in the "economic reasoning" section. My statement also contains some specific comments regarding the AGSOC bill: I question whether an emigrating shareholder, particularly in the first few years, should be allowed to take stock with him; there should be provisions for how the stock shares from future major investments would be distributed as well as for repayment of the loan; the question of who the beneficiaries should be in the future and whether shares should be equally distributed needs to be examined.

Testimony for Division of Legislative Finance
regarding
Alaska General Stock Ownership Corporation (AGSOC)

Robert D. Hamrin

The Right Step at the Right Time

In its 1976 Annual Report, the Joint Economic Committee made the following recommendation to Congress:

> To provide a realistic opportunity for more U.S. citizens to become owners of capital, and to provide an expanded source of equity financing for corporations, it should be made national policy to pursue the goal of broadened capital ownership.

Four months later, the Committee published a staff study which after examining numerous means by which to achieve broadened capital ownership concluded:

> Since this is a goal for all Americans and not just employees of corporations, serious consideration should be given to plans that are open to all individuals...

Three years later, the state of Alaska is to be congratulated for taking the first bold steps toward implementing such a plan. Talk, especially in Washington, D.C., comes cheap and there is much talk regarding the ills of our society and even a fair amount regarding possible remedies. But 95% of talk ends there. Of the 5% that does result in new policies or actions, 90-95% is simply a replay of old ideas, perhaps slightly modified. Rare, extremely rare, is the example of a bold, creative new solution actually being implemented. This is the primary point that should be remembered in the midst of the specific details which follow.

In the same vein, although a few "complicating" suggestions are offered below, a primary virtue of the proposed plan is its simplicity. It deals with one class of stock distributed equally to all citizens. This is as it should be for the initial general plan for broadened capital ownership.

If, for example, a choice of stocks from a diversified portfolio were offered to households, wise or simply early recipients could quickly deplete the supply of "choice stock" and individuals who are not knowledgeable and perhaps have never owned stock would be handicapped in making wise choices on a diversified portfolio.

The ACSOC, if established, will be long remembered as the first concrete step towards "economic democracy." The intent of this phrase has been incisively portrayed by Winnett Boyd:

> If a country in which only a few men and women are citizens is politically unjust, the remedy is not to abolish citizenship but to make all men and women citizens. If an industrialized country in which only a few own all the capital is economically unjust, the remedy is not to abolish private capital but to make it possible for all to become owners of some of it.

An Economic Perspective

Statistics show that in the early 1970s, nearly one out of every eight American families had essentially no financial net worth and the majority had a financial net worth of less than $10,000. This illustrates the fragile, debt-underwritten affluence of American households and the fact that the economic democracy spoken of above is far from a reality.

If economic democracy is to be the goal, then ESOPs and TRASOPs which constitute the current national policy for broadening capital ownership cannot be the final answer. Because the majority of individuals would not significantly benefit from such employee-centered plans, there is a lack of interest and support for them. This again points to the need for a plan that reaches everyone. There is much to be said for the excitement stemming from a commonly shared experience among all Alaskan citizens that such a plan is likely to generate.

The ACSOC has many attractive features. It can benefit everyone or be targeted to whatever groups may be desired. It does not favor corporate

officers or executives, or persons employed by the most successful or most capital-intensive corporations. It does not force a rift between a worker and his or her union nor does it create a climate in which union leaders might take control of corporations. It does not depend, as ESOPs and TRASOPs do, upon tax subsidies, tax benefits, or the loss of tax revenues.

What the ACSOC does do is most important. It allows all Alaskans to share directly in their highly productive economy, thus increasing purchasing power as more dollars flow as dividends to lower and middle income households. Relatedly, it should establish a stronger foundation for future economic growth which would be stimulated by the increased consumption demand flowing from the augmented incomes of consumers. It also does more in terms of providing a more equitable distribution of income and wealth without disturbing present holdings than any other plan that has been suggested to date. A final important non-economic benefit is that by enabling all citizens to "participate" in production not only through their labor but also through capital ownership, the ACSOC will lead to a better understanding by Alaskans of the workings of the private enterprise system.

Basically, the ACSOC is recognizing that some portion of the state's immense "public wealth" should be distributed directly to the people. The state government can facilitate this by providing a mechanism whereby all individuals have equal access to credit in order to obtain stock on the basis of its anticipated future earnings.

Critique of the Kelso Study

My general reaction to the Kelso study was one of disappointment. In specifying the legal and financial design of the ACSOC, it did not go much

beyond the provisions specified in the Revenue Act of 1978. The other major part - the economic reasoning supporting the bill - was riddled with incorrect statements, some of a serious nature which should be divorced from the considerations on establishing an ACSOC. What was needed was not simply the "design" of an ACSOC but an analysis of it which would specify first why this type of corporation should be established over other means of broadening capital ownership and second its numerous effects.

Before highlighting the incorrect statements in the "economic reasoning" section, I have two questions regarding the design of this project as proposed by Kelso. The first regards his statement on page 5 that the proposed design permits an "emigrating shareholder to take his stock with him in order to continue to enjoy its income in the future." This seems to violate the spirit of the ACSOC proposal. It does not seem right that someone who recently moved to Alaska with the intent of staying only a few years can leave with a share of stock within a couple of years.

The more serious matter regards the question of future financing and distribution of newly created stock. On page 28, the Kelso study discusses new residents purchasing shares from the initial distribution which the corporation had bought back. I could find no discussion, however, of how the shares from a second major investment a few years hence would be distributed. Would just new residents receive such shares? Would all residents receive the shares? If so, would they all receive equal shares? This point needs to be clarified in the bill.

Regarding the economic reasoning section, the most serious problem is the insertion of Kelso's two factor theory contention that we have been operating under one factor (labor) theory and policy: "The notion that labor is the only, or chief, factor of production is the keystone of the

conventional economic wisdom." (p. 17) This is patently false as capital has been at the forefront of economic analysis for most of this century. The danger is that linking the ACSOC to two-factor theory would instantly discredit the ACSOC. Furthermore, there is no need to bring one factor, two factor or even three factor (which is what economics has emphasized for 200 years) theory into a discussion of a plan to broaden capital ownership.

It should also be noted that the so-called two factor theory is really the clearest example one could hope to see of a one factor theory: "an age when wealth is chiefly produced by things" (p. 21) or "affluence is not the product of the human factor but the non-human factor." (p. 22) Such statements have no basis in reality.

Other statements that are incorrect are: "still pretending to believe that labor's productivity is rising" (pp. 16-17) because everyone has acknowledged for years the decade long decline in labor productivity; "there could be no physical shortage of purchasing power..." (p. 23) because the concept of a physical shortage cannot relate to purchasing power; and "since the corporate sector produces 87% of non-agricultural, non-governmental goods and services, it also generates 87% of the economy's' purchasing power" (p. 25) because purchasing power and production are not equivalent to each other, being two distinct phenomena. There is also a factual error on p. 10 for the maximum corporate income tax rate is now 46%.

Specific Comments and Recommendations

I have a number of concerns regarding dividends. First, it is unclear to me when they start being distributed. Also, does the 90% mandatory payout refer to net income after the loan payment has been made? Relatedly, I could find no provisions in the bill related to repayment of the loan, particularly regarding the time period. This should be clearly specified.

Regarding the distribution of dividends, I have noted that a one share per citizen distribution is appropriate in the beginning. However, if the goal is to provide capital ownership to those who otherwise would likely never own capital, the idea of distributing future shares according to income level should be explored. It is hard to justify giving free shares to that top 5% Kelso so often refers to who own most of the income-producing capital today. Perhaps a simple sliding scale would be most equitable: 3 shares to those making $0 - 12000; 2 shares for $12 - 25000, 1 share for $25 - 40000 and no shares for $40000 and above. The question of whether all citizens or just adults should be share recipients needs to be examined. Also, should long-standing Alaskan citizens receive favored treatment over newcomers? Such questions would become more significant as future investments are undertaken by AGSOC.

My other set of comments relate to project evaluation. Senator Gravel has suggested the type of evaluation he would like to see in the Congressional Record of October 24, 1978. I encourage the Alaskan State Legislature to incorporate these requirements into the legislation establishing the AGSOC: that the annual report of the GSOC filed with the Treasury Department include studies of the effect of the GSOC on distribution of income and wealth, the level of transfer payments made or required, the social and demographic profiles of GSOC shareholders, the level of economic understanding of GSOC shareholders, and possible beneficial revisions to the GSOC legislation. The legislature may also want to more closely examine the effect on state revenues and outlays as well as conduct a more in-depth survey of a sample of recipients which could be used as input to an annual "Report from the People" which could be distributed to all Alaskans.

Robert D. Hamrin

Biographical Sketch

Received his B.A. Magna Cum Laude from St. Olaf College in 1968 and his Ph.D. in Economics from the University of Wisconsin in 1972. Served as Assistant Professor at Hong Kong Baptist College (1972-73) and University of Idaho (1973-74). Came to the Joint Economic Committee as a staff economist where his two major areas from 1974-78 were broadening capital ownership and long-run U. S. economic growth prospects. His principal duties regarding the capital ownership area were to staff the J.E.C. hearings in December 1975 and author the staff study Broadening the Ownership of New Capital: ESOPs and Other Alternatives. In 1978, he wrote a book under a Rockefeller Foundation grant titled Rethinking Economics: The Realities of the 1980s which will be published by Praeger in late 1979. He is currently serving as the Senior Policy Economist at the U.S. Environmental Protection Agency.

James Aller were able to create and fund the Economic and Development Corporation, a separate Swiss company, and pay $750,000 to Dr. Hubert Weisbrod, a Swiss attorney, to stimulate West German jet sales without the knowledge of the board or, apparently, other senior executives.

At 3M, chairman Bert Cross and finances vice president Irwin Hansen ordered the company insurance department to pay out $509,000 for imaginary insurance and the bookkeeper to fraudulently record the payments as a "necessary and proper" business expense for tax purposes. Although the transactions lacked required documentation, they were approved by both departments and later "verified" by Haskins and Sells, the outside auditor.

Ashland Oil Corporation's chief executive officer, Orwin E. Atkins, involved at least eight executives in illegally generating and distributing $801,165 in domestic political contributions, also without question. Not only was the board not informed until the Special Prosecutor's Office and Internal Revenue Service compelled Atkins to dribble out details of the misappropriation of funds, but Ernst and Ernst, Ashland's accountants, did not effectively investigate any of half a dozen separate accounts it discovered that suggested Ashland's illegal course of action.

The Legal Basis of Management Power

The legal basis for such a consolidation of power in the hands of the corporation's chief executive is the proxy election. Annually the shareholders of each publicly held corporation are given the opportunity of either attending a meeting to nominate and elect directors or returning proxy cards to management or its challengers signing over their right to vote. Few shareholders personally attend meetings. Sylvan Silver, a Reuters correspondent who covers over 100 Wilmington annual meetings each year, described representative 1974 meetings in an interview: At Cities Service Company, the 77th largest industrial corporation with some 135,000 shareholders, 25 shareholders actually attended the meeting; El Paso Natural Gas with 125,000 shareholders had 50 shareholders; at Coca Cola, the 69th largest corporation with 70,000 shareholders, 25 shareholders

SOURCE: TAMING THE GIANT CORPORATION

NADER, GREEN AND SELIGMAN

attended the annual meeting; at Bristol Meyers with 60,000 shareholders a like 25 shareholders appeared. Even "Campaign GM," the most publicized shareholder challenge of the past two decades, attracted no more than 3,000 of General Motors' 1,400,000 shareholders, or roughly two-tenths of one percent.

Thus, corporate directors are almost invariably chosen by written proxies. Yet management so totally dominates the proxy machinery that corporate elections have come to resemble the Soviet Union's euphemistic "Communist ballot"—that is, a ballot which lists only one slate of candidates. Although federal and state laws require the annual performance of an elaborate series of rituals pretending there is "corporate democracy," in 1973, 99.7 percent of the directorial elections in our largest corporations were uncontested.

Of the 6,744 corporations required to file data with the Securities and Exchange Commission, incumbent management retained control in at least 6,734 companies, or 99.9 percent. In the 500 largest industrial corporations—corporations which account for some 66 percent of the sales of all industrial corporations in the United States—no incumbent management was even challenged in 1973. One-sided as these results are, they are entirely typical for the largest business corporations. During the 18 years for which data are available, 1956–73, management has won 99.9 percent of all proxy solicitations in 10 out of 18 years.

THE BEST DEMOCRACY MONEY CAN BUY

The key to management's hegemony is money. Effectively, only incumbent management can nominate directors—because it has a nearly unlimited power to use corporate funds to win board elections while opponents must prepare separate proxies and campaign literature entirely at their own expense.

There is first management's power to print and post written communications to shareholders. In a typical proxy contest, management will "follow up" its initial proxy solicitation with a bombardment of five to ten subsequent mailings. As attorneys Edward Aranow and Herb Einhorn explain in their treatise, *Proxy Contests for Corporate Control:*

Perhaps the most important aspect of the follow-up letter is its role in the all-important efforts of a soliciting group to secure the *latest-dated* proxy from a stockholder. It is characteristic of every proxy contest that a large number of stockholders will sign and return proxies to one faction and then change their minds and want to have their stock used for the opposing faction.

The techniques of the Northern States Power Company in 1973 are illustrative. At that time, Northern States Power Company voluntarily employed cumulative voting, which meant that only 7.2 percent of outstanding shares was necessary to elect one director to Northern's 14-person board. Troubled by Northern's record on environmental and consumer issues, a broadly based coalition of public interest groups called the Citizens' Advocate for Public Utility Responsibility (CAPUR) nominated Ms. Alpha Snaby, a former Minnesota state legislator, to run for director. These groups then successfully solicited the votes of over 14 percent of all shareholders, or more than twice the votes necessary to elect her to the board.

Northern States then bought back the election. By soliciting proxies a second, and then a third time, the Power Company was able to persuade (or confuse) the shareholders of 71 percent of the 2.8 million shares cast for Ms. Snaby to change their votes.

Larger, more experienced corporations are usually less heavy-handed. Typically, they will begin a proxy campaign with a series of "build-up" letters preliminary to the first proxy solicitation. In Campaign GM, General Motors elevated this strategy to a new plateau by encasing the Project on Corporate Responsibility's single 100-word proxy solicitation within a 21-page booklet specifically rebutting each of the Project's charges. The Project, of course, could never afford to respond to GM's campaign. The postage costs of soliciting GM's 1,400 000 shareholders alone would have exceeded $100 000. The cost of printing a document comparable to GM's 21-page booklet, mailing it out, accompanied by a proxy statement, a proxy card, and a stamped return envelope to each shareholder might have run as high as $500,000.

Nor is it likely that the Project or any other outside shareholder could match GM's ability to hire "professional" proxy solicitors such as Georgeson & Company, which can deploy up to 100 solicitors throughout the country to personally contact shareholders, give them a campaign speech, and urge them to return their proxies. By daily tabulation of returned proxies, professional solicitors are able to identify on a day-by-day basis the largest blocks of stock outstanding which have yet to return a favorable vote.

Management's "army" in a proxy contest will also include attorneys to prepare necessary documents for the SEC and distract the opposition with costly litigation; accountants and statisticians to prepare the most self-serving financial analysis allowable; and public relations advisors to prepare advertisements for trade journals and the financial section of major newspapers. In the past 25 years there have been no more than a dozen instances in which insurgents have been able to match management expenses in a major proxy fight. Over the past decade, only the MGM proxy contest of 1967 has seen insurgents match management expenses in a large corporation's proxy contest for control.

A second advantage—and one that no outsider can match—is management's ability to use corporate personnel on its own behalf. Clerical help and clerical facilities including printing presses, photocopying machines, and addressing machines are invariably employed. Salespersons skilled in talking to customers are frequently assigned to the telephones to answer inquiries and to supplement the professional proxy solicitors by making direct calls to shareholders. Moreover, senior executives can be assigned to telephone particularly important shareholders who may be impressed by the personal call of a top executive.

State corporations law has done nothing to correct this inequality of corporate resources. Although leading cases in Delaware and New York have engaged in much gnashing of teeth about limiting management expenditures to: (a) proxy contests involving a "policy" issue, (b) expenditures necessary to inform shareholders about the "policy" issue, and/or (c) "reasonable" expenses—no decision since 1967 in either jurisdiction has denied management the power to expend corporate funds or use corporate personnel exactly as management chooses. Even such seemingly "unreasonable"

expenditures as public relations counsel, "entertainments," chartered airlines, limousines, and the indirect cost to the corporation of using officers and employees on behalf of an incumbent director slate have survived judicial scrutiny. By contrast, state courts have firmly established the rule that insurgents, unlike management, are not entitled to reimbursement of any campaign expenses as a matter of right. Challengers must defray all their own expenses, with the single slim hope of later being reimbursed *if* they are successful and the stockholders approve.

MANAGEMENT CONTROL OF INFORMATION

Management's grip on corporate power is tightened by its authority to print and distribute annual, quarterly, and other reports to shareholders. Besides the formal proxy statement, these reports usually embody the only detailed information shareholders receive about their corporation.

Neither state nor federal law places any meaningful restrictions on the amount of money management may spend reporting to shareholders. SEC Proxy Rules *do* require certification of financial statements. The report, however, "may be in any form deemed suitable by the management" and is not subject to the same standards of truthfulness that the text of a proxy solicitation is subjected to. Consequently, though every word of an insurgent shareholder's communications with other shareholders may be challenged if it is arguably "false or misleading," most management reports are subject to no textual regulation whatever.

Unfortunately, management reports are frequently "false and misleading." They are often written in an upbeat public relations jargon which emphasizes "positive" aspects of the past business year while rationalizing or ignoring management mistakes, financial losses, corporate or executive criminal violations, or civil actions successfully prosecuted against the corporation. Frequently, as much as half of the text of an annual report is represented by oversized charts, colored illustrations, and kindred public relations gimmickry.

There is often little difference between the text of a failing corporation's annual report and a healthy corporation's report. For example, although subsequent congressional testimony made clear that Lockheed would have gone bankrupt unless it received an emergency loan guarantee from the federal government, Lockheed's 1969 annual report managed to ignore the prominent debate in Congress over whether the federal government should "bail out" the firm. Instead shareholders read the following:

> It is disappointing to have to record a net loss for the year. Yet setbacks like this are singularly possible in an industry so dependent upon government policy and the ebb and flow of domestic and international developments.
>
> We have experienced them before and in each case have emerged stronger than ever. We are confident this will be so again. We say this not out of easy optimism but from the knowledge that we have many broadly based defense and commercial programs with high business potential and that we are expending more technical effort to meet the nation's future needs.

The report then spent six pages suggesting that Lockheed's financial difficulties were primarily the result of contractual misunderstandings with the federal government. It strongly suggested that the federal government would compromise in these disputes. It was only *after* the Senate voted an Emergency Loan Guarantee by the razor-thin margin of 49–48 in August 1971 that Lockheed reported to its shareholders that without this congressional subsidy the corporation would have collapsed.

A similar lack of veracity appeared in the 1973 Annual Report of the Franklin New York Corporation, whose principal subsidiary was the Franklin National Bank, the largest state bank ever to fail in the United States. Just a few months before the Comptroller declared the Franklin National Bank insolvent, the corporation's management reported to its shareholders that "In 1973 Franklin crossed an important threshold so that it is now in a position to move forward in establishing itself as a major worldwide financial institution and a leading money center banking operation." Nowhere in the report was any mention made of the foreign currency speculation or improvident real estate loans which four months later caused the bank's demise. This was a serious omission, for the largest tolerance of financial loss caused by Franklin's collapse was

absorbed by the shareholder-readers of this report, not the management or the public relations firm which wrote it. These shareholder-readers were given absolutely no warning of what was coming, no opportunity to exert their prerogative to change management or to vote a more timely dissolution.

Nor can insurgent shareholders obtain much additional information from their own corporation when they prepare for a proxy challenge. They lack the legal tools to gain access to live interviews with corporate executives, board meetings, or memoranda which could document internal debate, management error, derogations of law, sloppy execution of policy, or even the content of management's policy formulations.

All of which is a bizarre commentary on the Securities and Exchange Commission. The federal security laws emphasize disclosure. The Commission has claimed that its Proxy Rules "represent an effective contribution to corporate democracy" because disclosure enables individual investors to exercise some measure of control over the management of their corporation. Although the Securities and Exchange Act of 1934 authorizes the SEC to require annual and quarterly reports, including the authority to prescribe "the items or details to be shown in the balance sheet and the earnings statement . . . ," shareholders can not compel their corporation to give a product line or division accounting so as to uncover unprofitable operations. Specific management mistakes may thus be submerged in consolidated financial reports. Shareholders may wish to know whether executives are using expense accounts improperly or are being indemnified for certain civil or criminal liabilities. They cannot find out. They may wish to read minutes of the meetings of corporate directors—whom they elect—or reports of decisions by executives respecting corporate property—which shareholders own. Under federal securities laws, they have no legal rights to do so.

Under state statutory law, shareholders theoretically have broad rights to examine corporate records. State statutes typically authorize inspection of shareholder lists—without which a shareholder could not even begin a proxy solicitation—and "other books and records." But this access is circumscribed by legal requirements of "good faith," "proper purpose," and minimum share ownership, as well as ample opportunities for management to delay compliance with legitimate shareholder demands by forcing expensive court tests.

Almost invariably shareholders prevail in court battles to secure a shareholder list, for, as a leading Pennsylvania decision put it, ". . . the right to examine the stockholders' list is a basic privilege of every stockholder of a corporation and should be given the widest recognition as fundamental to corporate democracy." But the courts are reluctant to enforce shareholder demands for other information. Doctrinally, this has been rationalized as deterring excessive "stockholder agitation." The Supreme Court of Minnesota rather melodramatically explained why in the leading case of *State Ex rel. Pillsbury v. Honeywell:*

> In terms of the corporate norm, inspection is merely the act of the concerned owner checking on what is in part his property. In the context of the large firm, inspection can be more akin to a weapon in corporate warfare. The effectiveness of the weapon is considerable: "considering the huge size of many modern corporations and the necessarily complicated nature of their bookkeeping, it is plain that to permit thousands of shareholders to roam at will through their records will render impossible not only any attempt to keep their records efficiently, but the proper carrying on of their business." . . . Because the power to inspect may be the power to destroy, it is important that only those with a bona fide interest in the corporation enjoy the power. . . .

Alarming as the specter of "thousands of shareholders roaming at will" through once efficient corporations may be, it can only be conjured up by courts so cunning as to overlook their inherent judicial power to restrict any shareholder access to corporate data to reasonable numbers of shareholders at reasonable times and reasonable places. Yet phantom or not, this rationale has been employed in recent decisions to deny one A&P shareholder access to the minutes of board meetings and information relevant to store closings; to deny Ralston Purina shareholders access to monthly profit analyses employed by management; and to deny shareholders of Gulf Sulphur Corporation information concerning a firm with which Gulf proposed to merge.

MANAGEMENT CONTROL OF THE LAW

Management power is further entrenched by three significant legal advantages.

First, in approximately 90 percent of all large industrial corporations, cumulative voting is not required. In these corporations, a minority of shareholders—even a minority as substantial as 49.9 percent—may be precluded from electing even one director to the board.

Under cumulative voting, each shareholder is entitled to votes equal to the number of his or her shares multiplied by the number of directors to be elected. The shareholder may cast all his or her votes for a single candidate or distribute them among two or more candidates as he or she sees fit. Cumulative voting, therefore, helps to protect the *financial* interest of minority shareholders by assuring them voice on the board of directors. And it protects the *political* interest of minority shareholders. For without cumulative voting, the tendency of large industrial corporations to perpetuate one-party rule is powerfully enhanced. As Professor Charles M. Williams demonstrated after analyzing proxy contests for the years 1943–1948, corporations with cumulative voting were more than twice as likely to have proxy contests as those without.

Because of these benefits, cumulative voting has enjoyed considerable popularity. From 1870, when Illinois became the first state to require cumulative voting, until 1955, 23 states had established absolute requirements for cumulative voting. Additionally, federal law requires cumulative voting for over 5,000 banks subject to the Federal Banking Act of 1933 (although the intent of this law has often been frustrated by bank holding company structures); and the Securities and Exchange Commission has consistently required cumulative voting for corporations subject to the Public Utility Holding Act of 1935 and corporations undergoing reorganization under Chapter X of the Bankruptcy Act. As an attorney snapped in 1950 in frustration at Wisconsin's refusal to enact cumulative voting, "Cumulative voting is so obviously in accord with our basic political philosophy of group representation and the party system that it is difficult to understand the [illegible]

ture's repeated rejection of it, except in terms of a response to the pressure of corporate management's interest."

Unfortunately, "the pressure of corporate management's interest" often does prevail in state corporation law. Between 1955 and 1972, five states dropped mandatory cumulative voting. In 1973, Michigan changed from mandatory to permissive cumulative voting; in 1974 both California and Ohio considered—but did not enact—similar legislation. Today, in Delaware, as well as 32 other states, cumulative voting is not required. True, in most of these states, cumulative voting is permitted. In practice, however, permissive cumulative voting offers little but an illusory right. Studies by Professor Williams in 1951 [illegible] the Conference Board in 1973 indicate that only about 15 percent of the corporations in states with permissive cumulative voting have provided for this right.

And even in those few corporations which voluntarily institute cumulative voting, most states provide ample devices to subvert it. Although cumulative voting aims to prevent a simple majority from maintaining absolute corporate control, Delaware permits a simple majority to amend the corporate charter to repeal cumulative voting. And Delaware and some 42 other jurisdictions allow the "classification" of the board of directors. This device reduces to one third or one half the number of directors required to stand for election anually and thus increases the minimum vote necessary to elect a director.

Management's second legal edge is its power to issue nonvoting stock or classes of stock with unequal voting rights. For example, prior to December 1, 1955, there were three classes of stock in Ford Motor Company: common, Class A, and Class B. Only the Class B shares (4.94 percent of total equity), all of which were owned by Ford family interests, were entitled to vote.

Only Illinois and a few other states forbid the issuance of classes or series of stock without voting rights. But the refusal of both the New York Stock Exchange and the American Stock Exchange to list corporations with nonvoting stock has substantially reduced the number of corporations which may totally eviscerate shareholder suffrage, although neither exchange actively enforces equal voting rights.

The third statutory device for impairing shareholder suffrage

rights is a provision common to the law of Delaware and apparently every other jurisdiction requiring the submission of proxy materials only to *shareholders of record*. This innocent sounding requirement effectively disenfranchises approximately 50 percent of the beneficial owners of corporate stock in the largest industrial corporations. For approximately 50 percent of the stock in the 1,800 companies traded on the New York Stock Exchange is held by mutual funds, life insurance or property and casualty insurance companies, private pension funds (usually administered through commercial bank trust departments), state and local pension funds, foundations, university endowment funds or other institutional investors. The result is a mockery of shareholder democracy: *Approximately 50 percent of the votes in our largest industrial corporations are cast by financial intermediaries—not the real owners.*

These institutional shareholders provide virtually no check to corporate management. Most financial institutions, according to the SEC's 1971 *Institutional Investor Study*, follow what is known as "The Wall Street Rule": An investment in a business corporation is considered an investment in that corporation's management; if the financial institution ceases to like what management is doing, the institution sells the stock. By examining the voting practices of 215 large institutions between January 1, 1967 and September 30, 1969, the SEC determined that approximately 30 percent of these institutions *always* voted for management (in elections other than votes for directors). For the remaining institutions, both voting against management and abstention were found "to be a relatively infrequent phenomenon." For example, in only 26 instances did any of the 215 institutions vote against an acquisition favored by management, "a miniscule fraction of such transactions."

The SEC conducted its study before the proliferation of shareholder proposals directed at social issues and precipitated by Campaign GM. In the past five years, some financial institutions have established formal procedures to consider shareholder public policy or ethical proposals. According to newsletters published by the Council on Economic Priorities and the Investor Responsibility Research Center, a small number of church-related funds, foundations, and universities have supported shareholder proposals respecting disclosure of political contributions; withdrawal from South Africa, Rhodesia, or Namibia; opposition to military production; or review of corporate safety, environment, occupational discrimination, or community programs. Since most institutional shares are voted by banks, insurance companies, and mutual funds, and these financial institutions have shown only a negligibly greater willingness to oppose management, the overall pattern of institutional voting has changed little in the past five years.

MANAGEMENT CONTROL OF OTHER FUNDAMENTAL DECISION-MAKING

Historically, shareholders controlled the business corporation not only through the election of directors but also through shareholders' power to initiate and vote upon all fundamental changes in the character of the corporation. Management's ability to initiate change was carefully circumscribed by requiring two-thirds or three-fourths affirmative votes for charter amendments, bylaw changes, mergers, sales of assets, stock issuance, recapitalization, or dissolution and was further limited by shareholder appraisal and preemptive rights.

Under Delaware's General Corporation Law, shareholders have lost nearly all power to initiate corporate change. Only the board of directors may propose charter amendments, a merger, or a sale of assets. The SEC Proxy Rules complement Delaware's corporation law by denying shareholders opportunity to communicate opposition to management proposals or to suggest modifications in management's formal proxy proposals.

This rout has been substantially replicated in all other leading chartering states. Indeed, the trend of recent revisions to state corporation law has been to attempt to deny the shareholder any vote at all! Modern corporate draftsmen invariably write short, purely formal certificates of incorporation and then place most of a corporation's actual governing rules in its bylaws, which the certificate establishes can be revised by the corporation's directors without any shareholder vote. For example, when ITT reincorporated in Delaware in 1967, it did so by creating a Delaware corporation called the "DeLitt Corporation" and by then merging ITT, previously a Maryland corporation, into DeLitt. The certificate of incorporation of DeLitt was only 1½ pages long. It reads in toto:

CERTIFICATE OF INCORPORATION OF DELITT CORPORATION

Article 1

The name of the corporation is Delitt Corporation (hereinafter called the "Corporation"). The name and mailing address of its incorporators are as follows:

NAME	MAILING ADDRESS
John J. Navin	320 Park Avenue, New York, N.Y. 10022
William J. Donovan	320 Park Avenue, New York, N.Y. 10022
DeForest Billyou	320 Park Avenue, New York, N.Y. 10022

Article 2

The address of the registered office of the Corporation in the State of Delaware is No. 100 West Tenth Street, in the City of Wilmington, County of New Castle. The name of its registered agent at such address is The Corporation Trust Company.

Article 3

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

Article 4

The total number of shares of stock which the Corporation has authority to issue is 100 shares of capital stock of the par value of $100 per share.

Article 5

Whenever the vote of stockholders at a meeting thereof is required or permitted to be taken for or in connection with any corporate action by any provision of the General Corporation Law of Delaware, the meeting and vote of stockholders may be dispensed with if the holders of stock having not less than the minimum percentage of the vote required by statute for the proposed corporate action shall consent in writing to such corporate action being taken, provided that prompt notice must be given to all stockholders of the taking of such corporate action without a meeting and by less than unanimous written consent.

Article 6

In furtherance and not in limitation of the powers conferred by law, the Board of Directors is expressly authorized:

(a) To make, alter, amend or repeal the By-Laws of the Corporation.

(b) To direct and determine the use and disposition of any annual net profits or net assets in excess of capital; to set apart out of any of the funds of the Corporation available for dividends a reserve or reserves for any proper purpose; and to abolish any such reserve in the manner in which it was created.

(c) To establish bonus, profit-sharing, stock option, retirement or other types of incentive or compensation plans for the employees (including officers and directors) of the Corporation and to fix the amount of the profits to be distributed or shared and to determine the persons to participate in any such plans and the amounts of their respective participations.

(d) From time to time to determine whether and to what extent, and at what time and places and under what conditions and regulations, the accounts and books of the Corporation (other than the stock ledger), or any of them, shall be open to the inspection of the stockholders; and no stockholder shall have any right to inspect any account or book or document of the Corporation, except as conferred by statute or authorized by the Board of Directors or by a resolution of the stockholders.

(e) To authorize, and cause to be executed, mortgages and liens upon the real and personal property of the Corporation.

Article 7

The corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

The key sentence is contained in Article 6: "In furtherance and not in limitation of the powers conferred by law, the Board of Directors is expressly authorized: (a) To make, alter, amend or repeal the By-Laws of the corporation. . . ." What ITT tried to do, as so many other giant Delaware corporations have tried to do, was to totally shut shareholders out of the governing process except in those rare instances in which the Delaware General Corporation Law explicitly requires a shareholder vote—which is not very often.

True, technically, section 251(c) grants shareholders a vote on management merger proposals. But this, in fact, is a mere snare

for the dim-witted. Only a small minority of corporate [illegible] actually trigger this shareholder vote. The overwhelming majority employ one of three conventional loopholes (discussed in the Source[illegible]

Similarly, section 271 limits shareholder suffrage in a sale, lease, or exchange of assets to transactions involving "all or substantially all" of a corporation's property and assets. Since most large industrial corporations are highly diversified, this provision effectively insures their shareholders will never vote. For example, General Motors could sell an automobile division such as Pontiac or Cadillac and not require a vote. It could liquidate hundred-million-dollar plants which manufacture refrigerators, diesel engines, and trucks or auction off all of its Detroit real estate and relocate in the Peoples Republic of China, and shareholders would have no choice in the matter. Only if GM sold *all* assets used to manufacture "automotive products" (about 75 percent of the corporation) would a sale of assets require a shareholder vote.

Moreover, section 271 is the only Delaware statute concerning corporate divisions. A Delaware corporation may create and fund new subsidiary corporations, regardless of size; liquidate these subsidiaries or comparable divisions and distribute assets to shareholders; or spin-off new corporations altogether without any shareholder vote. As business corporations have evolved these new forms, Delaware and other principal chartering states have deliberately not kept pace. Corporate executives have not hesitated to take advantage of this laxity. In the past three years many Delaware corporations have "gone private" and bought up minority shareholdings at bargain prices during a depressed stock market. This will allow favored shareholders or the firm itself to reap the profits when the company's stock price rises. Other senior managements have used the merger provisions to prevent take-over bids—which can benefit all shareholders—by requiring super-majorities, such as 75 or 90 percent, to consent to any consolidation or sale of the companies assets.

Whither/Wither the Board of Directors?

But does not the board of directors with its sweeping statutory mandate "to manage the business and affairs of every corporation"

provide an internal check on the power of corporate executives? So long ago the grandiloquent words of the statutes ceased to have any operative meaning. "Directors," William O. Douglas complained in 1934, "do not direct." "[T]here is one thing all boards have in common, regardless of their legal position," Peter Drucker has written. "*They do not function.*" In Robert Townsend's tart analysis, "[M]ost big companies have turned their boards of directors into nonboards. . . . In the years that I've spent on various boards I've never head a single suggestion from a director (made as a director *at* a board meeting) that produced any result at all."

Recently these views were corroborated by Professor Myles Mace of the Harvard Business School, the nation's leading authority on the performance of boards of directors. In *Directors—Myth and Reality*, Mace summarized the results of hundreds of interviews with corporate officers and directors.

Directors do not establish the basic objectives, corporate strategies or broad policies of large and medium-sized corporations, Mace found. Management creates the policies. The board has a right of veto but rarely exercises it. As one executive said, "Nine hundred and ninety-nine times out of a thousand, the board goes along with management. . . ." Or another, "I can't think of a single time when the board has failed to support a proposed policy of management or failed to endorse the recommendation of management."

The board does not select the president or other chief executive officers. "What is perhaps the most common definition of a function of the board of directors—namely, to select the president—was found to be the greatest myth," reported Mace. "The board of directors in most companies, except in a crisis, does not select the president. The president usually chooses the man who succeeds him to that position, and the board complies with the legal amenities in endorsing and voting his election." A corporate president agreed: "The former company president tapped me to be president, and I assure you that I will select my successor when the time comes." Even seeming exceptions such as RCA's 1975 ouster of Robert Sarnoff frequently turn out to be at the instigation of senior operating executives rather than an aroused board.

The board's role as disciplinarian of the corporation is more apparent than real. As the business-supported Conference Board conceded, "One of the most glaring deficiencies attributed to the corporate board . . . is its failure to monitor and evaluate the performance of the chief executive in a concrete way." To cite a specific example, decisions on executive compensation are made by the president—with perfunctory board approval in most situations. In the vast majority of corporations, Professor Mace found, the compensation committee, and the board which approves the recommendations of the compensation committee, "are not decision-making bodies."

Directors do not even ask discerning questions. It is considered "discourteous," a breach of "corporate manners" for directors to "challenge" the president or other corporate officers. This can be a very expensive form of decorum, as the Penn Central's shareholders painfully discovered. At the time of its collapse in June 1970, Penn Central was the largest railroad in the country and the sixth largest industrial corporation overall. Within a two-year period, shareholders witnessed the decline of their shares from $86.50 to $2.75.

Why? "The board was definitely responsible for the trouble," recounted outside director E. Clayton Gengras. "They took their fees and they didn't do anything. Over a period of years, people just sat there. That poor man from the University of Pennsylvania [University President Gaylord P. Harnwell], he never opened his mouth. They didn't know the factual picture and they didn't try to find out." As the Penn Central rushed towards its monumental crack-up, the board routinely approved every proposal forwarded by management. Although Penn Central was desperate for capital, the directors paid out nearly $100 million in dividends. The board never saw a capital expenditures budget. It never understood the inaccuracies published in Penn Central's annual reports. Just six hours before the corporation filed its bankruptcy petition, the board routinely approved new contracts for eight corporate executives, apparently unaware even then of the dimensions of the Penn Central's crisis. "All of this raises the serious question as to whether giant corporations affecting the everyday lives of our population . . . should continue to be governed in the traditional fashion or whether a new system of corporate directorships should be devised," concluded the House Banking and Currency Committee.

Yet boards will continue to be dysfunctional as long as they remain the creature of the corporate chief executive. For it is the chief executive who, like the family owner-manager in a small corporation, selects new members of the board. And it is the chief executive who de-selects existing board members when nominations for the board are necessary for annual shareholders' meetings.

Our own survey of the boards of the 200 largest industrial corporations found that the average board had a total of 14.49 directors, including 7.93 "outsiders" (that is, directors who were not employees of the corporation) and 6.56 insiders (or employee directors). Some 69 percent of the outside directors were fellow corporate executives; 6 percent were investment bankers; 7 percent were lawyers. Only 2 percent were women; a lesser percentage were black. Hence over 90 percent of the directors of our largest corporations either worked for the corporate chief executive or were fellow corporate executives, corporate bankers, or corporate lawyers.

Most "outside" directors appear to be chosen because of their status. "Presidents and chairmen of large and respected companies," one corporate president observed, "enjoy the prestige of serving on similar large and respected company boards. They are identified with their peers. They find the experience socially satisfying. Outside directorships provide a few more lines in their *Who's Who*, and it is a little bit like being knighted to say 'I'm a director of General Motors, or General Electric, or AT&T.' " Frequently, the chief executive chooses his friends, or individuals known to be "sympathetic" or "congenial," to be directors. "You certainly don't want anyone on your board who even slightly might be a challenge on a question of your tenure, so you pick personal friends with prestige titles and names," a corporate president explained. Another executive agreed: "What would you do if you were president? You control the company and you control the board. You want to perpetuate this control. . . . You sure as hell are not going to ask Ralph Nader. . . ."

At its worst, the outside director system degenerates into a private club, as the president of a west coast company explained:

You've got to remember that the outside directors of large national and regional companies are members of a sort of club. To be considered for admission you must have the title as president or chairman of a respectable and respected organization. This is what some young people call the Establishment. But these are the people you do business with, travel around with, serve on community projects with—and it has to be a group the members of which get along together. Regionally each area has its elite. Sometimes many will in fact be members of the same golf or social club. Here in Los Angeles you will find a great number of directors with membership in the Los Angeles Country Club; in Cleveland the same is true of the Union Club—each city has its hard core members of the club group.

Exceptions to this pattern become news events. In reporting on General Motor ' 1971 annual shareholders' meeting, the *Wall Street Journal* noted that, "The meeting's dramatic highlight was an impassioned and unprecedented speech by the Rev. Leon Sullivan, GM's recently appointed Negro director, supporting the Episcopal Church's efforts to get the company out of South Africa. It was the first time that a GM director had ever spoken against management at an annual meeting." Now Rev. Sullivan is an unusual outside director, being General Motors' first black director and only "public interest" director. But what makes Leon Sullivan most extraordinary is that he was the first director in *any* major American corporation to come out publicly against his own corporation when its operations tended to support apartheid.

Yet as lethargic as outside directors usually are, employee directors tend to be even less effective. The typical vice president/inside-director is in a very precarious position at a board meeting. Unwilling to say anything in disagreement with his boss, he usually sits quietly and waits until he is called upon to speak. Disagreements with other corporate executives are invariably resolved out of the board room. The effect is to present outsiders with a "united front": to make the corporate chief executive's decisions seem inevitable.

So staffed, board meetings in most large industrial corporations have become formalized into a monthly or bimonthly ritual, usually lasting about one to three hours. Much of this time is consumed by perhaps a 30-minute to an hour review of operations for the last period (month or quarter) by the president or vice president of finance. This is followed by board approvals of capital appropriations and of the actions of the executive committee taken since the last meeting. The meeting often concludes after senior executives have described a new research development or a major operations program. Usually the entire meeting—which is closed to shareholders—is choreographed by the corporate chief executive. He chooses which officers shall speak. He writes the agenda. When he wants to be asked about a particular issue, he plants the relevant question.

The impossibility of so infrequent or so circumscribed meetings of the board enabling directors to effectively "manage" their corporation was sardonically illustrated by the congressional testimony of H. O. Havemeyer, a corporate chieftain of an earlier day:

Q. As a member of that board, what else have you done?
A. *Oh, I have convened and talked.*
Q. You have convened and talked?
A. *And adjourned.*
Q. Well, you have convened and talked?
A. *And adjourned.*
Q. Well, what have you talked about?
A. *Statistics.*

This testimony was given in 1887 when outside directors were typically the "tools" or "dummies" of the controlling corporate president or bank. A popular gag on Wall Street was that the role of an outside director was to receive his five-dollar gold piece at the start of each meeting and then obediently fall asleep. Directorial lassitude is not so obvious today. Yet considering that the size and complexity of corporate enterprise has significantly increased since 1887 while the frequency and length of directors' meetings has not, it is a fair assumption that the outsiders who obediently nod through ceremonial board meetings today are little better informed than their brethren who slept before them.

Certainly directors' sources of information remain as much subject to management control today as they did 90 years ago. After resigning from TWA's board, former United States Supreme Court Justice Arthur Goldberg had this complaint: "What the typical board of directors gets is a recommendation which seems mono-

lithic. . . . It's not like a court, where a judge can order a brief from both sides." Recently the *quantity* of preparatory information available to outside directors has significantly increased. Yet the thickened reports and whirlwind plant tours are still only what the corporate chief executive wants outsiders to see. "In many corporations," found Professor Melvin Eisenberg, "the executives go so far as to wholly deny the board—supposedly entrusted with supreme power over the corporation—access to certain categories of information." For instance, a 1971 survey found that only 17 percent of 474 industrial firms sent manufacturing data to directors prior to board meetings, only 21 percent sent marketing data, and 11 percent sent no data at all.

And outside directors have little personal incentive to doubt management. A 1973 survey of 378 manufacturing corporations with assets of $50 million or more showed that outside directors received median annual fees of approximately $5,900, while inside directors generally are not paid at all. On top of the $100,000+ incomes typically earned by outside directors, who are corporate chief executives or vice presidents, leading investment bankers, or law firm partners, such annual retainers or meeting fees seem like peanuts. The result is counterproductive. Outside directors rationalize not doing very much by the fact they are not paid very much.

How, then, can one reconcile the grand imperative, "The business and affairs of every corporation . . . shall be managed by or under the direction of . . . a board of directors" with the reality of this "non decision-making body"? The fashionable response is that the board is a legal fiction. Management control has overwhelmed the rule of law.

This widely held view is only half right. Management has deposed the board of directors—but it has done so under color of law. No rule within the modern corporation statutes prohibits management from nominating and serving as directors. Corporation law has abrogated directional independence by omission. Moreover, even if the statutes provided structural safeguards to maintain the independence of the board, these could not undo the effect of two provisions found in most state corporation laws.

The first provision is exemplified by a Delaware Corporation Law section which provides that a director shall "be fully protected in relying in good faith upon . . . reports made to the corporation by any of its officers." The meaning of this provision is very simple. Directors have no duty to know. "Unless something occurs to put them on suspicion that something is wrong, directors are entitled to rely on the honesty and integrity of [management]," held the leading case of *Graham v. Allis-Chalmers Manufacturing Company*. Directors are not required to "put into effect a system of watchfulness." They need not anticipate problems nor verify the accuracy of reports upon which they rely.

A second provision of the Delaware General Corporation Law accomplishes the same result by allowing the board to *formally* delegate responsibility for most corporate business to a committee dominated by inside directors. Our survey of the 200 largest industrial corporations indicates that approximately two-thirds of the corporations had withdrawn directorial powers from the full board—typically a majority of whose members were outsiders—to an executive committee at least half of whose members were insiders.

A much smaller number of corporations accomplish a comparable result by delegating authority to an insider-dominated finance committee. In our survey of the 200 largest industrial corporations, we found that 16 corporations had delegated authority to a finance committee, half or more of whose members were insiders.

Examples of the delegation of the board's authority to either an insider-dominated executive or finance committee have been well described by attorney John A. McMullen:

> At IBM—four directors, all top level officers of the corporation, control the all-important executive and finance committees; in addition, three of them are members of the powerful Corporate Office. At GM, four or five men, all inside directors of the company, dominate the executive and finance committees of the board as well as the administration committee comprised of key officers and directors. . . . DuPont's executive committee consists of the company's chairman of the board, president, and six senior vice presidents. Each of these men is entirely relieved of day-to-day functional responsibilities; each operates jointly with his fellow committee

members to set overall corporate policy, and acts only as an advisor to the operating department from which he originally derived his skills, training, and experience.

Yet, whether or not the board formally resolves to delegate operational authority to an executive committee between board meetings, the actuality is that employee directors or other senior executives invariably exercise the powers of initiation. It does not matter whether key corporate decisions are initiated by a single corporate autocrat or a board committee or a committee operating out of the office of the president. Senior executives call the shots. This is what Berle and Means meant by their insightful descriptions of "management control." This is why state corporation law is moribund. Not only is it written by corporate management's representatives, it is also hopelessly inaccurate. In appreciating the law of corporate governance, one rule above all others must be followed: *Concentrate on the omissions.* Where state law does not require directors to be, corporate executives inevitably are.

The Limitations of Shareholder Litigation

STATE LAW: THE NON-DUTY OF CARE

The erosion of shareholder authority within the corporation would be less serious if shareholders were able to oppose the abuses of corporate management in court. In theory, civil litigation remains the shareholder's ultimate check. The problem is that, except for certain limited claims under the federal securities laws, it rarely works. Long ago judicial doctrines reduced the state shareholder action to a trivial value.

Earliest was the judicial rejection of the principle of *ultra vires* action. In its classical form, the doctrine of *ultra vires* envisioned the corporate charter as a contract between the state, corporate management, and the shareholders. Corporations were prohibited from performing certain acts, not because they were illegal but because neither the state nor the shareholders had agreed to them. Shareholders could enjoin corporate officers and directors from engaging in actions "beyond their powers." Accordingly, in a leading 1867 case, a single shareholder blocked a railroad from extending its railway to a more distant point than that specified in the charter because that was not the enterprise he had bargained for.

With the rise of the corporate enabling acts, the principle of *ultra vires* declined. Shareholder limitations were overridden through court discoveries of "implied" or "auxiliary" powers. In the 1896 case of *Jacksonville M. P. Ry. & Nav. Co. v. Hopper*, for example, the United States Supreme Court held that the Florida railway company might engage in leasing and running a resort hotel, on the curious logic that "to maintain cheap hotels or eating houses . . . would not be so plainly an act outside the powers of a railway company as to compel a court to sustain the defense of ultra vires. . . ." By 1931, *Fletcher's Cyclopedia of Corporations* could proclaim, "the theory that a corporation can do no acts beyond its authority [has been] discarded by a majority of the courts in the country."

Paralleling the decline of *ultra vires* has been the universal refusal of state courts to hold corporate directors or officers liable for negligence. Because they are vested with great power over other people's property, the law has always nominally required, in the language of the present New York statute, that "Directors and officers shall discharge the duties of their respective positions in good faith and with that degree of diligence, care, and skill which ordinarily prudent men would exercise under similar circumstances in like positions."

In practice, the typical judicial or statutory formulation of the duty of care is too vague to require much of anything. As Yale Law School's Professor Joseph Bishop concluded after an extensive review of the case law:

> The search for cases in which directors of industrial corporations have been held liable . . . for negligence uncomplicated by self-dealing is a search for a very small number of needles in a very large haystack. Few are the cases in which the stockholders do not allege conflict of interest, still fewer those among them which achieve even such partial success as denial of the defendant's motion to dismiss the complaint.

In all, Professor Bishop was able to find only four recent cases in which a state court held that a shareholder had alleged a good cause of action for negligence uncomplicated by self-dealing. In only one

of these cases did a state court rule on the merits that a corporate officer was liable for negligence. And in that case, the word "negligence" had been used as a euphemism for dishonesty.

This result is primarily the fault of statutory draftsmen. They have refused to identify *how* a corporate officer meets his duty of care. They have never identified what specific actions he must perform; what specific responsibilities are his. In the absence of a clear standard from the legislature, state courts have refused to guess.

At most, state courts will hold corporate directors or executives liable for conduct involving obvious self-enrichment such as fraud, misapplication of funds, diversion of corporate business opportunities, or causing the corporation to make excessive payment for the purchase of their property. Yet even in these types of cases, where the actions of corporate officers amount to simple and obvious theft, the procedural rules of state corporation law have been skewed to discourage shareholder suits.

The most onerous bars to shareholder litigation are the so-called "security for expenses" provisions enacted by New York, New Jersey, Pennsylvania, Michigan, California, and 13 other states. These provisions require a complaining shareholder owning less than a stated amount of stock—typically 5 percent of the stock or shares worth less than $50,000—to "give security for the reasonable expenses, including attorney's fees, which may be incurred" by both the corporation and the parties defendant in a shareholder action. Since the cost of defendants' legal fees may amount to hundreds of thousands of dollars, the security for expense provision, when enforced, presents a formidable barrier to shareholder action.

The rules respecting attorneys' fees pose a second procedural pitfall for shareholder actions. Nearly every jurisdiction provides that only shareholders whose suits are successful may be reimbursed by the corporation for attorneys' fees. This rule seeks to discourage attorneys from bringing nonmeritorious suits. Several states, however, further provide that attorneys' fees may be awarded only if a substantial monetary benefit is conferred upon the corporation. As a practical matter, this standard precludes shareholder litigation in all cases except those of overreaching where a monetary benefit—the amount taken—is readily apparent. In all other cases it is normally cheaper to sell the stock than to compel the corporation to obey the law.

FEDERAL SECURITIES LAW: "TAKING OVER THE UNIVERSE GRADUALLY"?

To some extent, federal securities law—and federal court decisions—have compensated for the atrophy of state shareholder protection.

In 1968, the influential Second Circuit Court of Appeals handed down its celebrated *S.E.C. v. Texas Gulf Sulphur* decision which revolutionized the case law interpreting Rule 10b-5 under the 1934 Securities and Exchange Act. Rule 10b-5 provides that it is unlawful for any person to employ a fraudulent scheme, to make any untrue statement, or to fail to state a pertinent fact when purchasing or selling a security. *Texas Gulf* substantially broadened this antifraud rule by holding that corporate directors, officers, and employees violated 10b-5 when they purchased company stock knowing of a huge mineral strike before this fact was generally known or communicated to the public.

A federal district court, also in 1968, ruled in *Fratt v. Bar Chris*—a decision some commentators initially believed would have even greater effect on directorial behavior than *Texas Gulf*. In *Bar Chris* security holders asserted that a bowling alley construction company that had sold them convertible debentures had filed a registration statement prior to the sale of the bonds which contained false statements and omissions. After concluding that the registration statement did, indeed, contain numerous inaccuracies, the district court stunned Wall Street by holding all nine directors who signed the prospectus—including two new to the board—liable. In summing up their liability, the court seemed to move far toward creating a federal duty of care, at least with respect to registration statements:

> Section 11 imposes liability in the first instance upon a director, no matter how new he is. He is presumed to know his responsibility when he becomes a director. He can escape liability only by using that reasonable care to investigate the facts which a prudent man would employ in the management of his own property. In my opinion, a prudent man would *not* act in an important matter without any knowledge of the relevant facts, in sole

reliance upon representations of persons who are comparative strangers and upon general information which does not purport to cover the particular case. To say that such minimal conduct measures up to the statutory standard would, to all intents and purposes, absolve new directors from responsibility merely because they are new. This is not a sensible construction of section 11, when one bears in mind its fundamental purpose of requiring full and truthful disclosure for the protection of investors.

The cumulative result of these and other federal securities law decisions led the *Wall Street Journal* to exclaim in early 1973, "[D]irectors of corporations now face more perils than Pauline ever did!" In a similar vein, Harvard Law School's securities expert, Professor Louis Loss, observed in 1969 that "the great Rule 10b-5," which had emerged as the principal basis of liability under the federal securities laws, "seems to be taking over the universe gradually."

In retrospect, both views seem overstated. The basic reason the securities laws will neither "take over the universe" nor seriously "imperil outside directors" is that they are restricted to a discrete set of securities transactions. Although present securities laws do require corporate officers to file with the SEC accurate periodic financial reports and securities registration statements, not make false and misleading statements in proxies, nor defraud outsiders in connection with their own securities purchases or sales, the securities laws do not, emphasized the Supreme Court in 1971, reach transactions which otherwise involve "internal corporate mismanagement."

And in late 1973, the Second Circuit Court of Appeals held in *Lanza v. Drexel* that only corporate officers who recklessly or deliberately defrauded shareholders could be held liable for money damages under Rule 10b-5. In refusing to follow the reasoning of the district court in the *Escott v. Bar Chris* case, the appeals court made plain that an outside director who was "merely negligent" in his participation in a fraudulent securities transaction had little to fear.

The consequence of *Lanza* and similar recent decisions has been to leave federal securities law in a crazy quilt pattern. The federal securities laws, for example, will not reach a deliberate though not self-enriching decision of corporate executives to engage in an unprofitable line of business unless there has been an accompanying failure of disclosure. Nor will they reach decisions which *do* enrich corporate officers unless they involve security transactions. Liability seems so haphazard and fortuitous that former SEC Chairman William Cary was moved to complain:

> There is no justification for a *federal* law disciplining or holding a tippee liable for misusing inside information concerning management decisions but not monitoring the misconduct of management itself. . . . It is absurd that a corporate transaction, clearly unfair though perhaps not fraudulent, should be subject to attack in the federal courts only upon the ground that it has not been disclosed to shareholders rather than because of its inherent inequity.

NULLIFY THE JUDGMENT: INDEMNIFICATION INSURANCE

Not only is it difficult for shareholders to successfully sue their companies, but even successful judgments often can be nullified. Seventeen states today permit corporations to purchase indemnification insurance for their directors and officers against, in the words of a typical policy, any "wrongful act [committed] . . . in their capacities as directors or officers." A 1974 survey of the Fortune 500 list found that 80 percent of these companies carried indemnification insurance. A similar sample of corporations listed on the New York Stock Exchange found that 76.1 percent carried such insurance. Since indemnification insurance was virtually unknown as recently as a dozen years ago, and most insurance policies were purchased within the past five to seven years, it is a fair assumption that nearly every large industrial corporation permitted by state law will carry indemnification insurance within a short time.*

* One reason for the enormous leap in the number of corporations carrying indemnification insurance has been the scare tactics employed by the insurance companies. The general tenor of their approach is illustrated by an advertisement on page six of the *Wall Street Journal*, March 21, 1968, featuring a composite photograph of a board of directors presided over by a stuffed duck and the explanatory text, "As a corporate officer or director, you may be a sitting duck for a shareholder or third party liability suit." A similar ad appears on page nine of the same issue wherein a sullen looking stockholder announces that he "might just sue every company director reading this newspaper," and reminds the presumably panicking directors that he is just one of "24 million potential enemies."

There is, to be sure, a persuasive case for indemnifying corporate directors against the costs of nonmeritorious legal claims. If innocent directors had to settle such suits because they lacked the resources to hire competent attorneys, responsible men and women would be discouraged from becoming directors. But current indemnity statutes are not limited to the purpose of protecting innocent officers from the costs of nonmeritorious suits. They also protect guilty officers from accountability for their wrongs and reduce incentives for lawful conduct.

Delaware's statute exemplifies this overbreadth. It allows a corporation

> to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation . . . against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the corporation would have the power to indemnify him against any such liability under the provisions of this section.

As written, this provision permits the corporation to insulate its officers from *all* potential liabilities. Officers may be insured against any negligence, self-dealing, looting the corporation or embezzlement, all conflicts of interest, and deliberate statutory violations. They may be reimbursed for violations of federal safety, civil rights, environmental, tax, or antitrust laws. They may even be insured against the same judgments in derivative actions that an earlier provision of the same statute provided a corporation could not indemnify directly.

Delaware defends such insurance as a form of compensation, arguing that the corporation could make a larger compensation arrangement with the executive and let him pay for the insurance himself. But the question is not how much officers' compensation should be, but rather whether wrongful acts *should* be indemnified at all. Why should an executive of a drug company be indemnified for the costs of a criminal fine if he is convicted of allowing a harmful drug to injure several thousand people when the same act as a private individual would send him to jail? An untenable double standard has been created. The more powerful an executive becomes, the less likely he is to pay for an abuse of power.

Conflicts of Interests

In almost every primary economic relation of the industrial corporation—to competing corporations, to banks, to suppliers, to distributors, to investors—the law now permits (in many instances, encourages) the most blatant division of loyalties.

Most threatening is the anticompetitive practice of *interlocking directorates*. A philosophic cornerstone of American business is that vigorous competition will enable firms to have comparable access to capital, supplies, distributors, and markets, and thus an equal chance to succeed or fail on the merits. But if competing corporations place directors on each other's boards, there is opportunity to conspire on price or territory. If corporate officers sit on the boards of their banks or suppliers or distributors, there arises the obvious temptation to obtain preferential treatment based on favor and friendship. Then the race is not to the swift, but to the well-connected. Louis Brandeis saw the problem early in this century:

> The practice of interlocking directorates is the root of many evils. It offends laws human and divine. Applied to rival corporations, it tends to the suppression of competition and to violation of the Sherman law. Applied to corporations which deal with each other, it tends to disloyalty and to violation of the fundamental law that no man can serve two masters. In either event it leads to inefficiency; for it removes incentive and destroys soundness of judgment. It is undemocratic, for it rejects the platform: "A fair field and no favors"—substituting the pull of privilege for the push of manhood.

With Brandeis as a major proponent, Congress in 1914 enacted the Clayton Act, section 8 of which expressly forbids any person from serving on the boards of two or more competing corporations. Until recently, however, section 8 had not been enforced. Through 1952, some 38 years after the enactment of the Clayton Act, the Department of Justice had not litigated a single case to a decision by a court. Through December 1975, the Department had instituted a total of 15 cases. The Federal Trade Commission, which has concurrent enforcement responsibilities, had filed only 13 complaints under section 8 of the Clayton Act through January 1965. Only one of these complaints resulted in a cease and desist order; the remainder were dismissed when the directors involved discon-

tinued the prohibited relationship. As Chairman Emanuel Celler's House Antitrust Subcommittee concluded in 1965 after a lengthy study of interlocks among competitors: enforcement had been neither "prompt nor vigorous."*

Shortly after Celler's study was released, economist Peter Dooley calculated that there were a total of 4,007 directorships held by the directors of the 200 largest nonfinancial corporations and the 50 largest financial corporations. "While most of these directors sat on a single board, 562 sat on two or more boards: Five men held six directorships each. In all, 1,404 directorships were held by multiple directors." Two hundred and thirty-three of the 250 corporations had at least one director who sat on the board of at least one other of the largest corporations. Most significantly, fully 297 interlocks involved companies which were competitors. "While illegal under the Clayton Act," observed Professor Dooley, "the law has not been effectively enforced, so that the institution of interlocking directorates continues to provide a vehicle for restricting competition. . . ."

Our own more recent survey of the boards of directors of the 50 largest industrial corporations identified eight apparent instances of illegal interlocks. John T. Connor, for example, is both a director of General Motors and Chairman of Allied Chemical, though Allied Chemical produces seat belts, shoulder harnesses, and airbags, all of which GM either presently manufactures or potentially could. Dean McGee is a director of General Electric and Chairman of Kerr-McGee, though both sell nuclear fuels. Henry S. Wingate is a director of both U.S. Steel and International Nickel Company of Canada, both of which mine nickel, iron ore, and other competing metals.

Even beyond inadequate enforcement of its provisions, section 8 only forbids interlocks among competitive corporations. Interlocks among corporations which provide services, supplies, funding, or distribution for each other equally violate the fundamental law that no man can serve two masters. They are also far more numerous. In 1974, the Center for Science in the Public Interest analyzed interlocking directorates and advisory committee connections of the eighteen largest United States oil corporations. They found 460 interlocking connections in all, including 132 interlocks with banks, 31 interlocks with insurance companies, 12 interlocks with utilities, 15 interlocks with transportation corporations, and 224 interlocks with manufacturing and distribution corporations. Oil company ties with banks (which supply capital), insurance companies (which provide an underwriting service), distribution companies (which distribute oil company products), and utilities, transportation, and manufacturing corporations (which purchase oil products) inevitably diminish the arm's length atmosphere in which effective competition thrives.

Such clubbishness, however, is typical of this nation's largest corporations. Our survey of the 50 largest industrial corporations and 10 largest commercial banks found that the 50 largest industrialists had 54 interlocks with the 10 leading commercial banks and 24 interlocks among themselves. Our survey also established that it has become a common practice for the leading commercial banks to bring together competitors on their boards of directors. For example, on its board Chase Manhattan unites directors from competing companies in four industries: industrial chemicals (Allied Chemical, Celanese, and Commercial Solvents Corporation); drugs (Pfizer and Squibb); paper goods (Celanese and International Paper); and oil (Exxon, Royal Dutch Petroleum, and Standard Oil of Indiana). Continental Illinois brings together leading agricultural equipment producers Caterpillar Tractor and International Harvester; food producers Esmark and Kraftco; and railroads Chicago-Milwaukee and Illinois Central.

When interlocks are viewed on a city-by-city basis, it becomes clear that there are substantial social costs as well—as in the case of Minneapolis-St. Paul. In January 1971, Richard Gibson, a methodical staff reporter for the *Minneapolis Star*, described the social structure of a major industrial city by examining the boards of the 20 or so leading Twin City industrial corporations and eight leading banks. What he found was a tight little net or what he

* In the past three years the Federal Trade Commission has begun to enforce the Act, bringing three major actions, the most important of which required seven directors common to the boards of 12 competing oil and gas corporations to resign. More recently the Justice Department awoke from its long slumber and brought an action in [illegible] against the Bank of America holding company and certain insurance companies which allegedly competed in providing designated services.

called swapping: Burlington Northern placed its executive on the board of General Mills, and General Mills reciprocated by placing an executive on the board of Burlington Northern. Honeywell, Pillsbury, 3M, and Dayton Hudson just placed executives everywhere, as did the leading banks.

But Gibson went beyond the statistics and examined the personalities involved. He found that the boards of the 30 leading corporations in a major metropolitan area of some two million people were dominated by 19 men. Eight served on three or more boards; five men served on four boards; six served on five boards or more. Crucially, these were the men that served as chairmen or led the key committees. All but one of these men, Professor Walter Heller, was a corporate executive. Fourteen of the 19 were corporate chief executives. Examined in social terms, the economy of Minneapolis looks like an oligarchy.

Certainly no one would argue that all interlocks, whether among competitors, in financing, supply, or distribution relations, direct or indirect, lead to collusive behavior. But it is unnecessary that any interlock occur. There are sufficient directors available so that each board may be staffed by disinterested persons. The costs of interlocks—favoritism, joint price or output actions, discouragement of entrepreneurs—must be weighed against what are at best negligible advantages.

Conflict of interests can also occur when large industrial corporations invite their investment banker or outside counsel to serve on their boards. For the investment banker, especially, this creates a stark division of loyalty. In addition to underwriting security offerings and related corporate financial services, he typically does investment counseling, employs brokers, and administers mutual funds. He is just as likely to perceive his primary obligation to run to his investment clients as to the shareholders of the corporation he directs. As one top executive explained, "As soon as you have an investment banker [on the board], you put yourself in a position where one group of shareholders might be favored at the expense of other shareholders."

A worse situation occurs when the investment banker is favored at the expense of *all* shareholders. J. M. Juran and J. Louden, authors of the American Management Association's study, *The Corporate Director*, cited instances where investment bankers have been guilty of guiding the company into a poor acquisition to create a need for selling securities. Investment banker-directors have insisted on being involved—for a fee—when the corporation seeks to borrow money from an insurance company or other lender. And when a corporation has an investment banker on its board, it becomes very difficult to transact business with other investment bankers. "Having a senior partner of an investment banking firm on our board is notice to the world that we are his captive client," said one corporate president. "Of course this is the main reason investment bankers want to be on so many boards. They think of board membership as a very good way of assuring that the business of the company goes only to them. It's a sort of Operation Stakeout. It tags the company as belonging to one particular firm."

A similar division of loyalties occurs when corporate counsel serves on the board. Attorneys have a financial interest to increase the corporation's law bills, rather than economize for its shareholders. This inability of lawyer-directors to give disinterested counsel has led some law firms to discourage partners from serving on clients' boards. For example, New York City's Debevoise, Plimpton, Lyons and Gates will not permit a partner to go on a board without the approval of the firm as a whole. Skadden, Arps, Slate, Meagher and Flom, also of New York, flatly prohibits partners from becoming directors "except in extenuating cases." Nonetheless, an exhaustive 1971–72 study of some 12,000 companies, which filed information statements with the SEC, found that approximately one in six employs an attorney from the company's outside counsel as a director.

Aggravating the costs to shareholders of these structural conflicts of interest is the tolerance by modern corporate law of self-enriching executive conduct. As early as an 1846 Supreme Court opinion, the rule was well established that any contract between an interested director and his corporation was voidable at the mere insistence of the corporation or any of its shareholders regardless of the fairness or unfairness of the transaction. Professor Harold Marsh explained why:

Under this rule it mattered not the slightest that there was a majority of so-called disinterested directors who approved the contract. The courts stated that the corporation was entitled to the unprejudiced judgment and advice of all of its directors and therefore it did no good to say that the interested director did not participate in the making of the contract on behalf of the corporation. . . .

By 1880, this principle "appeared to be impregnable. . . . It was stated in ringing terms by virtually every decided case, with arguments which seemed irrefutable, and it was sanctioned by age." One scholar termed this the "fundamental law of morals and of human nature" and identified its Biblical origin: "No man can serve two masters." "Fraud is too cunning and evasive," reasoned a New Jersey court, "for courts to establish a rule that invites its presence."

Today this principle is dead. The Delaware General Corporation Law not only tolerates interested conduct by corporate officers and directors; it has made self-dealing the norm.

Under current Delaware law, the chief executive of a corporation and other senior corporate executives may serve on the board of directors or compensation committee which: (1) sets executive salaries; (2) sells or purchases property from corporate executives; (3) loans money—on a secured or unsecured basis; with or without interest—to corporate executives; and (4) establishes pension plans, profit sharing plans, stock bonuses, retirement, benefit, incentive, and compensation plans (including "phantom stock"—a risk-free, cost-free stock option plan), trusts; health insurance; or deferred income plans for such corporate officers or their dependents.

Not only may corporate officers engage in such self-dealing but shareholders under Delaware law are nearly powerless to minimize the amount of corporate largess top executives pay themselves. Any contract or transaction between the corporation and an interested executive is permissible as long as it is "fair." But, in Delaware, fairness is presumed. Professor Ernest Folk, the leading commentator of Delaware's General Corporation Law, explains that "Given Delaware's presumption of sound business judgment with respect to board decisions, the courts will try to determine whether the decision can be attributed to any rational business purpose, and if so, there will be no judicial preemption of the decision."

There seem to be few practical limits to this doctrine. For example, if a corporate chief executive were so graceless as to embezzle $500,000, there is little question that even in Delaware he would be required to return the money and would be subject to criminal prosecution. Yet if that same corporate executive raised his salary $500,000 and received the approval of a board of directors he selected, there is equally little question that a Delaware court would term this "fair"—so long as the chief executive could point to similar salary increases in his industry or received the $500,000 through an "incentive bonus" or profit participation plan.

In the absence of judicial limitations, excessive remuneration has become the norm. In 1974 the executive compensation (salary, bonus, deferred income, and directors' fees) of the highest paid executive at the 50 largest industrial corporations was approximately $400,000—or about as much in one year as many of their employees earn in a lifetime and two and one-half times the average executive compensation of $145,000 earned by the highest paid executive at the 50 largest industrial corporations in 1963.

Contrary to the conventional wisdom, top executive salaries do not generally decrease in response to a decline in corporate sales or profits. In the recessionary years 1970–1973, Professor Wilbur Lewellen, a leading authority on executive compensation, found that the "mean" salary for the top executive at 50 large manufacturing corporations increased steadily from $251,867 in 1970, to $287,759 in 1971, $323,802 in 1972, and $389,277 in 1973.

But salary, bonus, and deferred income are only the most obvious benefits appropriated by corporate chieftains. Equally important is ownership income. Nearly every large industrial corporation offers its top executives stock options. These options allow executives to buy shares of stock in their corporation at a fixed price at any time or at specified times—often with the help of company-secured low interest loans or interest-free loans—and subsequently sell them.

From the shareholder's point of view, the result is a classic case of "heads we lose, tails you win." Over time, executives are

able to build up a substantial fortune in corporate stock without personal risk. The more they do so, the more they dilute the value of other stockholders' shares.

We examined the stock holdings of the highest paid executives at the 50 largest industrial corporations to get some indication of the extent of executive stock holdings. From the start, we eliminated from consideration the seven highest paid chief executives whose stock holdings were either largely inherited or largely "founder's shares": Henry Ford II (Ford Motors), Robert Sarnoff (RCA), Brooks McCormick (International Harvester), Willard Rockwell (Rockwell International), Armand Hammer (Occidental Petroleum), Sanford McDonnell (McDonnell Douglas) and J. P. Grace (W. P. Grace). The 43 remaining chief executives were "employee" executives. Yet each owned an average of $1,566,009 of his corporation's stock, according to the most recent proxy statements filed with the SEC and the closing stock prices of October 1, 1975.*

This crude figure illustrates three points. First, primarily at shareholder expense, the top executives of our largest corporations can, and often do, build up million-dollar fortunes in corporate stock on top of their substantial cash and deferred compensation. Second, the income of top executives is significantly increased each year by dividends from their corporate stock. Using our 43 top executives as an example again, each received an average of $60,382 in dividend income in 1974 above and beyond a $400,000 salary. Third, each top executive will further be enriched by increases in the price of the stock. Professor Lewellen has determined that a similar list of chief executives at the fifty largest industrial corporations (after deleting "extreme values" such as inherited or founder's stockholdings) averaged $220,087 per year in capital gains income for the four years 1960–63.

* This figure is admittedly a very crude approximation of ownership income. On the one hand, it does not distinguish the shares the executives purchase with their own money from those the company gave them through stock options, stock bonuses, or loan arrangements. On the other hand, it understates the amount of ownership income of these executives by making no allowance for the fact that corporate chief executives frequently sell stock they own in their own corporation and put their money in other investments.

Additionally, pension or retirement benefits have swollen. McKinsey and Company's 1975 Executive Compensation Survey found that all but one of 577 major U.S. corporations studied had a pension or profit-sharing retirement plan to pay former executives a fixed income each year after they retire. Almost half of the companies provide either a thrift or savings plan or a profit-sharing plan in addition to the pension plan. Our own survey found that the 21 chief executives of the 50 largest corporations who disclosed their estimated annual retirement benefits anticipated an income of $133,910 per year after they retire. And corporate executives also enjoy other benefits such as life and medical insurance; free medical service; educational grants for their children; indemnification insurance; company apartments; country club membership; luncheon or dinner club membership; chauffeur-driven cars; free legal and tax counseling; personal financial counseling; expense accounts; and other amenities. This myriad of stock bonus, insurance, and benefit programs increases the income of corporate chiefs by approximately 50–75 percent above their $400,000 direct remuneration to an actual income of approximately $600,000 to $700,000 per year.

Yet if excessive remuneration were a conflict of interest confined to the corporate chief executive, it would seem small once it was divided by the total number of shares in most large industrial corporations. What makes the executive compensation conflict truly expensive is that the corporate chief executive not only sets his own salary but also determines the remuneration of other executives all the way down the line. It is clearly in the corporate chief executive's personal interest to seek the greatest possible rewards for his subordinates as well as himself. For a corporate chief who can "deliver" high salaries increases the personal loyalty of his subordinates. And the higher his subordinates' income, the higher the chief executive's income must be.

A good illustration of this is General Electric, where in 1974 Reginald Jones, the chairman, received a compensation of $501,200. Walter Dance, Jack Parker, and Herman Weiss, the next three highest paid executives, received $400,750; $400,500; and $400,000, respectively. The next 107 highest paid officers averaged direct compensation of $121,240. Aggregate figures for "executive groups" at the other 50 largest industrial corporations were approx-

imately the same. In the average corporation, the 31 or so officers ranked immediately below the five highest paid executives received an average of $99,256 in direct remuneration, which would equal approximately $150,000 imputing the present value of stock bonus programs, retirement benefits, insurance, and other perquisites.

A compensation system is obviously askew when a private business corporation must pay a chief executive compensation and benefits of over $600,000 when this is 15 times the $40,000 or so the United States government must pay its highest ranking general, regulator, or Senator. Or when it must pay its next 20–100 senior executives an average of $150,000 each when the federal government expends a maximum of $38,000 per year to hire its highest ranking civil servants, and California, this nation's largest state, pays its governor $49,000.

This is not to deny that the entrepreneur or corporate founder who, at substantial risk, introduces a new or better good or service should not be given a substantial incentive to make an unusual personal contribution to society. But we are concerned here with the administrators of large industrial corporations who, at minimal personal risk, serve as the bureaucrats of private industry. These individuals receive their staggeringly large salaries and stock options by rising through executive ranks—in exactly the same way that government's civil servants rise through civil service ranks—and by then exploiting the laxity of state corporate laws that their predecessors helped write.

Remedies

REVAMPING THE BOARD

The modern corporation is akin to a political state in which all powers are held by a single clique. The senior executives of a large firm are essentially not accountable to any other officials within the firm. These are precisely the circumstances that, in a democratic political state, require a separation of powers into different branches of authority. As James Madison explained in the *Federalist No. 47*:

> The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny. Were the federal constitution, therefore, really chargeable with this accumulation of power, or with a mixture of powers, having a dangerous tendency to such an accumulation, no further arguments would be necessary to inspire a universal reprobation of the system.

A similar concern over the unaccountability of business executives historically led to the elevation of a board of directors to review and check the actions of operating management. As a practical matter, if corporate governance is to be reformed, it must begin by returning the board to this historical role. The board should serve as an internal auditor of the corporation, responsible for constraining executive management from violations of law and breach of trust. Like a rival branch of government, the board's function must be defined as separate from operating management. Rather than pretending directors can "manage" the corporation, the board's role as disciplinarian should be clearly described. Specifically, the board of directors should:

- establish and monitor procedures that assure that operating executives are informed of and obey applicable federal, state, and local laws;
- approve or veto all important executive management business proposals such as corporate by-laws, mergers, or dividend decisions;
- hire and dismiss the chief executive officer and be able to disapprove the hiring and firing of the principal executives of the corporation; and
- report to the public and the shareholders how well the corporation has obeyed the law and protected the shareholders' investment.

It is not enough, however, to specify what the board should do. State corporations statutes have long provided that "the business and affairs of a corporation shall be managed by a board of directors," yet it has been over a century since the boards of the largest corporations have actually performed this role. To reform the corporation, a federal chartering law must also specify the manner in which the board performs its primary duties.

First, to insure that the corporation obeys federal and state laws, the board should designate executives responsible for compliance with these laws and require periodic signed reports describing the effectiveness of compliance procedures. Mechanisms to administer spot checks on compliance with the principal statutes should be created. Similar mechanisms can insure that corporate "whistle blowers" and nonemployee sources may communicate to the board—in private and without fear of retaliation—knowledge of violations of law.

Second, the board should actively review important executive business proposals to determine their full compliance with law, to preclude conflicts of interest, and to assure that executive decisions are rational and informed of all foreseeable risks and costs. But even though the board's responsibility here is limited to approval or veto of executive initiatives, it should proceed in as well-informed a manner as practicable. To demonstrate rational business judgment, the directorate should require management "to prove its case." It should review the studies upon which management relied to make a decision, require management to justify its decision in terms of costs or rebutting dissenting views, and, when necessary, request that outside experts provide an independent business analysis.

Only with respect to two types of business decisions should the board exceed this limited review role. The determination of salary, expense, and benefit schedules inherently possesses such obvious conflicts of interest for executives that only the board should make these decisions. And since the relocation of principal manufacturing facilities tends to have a greater effect on local communities than any other type of business decision, the board should require management to prepare a "community impact statement." This public report would be similar to the environmental impact statements presently required by the National Environmental Policy Act. It would require the corporation to state the purpose of a relocation decision; to compare feasible alternative means; to quantify the costs to the local community; and to consider methods to mitigate these costs. Although it would not prevent a corporation from making a profit-maximizing decision, it would require the corporation to minimize the costs of relocation decisions to local communities.

To accomplish this restructuring of the board requires the institutionalization of a new profession: the full-time "professional" director. Corporate scholar frequently identify William O. Douglas' 1940 proposal for "salaried, professional experts [who] would bring a new responsibility and authority to directorates and a new safety to stockholders" as the origin of the professional director idea. More recently, corporations including Westinghouse and Texas Instruments have established slots on their boards to be filled by full-time directors. Individuals such as Harvard Business School's Myles Mace and former Federal Reserve Board chairman William McChesney Martin consider their own thoroughgoing approach to boardroom responsibilities to be that of a "professional" director.

To succeed, professional directors must put in the substantial time necessary to get the job done. One cannot monitor the performance of Chrysler's or Gulf's management at a once-a-month meeting; those firms' activities are too sweeping and complicated for such ritual oversight. The obvious minimum here is an adequate salary to attract competent persons to work as full-time directors and to maintain the independence of the board from executive management.

The board must also be sufficiently staffed. A few board members alone cannot oversee the activities of thousands of executives. To be able to appraise operating management, the board needs a trim group of attorneys, economists, and labor and consumer advisors who can analyze complex business proposals, investigate complaints, spot-check accountability, and frame pertinent inquiries.

The board also needs timely access to relevant corporate data. To insure this, the board should be empowered to nominate the corporate financial auditor, select the corporation's counsel, compel the forwarding and preservation of corporate records, require all corporate executives or representatives to answer fully all board questions respecting corporate operations, and dismiss any executive or representative who fails to do so.

This proposed redesign for corporate democracy attempts to make executive management accountable to the law and shareholders without diminishing its operating efficiency. Like a judi-

ciary within the corporation, the board has ultimate powers to judge and sanction. Like a legislature, it oversees executive activity. Yet executive management substantially retains its powers to initiate and administer business operations. The chief executive officer retains control over the organization of the executive hierarchy and the allocation of the corporate budget. The directors are given ultimate control over a narrow jurisdiction: Does the corporation obey the law, avoid exploiting consumers or communities, and protect the shareholders' investment? The executive contingent retains general authority for all corporate operations.

No doubt there will be objections that this structure is too expensive or that it will disturb the "harmony" of executive management. But it is unclear that there would be any increased cost in adopting an effective board. The true cost to the corporation could only be determined by comparing the expense of a fully paid and staffed board with the savings resulting from the elimination of conflicts of interest and corporate waste. In addition, if this should result in a slightly increased corporate expense, the appropriateness must be assessed within a broader social context: should federal and state governments or the corporations themselves bear the primary expense of keeping corporations honest? In our view, this cost should be placed on the corporations as far as reasonably possible.

It is true that an effective board will reduce the "harmony" of executive management in the sense that the power of the chief executive or senior executives will be subject to knowledgeable review. But a board which monitors rather than rubber-stamps management is exactly what is necessary to diminish the unfettered authority of the corporate chief executive or ruling clique. The autocratic power these individuals presently possess has proven unacceptably dangerous: it has led to recurring violations of law, conflicts of interest, productive inefficiency, and pervasive harm to consumers, workers, and the community environment. Under normal circumstances there should be a healthy friction between operating executives and the board to assure that the wisest possible use is made of corporate resources. When corporate executives are breaking the law, there should be no "harmony" whatsoever.

ELECTION OF THE BOARD

Restructuring the board is hardly likely to succeed if boards remain as homogeneously white, male, and narrowly oriented as they are today. Dissatisfaction with current selection of directors is so intense that analysts of corporate governance, including Harvard Law School's Abram Chayes, Yale political scientist Robert Dahl, and University of Southern California Law School Professor Christopher Stone, have each separately urged that the starting point of corporate reform should be to change the way in which the board is elected.

Professor Chayes, echoing John Locke's principle that no authority is legitimate except that granted "the consent of the governed," argues that employees and other groups substantially affected by corporate operations should have a say in its governance:

> Shareholder democracy, so-called, is misconceived because the shareholders are not the governed of the corporations whose consent must be sought. . . . Their interests are protected if financial information is made available, fraud and overreaching are prevented, and a market is maintained in which their shares may be sold. A priori, there is no reason for them to have any voice, direct or representational, in [corporate decision making]. They are no more affected than nonshareholding neighbors by these decisions. . . .
>
> A more spacious conception of 'membership,' and one closer to the facts of corporate life, would include all those having a relation of sufficient intimacy with the corporation or subject to its powers in a sufficiently specialized way. Their rightful share in decisions and the exercise of corporate power would be exercised through an institutional arrangement appropriately designed to represent the interests of a constituency of members having a significant common relation to the corporation and its power.

Professor Dahl holds a similar view: "[W]hy should people who own shares be given the privileges of citizenship in the government of the firm when citizenship is denied to other people who also make vital contributions to the firm?" he asks rhetorically. "The people I have in mind are, of course, employees and customers, without whom the firm could not exist, and the general

public, without whose support for (or acquiescence in) the myriad protections and services of the state the firm would instantly disappear. . . ." Yet Dahl finds proposals for interest group representation less desirable than those for worker self-management. He also suggests consideration of codetermination statutes such as those enacted by West Germany and ten other European and South American countries under which shareholders and employees separately elect designated portions of the board.

From a different perspective, Professor Stone has recommended that a federal agency appoint "general public directors" to serve on the boards of all the largest industrial and financial firms. In certain extreme cases such as where a corporation repeatedly violates the law, Stone recommends that the federal courts appoint "special public directors" to prevent further delinquency.

There are substantial problems with each of these proposals. It seems impossible to design a general "interest group" formula which will assure that all affected constituencies of large industrial corporations will be represented and that all constituencies will be given appropriate weight. Even if such a formula could be designed, however, there is the danger that consumer or community or minority or franchisee representatives would become only special pleaders for their constituents and otherwise lack the loyalty or interest to direct generally. This defect has emerged in West Germany under codetermination. Labor representatives apparently are indifferent to most problems of corporate management that do not directly affect labor. They seem as deferential to operating executive management as present American directors are. Alternatively, federally appointed public directors might be frozen out of critical decision-making by a majority of "privately" elected directors, or the appointing agency itself might be biased.

Nonetheless, the essence of the Chayes-Dahl-Stone argument is well taken. The boards of directors of most major corporations are, as CBS's Dan Rather criticized the original Nixon cabinet, too much like "twelve grey-haired guys named George." The quiescence of the board has resulted in important public and, for that matter, shareholder concerns being ignored.

An important answer is structural. The homogeneity of the board can only be ended by giving to each director, in addition to a general duty to see that the corporation is profitably administered, a separate oversight responsibility, a separate expertise, and a separate constituency so that each important public concern would be guaranteed at least one informed representative on the board. There might be nine corporate directors, each of whom is elected to a board position with one of the following oversight responsibilities:

1. Employee welfare
2. Consumer protection
3. Environmental protection and community relations
4. Shareholder rights
5. Compliance with law
6. Finances
7. Purchasing and marketing
8. Management efficiency
9. Planning and research

By requiring each director to balance responsibility for representing a particular social concern against responsibility for the overall health of the enterprise, the problem of isolated "public" directors would be avoided. No individual director is likely to be "frozen out" of collegial decision-making because all directors would be of the same character. Each director would spend the greater part of his or her time developing expertise in a different area; each director would have a motivation to insist that a different aspect of a business decision be considered. Yet each would simultaneously be responsible for participating in all board decisions, as directors now are. So the specialized area of each director would supplement but not supplant the director's general duties.

Although not a symmetrical analogy, the most successful precedent for dividing the representative responsibilities and constituencies is, of course, the Constitution of the United States. There, too, a basic question was one of motivation: How to design a political administration which would retain an equal respect for the rights of all of its citizens. Only by arranging "ambition . . . to counteract ambition" did the Federalists believe such respect would endure. By granting the President, the two houses of Congress, and the judiciary different geographic constituencies, different

terms, and different duties, the various factions of the nation's citizens were most likely to be insured some representation within the government. "Hence a double security arises to the rights of the people. The different governments will control each other, at the same time that each will be controlled by itself," explained Madison in *Federalist No. 51*.

In recent years, some business corporations have also perceived the advantages of creating constituent voices within the structure of the firm. Reverend Leon Sullivan, the only black director on General Motors' board, has made plain that he considers it his special responsibility to advance the interests of GM's black employees and dealers. His representation, among other things, has led to an increase in the number of blacks being trained to be GM executives. Gillette's Vice President for Product Integrity, Robert Giovacchini, is said to perform a similar role. Although not a member of the board, Mr. Giovacchini has been given the authority to recall any Gillette product, quash any advertising claim, or order any packaging change he feels is necessary to protect the company's consumers.

Only by institutionalizing the duties and power that individuals like Reverend Sullivan and Robert Giovacchini hold can responsible corporate government be brought to each large firm.

For in most giant corporations, no specific executive official or board member is responsible for protecting the interests of employees, consumers, the environment, or local communities. No one outside of senior management reviews the most important business decisions to assure their compliance with law, financial integrity, efficiency, or long-term corporate goals. Because these concerns become everybody's general interest, they become nobody's particular interest—and often go unattended.

To maintain the independence of the board from the operating management it reviews also requires that each federally chartered corporation shall be directed by a purely "outside" board. No executive, attorney, representative, or agent of a corporation should be allowed to serve simultaneously as a director of that same corporation. Directorial and executive loyalty should be furthered by an absolute prohibition of interlocks. No director, executive, general counsel, or company agent should be allowed to serve more than one corporation subject to the Federal Corporate Chartering Act.

Several objections may be raised. First, how can we be sure that completely outside boards will be competent? As elaborated subsequently, corporate campaign rules will be redesigned to emphasize qualifications. This will allow shareholder voters to make rational decisions based on information clearly presented to them. It is also a fair assumption that shareholders, given an actual choice and role in corporate governance, will want to elect the men and women most likely to safeguard their investments.

A second objection is that once all interlocks are proscribed and a full-time outside board required, there will not be enough qualified directors to staff all major firms. This complaint springs from that corporate mentality which, accustomed to 60-year-old white male bankers and businessmen as directors, makes the norm a virtue. In fact, if we loosen the reins on our imagination, America has a large, rich, and diverse pool of possible directorial talent from academics and public administrators and community leaders to corporate and public interest lawyers.

But directors should be limited to four two-year terms so that boards do not become stale. And no director should be allowed to serve on more than one board at any one time. Although simultaneous service on two or three boards might allow key directors to "pollinize" directorates by comparing their different experiences, this would reduce their loyalty to any one board, jeopardize their ability to fully perform their new directorial responsibilities, and undermine the goal of opening up major boardrooms to as varied a new membership as is reasonable.

The shareholder electoral process should be made more democratic as well. Any shareholder or allied shareholder group which owns .1 percent of the common voting stock in the corporation or comprises 100 or more individuals and does not include a present executive of the corporation, nor act for a present executive, may nominate up to three persons to serve as directors. This will exclude executive management from the nomination process. It also increases the likelihood of a diverse board by preventing any one or

two sources from proposing all nominees. To prevent frivolous use of the nominating power, this proposal establishes a minimum shareownership condition.

Six weeks prior to the shareholders' meeting to elect directors, each shareholder should receive a ballot and a written statement on which each candidate for the board sets forth his or her qualifications to hold office and purposes for seeking office. All campaign costs would be borne by the corporation. These strict campaign and funding rules will assure that all nominees will have an equal opportunity to be judged by the shareholders. By preventing directorates from being bought, these provisions will require board elections to be conducted solely on the merit of the candidates.

Only the actual or "beneficial" owners of stock should be eligible to vote. Financial intermediaries shall be required to "pass through" voting rights in approximately the same manner that present New York and American Stock Exchange rules require broker-dealers to "pass through" proxies and corporate reports to shareholders owning stock in street name accounts. Already a number of major firms, including Sears, Roebuck, General Motors, McDonnell Douglas, and United States Steel, "pass through" voting rights to hundreds of thousands of employees holding stock in joint pension funds.

Finally, additional provisions will require cumulative voting and forbid "staggered" board elections. Thus any shareholder faction capable of jointly voting approximately 10 percent of the total number of shares cast may elect a director.

A NEW ROLE FOR SHAREHOLDERS

The difficulty with this proposal is the one that troubled Juvenal two millennia ago: *Quis custodiet ipsos custodes*, or, Who shall watch the watchmen? Without a full-time body to discipline the board, it would be so easy for the board of directors and executive management to become friends. Active vigilance could become routinized into an uncritical partnership. The same board theoretically elected to protect shareholder equity and internalize law might instead become management's lobbyist.

Relying on shareholders to discipline directors may strike many as a dubious approach. Historically, the record of shareholder participation in corporate governance has been an abysmal one. The monumental indifference of most shareholders is worse than that of sheep; sheep at least have some sense of what manner of man they follow. But taken together, the earlier proposals—an outside, full-time board, nominated by rival shareholder groups and voted on by beneficial owners—will increase involvement by shareholders. And cumulative voting insures that an aroused minority of shareholders—even one as small as 9 or 10 percent of all shareholders—shall have the opportunity to elect at least one member of the board.

But that alone is hardly sufficient. At a corporation the size of General Motors, an aggregation of 10 percent of all voting stock might require the allied action of over 200,000 invididuals—which probably could occur no more than once in a generation. To keep directors responsive to law and legitimate public concerns requires surer and more immediate mechanisms. In a word, it requires arming the victims of corporate abuses with the powers to swiftly respond to them. For only those employees, consumers, racial or sex minorities, and local communities harmed by corporate depradations can be depended upon to speedily complain. By allowing any victim to become a shareholder and by permitting any shareholder to have an effective voice, there will be the greatest likelihood of continuing scrutiny of the corporation's directorate. Shareholder involvement can be further enhanced by the disclosures discussed in the next chapter, by the opportunity to attend periodically scheduled directors' meetings to ask questions or present grievances, and by reform of the shareholder derivative action so that any investor who identifies a corporate violation of law may bring lawsuit without risk of financial loss.

For the purpose of motivating the board to perform its intended role, however, it is appropriate to inject shareholders further into corporate governance wherever they have a financial or other incentive to perform effectively.

Six weeks before a vote on any fundamental transaction—which can be defined as executive proposals involving the purchase, sale, lease, merger, consolidation, financing, refinancing, dissolution, or liquidation of assets equal to, say, 10 percent of the corporation's total assets or over $100 million, or the authorization

of corporate securities in any amount—the board should forward a written statement to the shareholders explaining the transaction, the vote by which the transaction was approved by the board, the reasons why members of the board approved the transaction, the reasons why other members opposed it, and the foreseeable costs and risks of implementing the proposal. This provision would provide for shareholder votes on all business decisions above a certain minimum size, however named. By requiring directors to publicly elaborate their reasoning—reasoning which may be judged not only during this vote but also during subsequent board elections or mismanagement suits—there would be a powerful incentive for directors to police themselves.

A complementary provision should allow any shareholder or allied shareholder group holding stock equal to a minimum of one percent of all outstanding stock to simultaneously publish a dissenting view or, at any time, to propose amendments to the corporate charter or bylaws.

AFFECTED COMMUNITIES

Shareholders are not the only ones with an incentive to review decisions of corporate management; nor, as Professors Chayes and Dahl argue, are shareholders the only persons who should be accorded corporate voting rights. The increasing use by American corporations of technologies and materials that pose direct and serious threats to the health of communities surrounding their plants requires the creation of a new form of corporate voting right. When a federally chartered corporation engages, for example, in production or distribution of nuclear fuels or the emission of toxic air, water, or solid waste pollutants, citizens whose health is endangered should not be left, at best, with receiving money damages after a time-consuming trial to compensate them for damaged property, impaired health, or even death.

Instead, upon finding of a public health hazard by three members of the board of directors or 3 percent of the shareholders, a corporate referendum should be held in the political jurisdiction affected by the health hazard. The referendum would be drafted by the unit triggering it—either the three board members or a designate of the shareholders. The affected citizens by majority vote will then decide whether the hazardous practice shall be allowed to continue. This form of direct democracy has obvious parallels to the initiative and referendum procedures familiar to many states—except that the election will be paid for by a business corporation and will not necessarily occur at a regular election.

What would happen to the local community if it voted to close a dangerous plant? Three answers seem reasonable. First, the board of directors should have the opportunity to modify the local plant to reduce the health hazard. If the board chooses to do so, it should be allowed to submit its modification plan as a subsequent referendum for community approval. Second, if the corporation chooses to leave after the vote, it should be required to immediately repay the local community for all damages to its health and property by the outlawed activity. This valuation proceeding should occur in federal district court. If the corporation chooses to leave before the referendum vote, it should additionally be required to pay its local employees salaries for a reasonable interim period. Third, the referendum voting procedure should be flexible. Local communities should be given the opportunity to vote upon an initiative calling for the corporation to remedy a specific health hazard by a designated date as an alternative to one calling for immediate closing of a plant. Similarly, the board should be given the opportunity to submit a plan of modification simultaneously with the initial referendum vote.

This type of election procedure is necessary to give enduring meaning to the democratic concept of "consent of the governed." To be sure, this proposal goes beyond the traditional assumption that the only affected or relevant constituents of the corporation are the shareholders. But no longer can we accept the Faustian bargain that the continued toleration of corporate destruction of local health and property is the cost to the public of doing business. In an equitable system of governance, the perpetrators should answer to their victims.

HB
248

(7)

COMMITTEE REPORT

HOUSE

FURTHER:

February 19, 1979

Date: _____

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 245

"An Act relating to the merger of electric and telephone utilities; eff. 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

Representative

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____
CHAIRMAN

H 60 (Rev. 12/78)

State Affairs

BILL ANALYSIS

ASSIGNMENT DATE 2/27/95

UNASSIGNED

DEPARTMENT	SPONSOR (PRINCIPAL)	BILL NO.
Commerce	State Affairs	HB 248

DEPARTMENT POSITION

[redacted] HB 248 included

DIVISION DIRECTOR	DATE	COMMISSIONER	DATE
Carolyn S. Guess Alaska Public Utilities Commission			

GOVERNOR'S OFFICE USE

☐ POSITION NOTED ☐ POSITION APPROVED ☐ POSITION DISAPPROVED

BY: DATE:

SUMMARY

(1) RELATED BILLS (SIMILAR OR CONFLICTING)
(2) OTHER AGENCIES AFFECTED BY BILL

(2) a. ORGANIZATIONAL SUPPORT FOR BILL	(2) b. ORGANIZATIONAL OPPOSITION TO BILL
APUC	

(3) PROGRAM EFFECTS OF BILL

(4) FISCAL IMPACT: ☑ NONE ☐ FISCAL ANALYSIS ATTACHED

(5) AMENDMENTS PROPOSED:

(6) COMMENTS:

The Commission concludes that this legislation does not affect a merger between a cooperative and non-cooperative electric or telephone utility. It merely facilitates that process. Ultimately, any contemplated merger agreement requires the approval of the APUC because inherently involved is the transfer of a cooperative's certificate of public convenience and necessity to serve its present service area to the non-cooperative utility; that transfer requires Commission approval. AS 42.05.281; 3 AAC 48.640(a)(3)-(4).

This bill has no fiscal impact on this agency.

HB
264

(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

March 13, 1979

Date: 3-13-79

Mr. Speaker:

The Committee on STATE AFFAIRS has had SSHB 264

"An Act making a special appropriation to the Department of Transportation and Public Facilities for the installation of lighting and navigational aids, eff. date.

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

[X] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

Alaska State Legislature

House of Representatives

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

March 13, 1979

M E M O R A N D U M

TO: Russ Meekins, House Finance Committee

FROM: Mike Miller, House State Affairs Committee

RE: HB 264

The State Affairs Committee considered the Sponsor Substitute for House Bill 264 and, as the report indicates, passed it out with a majority do pass recommendation. One member however requested that I indicate to you by memorandum that the funding for this bill -- roughly $20,000 per airport -- may be high. In addition it was pointed out that the operations and maintenance costs were not identified. Because of the late date I did not want to hold this bill up while the fiscal note was prepared, however, I did agree to bring these two matters to your attention.

MM:kb

HB
267

(7)

COMMITTEE REPORT

HOUSE

FURTHER:

February 21, 1979 Date: _____

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 267

"An Act relating to motorist informational signs."

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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____ CHAIRMAN

H 60 (Rev. 12/78)

Example No. 2

	Mortgage data	
	Existing mortgage	New mortgage
Interest rate	6 percent	8 percent
Remaining term	10 years	5 years
Remaining principal balance	7,295.93	6,000.00
Monthly principal and interest payment	81.02	121.65
Existing mortgage computation (maximum payment):		
Monthly P&I payment—$7,295.93 for 10 years at 8 percent	88.57	
Monthly P&I payment—$7,295.93 for 10 years at 6 percent	81.02	
Monthly interest difference	7.55	
Present worth of $7.55 monthly for 10 years discounted at 8% savings deposit rate ($7.55×94.281)	711.82	
New mortgage computation:[1]		
Monthly P&I payment—$6,000 for 5 years at 8 percent		121.65
Monthly P&I payment—$6,000 for 5 years at 6 percent		115.99
Monthly interest difference		5.66
Present worth of $5.66 monthly for 5 years discounted at 8% savings deposit rate ($5.66×52.991)		299.93
Amount of interest payment		299.93

[1] New mortgage computation not necessary if new mortgage is for the same amount and term of the old mortgage.
[2] The Financial Compound Interest and Annuity Tables used for these computations.

PARTS 741—749 [RESERVED]

PART 750—HIGHWAY BEAUTIFICATION

Subpart A—National Standards for Regulation by States of Outdoor Advertising Adjacent to the Interstate System Under the 1958 Bonus Program

Sec.
750.101 Purpose.
750.102 Definitions.
750.103 Measurements of distance.
750.104 Signs that may not be permitted in protected areas.
750.105 Signs that may be permitted in protected areas.
750.106 Class 3 and 4 signs within informational sites.
750.107 Class 3 and 4 signs outside informational sites.
750.108 General provisions.
750.109 Exclusions.
750.110 State regulations.

Subpart B—National Standards for Directional and Other Official Signs

750.151 Purpose.
750.152 Application.
750.153 Definitions.
750.154 Standards for directional signs.
750.155 State standards.

Subpart C [Reserved]

Subpart D—Outdoor Advertising (Acquisition of Rights of Sign and Sign Site Owners)

750.301 Purpose.
750.302 Policy.
750.303 Definitions.
750.304 State policies and procedures.
750.305 Federal participation.
750.306 Documentation for Federal participation.
750.307 FHWA project approval.
750.308 Reports.

Source: 38 FR 18044, June 20, 1973, unless otherwise noted.

Subpart A—National Standards for Regulation by States of Outdoor Advertising Adjacent to the Interstate System Under the 1958 Bonus Program [1]

Authority: Sec. 12, Pub. Law 85-381, 72 Stat. 95, as amended; 23 U.S.C. 131; delegation of authority in 49 CFR 1.48(b).

§ 750.101 Purpose.

(a) In section 12 of the Federal-Aid Highway Act of 1958, Pub. L. 85-381, 72 Stat. 95, hereinafter called the "act," the Congress declared that:

(1) To promote the safety, convenience, and enjoyment of public travel and the free flow of interstate commerce and to protect the public investment in the National System of Interstate and Defense Highways, hereinafter called the "Interstate System," it is in the public interest to encourage and assist the States to control the use of and to improve areas adjacent to such sys-

[1] 39 FR 28629, Aug. 9, 1974

tem by controlling the erection and maintenance of outdoor advertising signs, displays, and devices adjacent to that system.

(2) It is a national policy that the erection and maintenance of outdoor advertising signs, displays, or devices within 660 feet of the edge of the right-of-way and visible from the main-traveled way of all portions of the Interstate System constructed upon any part of right-of-way, the entire width of which is acquired subsequent to July 1, 1956, should be regulated, consistent with national standards to be prepared and promulgated by the Secretary of Transportation.

(b) The standards in this part are hereby promulgated as provided in the act.

[38 FR 16044, June 20, 1973, as amended at 39 FR 28620, Aug. 9, 1974]

§ 750.102 Definitions.

The following terms when used in the standards in this part have the following meanings:

(a) Acquired for right-of-way means acquired for right-of-way for any public road by the Federal Government, a State, or a county, city, or other political subdivision of a State, by donation, dedication, purchase, condemnation, use, or otherwise. The date of acquisition shall be the date upon which title (whether fee title or a lesser interest) vested in the public for right-of-way purposes under applicable Federal or State law.

(b) Centerline of the highway means a line equidistant from the edges of the median separating the main-traveled ways of a divided Interstate Highway, or the centerline of the main-traveled way of a nondivided Interstate Highway.

(c) Controlled portion of the Interstate System means any portion which:

(1) Is constructed upon any part of right-of-way, the entire width of which is acquired for right-of-way subsequent to July 1, 1956 (a portion shall be deemed so constructed if, within such portion, no line normal or perpendicular to the centerline of the highway and extending to both edges of the right-of-way will intersect any right-of-way acquired for right-of-way on or before July 1, 1956);

(2) Lies within a State, the highway department of which has entered into an agreement with the Secretary of Transportation as provided in the act; and

(3) Is not excluded under the terms of the act which provide that agreements entered into between the Secretary of Transportation and the State highway department shall not apply to those segments of the Interstate System which traverse commercial or industrial zones within the boundaries of incorporated municipalities, as such boundaries existed on September 21, 1959, wherein the use of real property adjacent to the Interstate System is subject to municipal regulation or control, or which traverse other areas where the land use as of September 21, 1959, was clearly established by State law as industrial or commercial.

(d) Entrance roadway means any public road or turning roadway, including acceleration lanes, by which traffic may enter the main-traveled way of an Interstate Highway from the general road system within a State, irrespective of whether traffic may also leave the main-traveled way by such road or turning roadway.

(e) Erect means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(f) Exit roadway means any public road or turning roadway including deceleration lanes, by which traffic may leave the main-traveled way of an Interstate Highway to reach the general road system within a State, irrespective of whether traffic may also enter the main-traveled way by such road or turning roadway.

(g) Informational site means an area or site established and maintained within or adjacent to the right-of-way of a highway on the Interstate System by or under the supervision or control of a State highway department, wherein panels for the display of advertising and informational signs may be erected and maintained.

(h) Legible means capable of being read without visual aid by a person of normal visual acuity.

(i) Maintain means to allow to exist.

(j) Main-traveled way means the traveled way of an Interstate Highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

(k) Protected areas means all areas inside the boundaries of a State which are adjacent to and within 660 feet of the edge of the right-of-way of all controlled portions of the Interstate System within that State. Where a controlled portion of the Interstate System terminates at a State boundary which is not perpendicular or normal to the centerline of the highway, protected areas also means all areas inside the boundary of such State which are within 660 feet of the edge of the right-of-way of the Interstate Highway in the adjoining State.

(l) Scenic area means any public park or area of particular scenic beauty or historical significance designated by or pursuant to State law as a scenic area.

(m) Sign means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way of a controlled portion of the Interstate System.

(n) State means the District of Columbia and any State of the United States within the boundaries of which a portion of the Interstate System is located.

(o) State law means a State constitutional provision or statute, or an ordinance, rule, or regulation enacted or adopted by a State agency or political subdivision of a State pursuant to State constitution or statute.

(p) Trade name shall include brand name, trademark, distinctive symbol, or other similar device or thing used to identify particular products or services.

(q) Traveled way means the portion of a roadway for the movement of vehicles, exclusive of shoulders.

(r) Turning roadway means a connecting roadway for traffic turning between two intersection legs of an interchange.

(s) Visible means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

§ 750.103 Measurements of distance.

(a) Distance from the edge of a right-of-way shall be measured horizontally along a line normal or perpendicular to the centerline of the highway.

(b) All distances under 750.107 (a)(2) and (b) shall be measured along the centerline of the highway between two vertical planes which are normal or perpendicular to and intersect the centerline of the highway, and which pass through the termini of the measured distance.

§ 750.104 Signs that may not be permitted in protected areas.

Erection or maintenance of the following signs may not be permitted in protected areas:

(a) Signs advertising activities that are illegal under State or Federal laws or regulations in effect at the location of such signs or at the location of such activities.

(b) Obsolete signs.

(c) Signs that are not clean and in good repair.

(d) Signs that are not securely affixed to a substantial structure, and

(e) Signs that are not consistent with the standards in this part.

§ 750.105 Signs that may be permitted in protected areas.

(a) Erection or maintenance of the following signs may be permitted in protected areas:

Class 1—Official signs. Directional or other official signs or notices erected and maintained by public officers or agencies pursuant to and in accordance with direction or authorization contained in State or Federal law, for the purpose of carrying out an official duty or responsibility.

Class 2—On-premise signs. Signs not prohibited by State law which are consistent with the applicable provisions of this section and § 750.108 and which advertise the sale or lease of, or activities being conducted upon, the real property where the signs are located.

Not more than one such sign advertising the sale or lease of the same property may be permitted under this class in such manner as to be visible to traffic proceeding in any one direction on any one Interstate Highway.

Not more than one such sign visible to traffic proceeding in any one direction on any one Interstate Highway and advertising activities being conducted upon the real property where the sign is located, may be permitted under this class more than 50 feet from the advertised activity.

Class 3—Signs within 12 miles of advertised activities. Signs not prohibited by State law which are consistent with the applicable provisions of this section and §§ 750.106, 750.107, and 750.108 and which advertise activities being conducted within 12 air miles of such signs.

Class 4—Signs in the specific interest of the traveling public. Signs authorized to be erected or maintained by State law which are consistent with the applicable provisions of this section and §§ 750.106, 750.107, and 750.108 and which are designed to give legi-

mation in the specific interest of the traveling public.

(b) A Class 2 or 3 sign, except a Class 2 sign not more than 50 feet from the advertised activity, that displays any trade name which refers to or identifies any service rendered or product sold, used, or otherwise handled more than 12 air miles from such sign may not be permitted unless the name of the advertised activity which is within 12 air miles of such sign is displayed as conspicuously as such trade name.

(c) Only information about public places operated by Federal, State, or local governments, natural phenomena, historic sites, areas of natural scenic beauty or naturally suited for outdoor recreation and places for camping, lodging, eating, and vehicle service and repair is deemed to be in the specific interest of the traveling public. For the purposes of the standards in this part, a trade name is deemed to be information in the specific interest of the traveling public only if it identifies or characterizes such a place or identifies vehicle service, equipment, parts, accessories, fuels, oils, or lubricants being offered for sale at such a place. Signs displaying any other trade name may not be permitted under Class 4.

(d) Notwithstanding the provisions of paragraph (b) of this section, Class 2 or Class 3 signs which also qualify as Class 4 signs may display trade names in accordance with the provisions of paragraph (c) of this section.

§ 750.106 Class 3 and 4 signs within informational sites.

(a) Informational sites for the erection and maintenance of Class 3 and 4 advertising and informational signs may be established in accordance with the regulations for the Administration of Federal-Aid for Highways. The location and frequency of such sites shall be as determined by agreements between the Secretary of Transportation and the State highway departments.

(b) Class 3 and 4 signs may be permitted within such informational sites in protected areas in a manner consistent with the following provisions:

(1) No sign may be permitted which is not placed upon a panel.

(2) No panel may be permitted to exceed 13 feet in height or 25 feet in length, including border and trim, but excluding supports.

(3) No sign may be permitted to exceed 12 square feet in area, and nothing on such sign may be permitted to be legible from any place on the main-traveled way or a turning roadway.

(4) Not more than one sign concerning a single activity or place may be permitted within any one informational site.

(5) Signs concerning a single activity or place may be permitted within more than one informational site, but no Class 3 sign which does not also qualify as a Class 4 sign may be permitted within any informational site more than 12 air miles from the advertised activity.

(6) No sign may be permitted which moves or has any animated or moving parts.

(7) Illumination of panels by other than white lights may not be permitted, and no sign placed on any panel may be permitted to contain, include, or be illuminated by any other lights, or any flashing, intermittent, or moving lights.

(8) No lighting may be permitted to be used in any way in connection with any panel unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main-traveled way of the Interstate System, or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.

[23 FR 8793, Nov. 13, 1970, as amended at 35 FR 18719, Dec. 10, 1970]

§ 750.107 Class 3 and 4 signs outside informational sites.

(a) The erection or maintenance of the following signs may be permitted within protected areas, outside informational sites:

(1) Class 3 signs which are visible only to Interstate highway traffic not served by an informational site within 12 air miles of the advertised activity;

(2) Class 4 signs which are more than 12 miles from the nearest panel within an informational site serving Interstate highway traffic to which such signs are visible.

(3) Signs that qualify both as Class 3 and 4 signs may be permitted in accordance with either subparagraph (1) or (2) of this paragraph.

(b) The erection or maintenance of signs permitted under paragraph (a) of this section may not be permitted in any manner inconsistent with the following:

(1) In protected areas in advance of an intersection of the main-traveled way of an Interstate highway and an exit roadway, such signs visible to Interstate highway traffic approaching such intersection may not be permitted to exceed the following number:

Distance from intersection:	Number of signs
0-2 miles	0.
2-5 miles	6.
More than 5 miles	Average of one sign per mile.

The specified distances shall be measured to the nearest point of the intersection of the traveled way of the exit roadway and the main-traveled way of the Interstate highway.

(2) Subject to the other provisions of this paragraph, not more than two such signs may be permitted within any mile distance measured from any point, and no such signs may be permitted to be less than 1,000 feet apart.

(3) Such signs may not be permitted in protected areas adjacent to any Interstate highway right-of-way upon any part of the width of which is constructed an entrance or exit roadway.

(4) Such signs visible to Interstate highway traffic which is approaching or has passed an entrance roadway may not be permitted in protected areas for 1,000 feet beyond the furthest point of the intersection between the traveled way of such entrance roadway and the main-traveled way of the Interstate highway.

(5) No such signs may be permitted in scenic areas.

(6) Not more than one such sign advertising activities being conducted as a single enterprise or giving information about a single place may be permitted to be erected or maintained in such manner as to be visible to traffic moving in any one direction on any one Interstate highway.

(c) No Class 3 or 4 signs other than those permitted by this section may be permitted to be erected or maintained within protected areas, outside informational sites.

§ 750.108 General provisions.

No Class 3 or 4 signs may be permitted to be erected or maintained pursuant to § 750.107, and no Class 2 sign may be permitted to be erected or maintained, in any manner inconsistent with the following:

(a) No sign may be permitted which attempts or appears to attempt to direct the movement of traffic or which interferes with, imitates or resembles any official traffic sign, signal or device.

(b) No sign may be permitted which prevents the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic.

(c) No sign may be permitted which contains, includes, or is illuminated by any flashing, intermittent or moving light or lights.

(d) No lighting may be permitted to be used in any way in connection with any sign unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main-traveled way of the Interstate System, or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.

(e) No sign may be permitted which moves or has any animated or moving parts.

(f) No sign may be permitted to be erected or maintained upon trees or painted or drawn upon rocks or other natural features.

(g) No sign may be permitted to exceed 20 feet in length, width or height, or 150 square feet in area, including border and trim but excluding supports, except Class 2 signs not more than 50 feet from, and advertising activities being conducted upon, the real property where the sign is located.

§ 750.109 Exclusions.

The standards in this part shall not apply to markers, signs and plaques in appreciation of sites of historical significance for the erection of which provisions are made in an agreement between a State and the Secretary of Transportation, as provided in the Act, unless such agreement expressly makes all or any part of the standards applicable.

§ 750.110 State regulations.

A State may elect to prohibit signs permissible under the standards in this part without forfeiting its rights to any benefits provided for in the act.

facing the same direction of travel may be erected along a single route approaching the activity;

(iii) Signs located adjacent to the Interstate System shall be within 75 air miles of the activity; and

(iv) Signs located adjacent to the primary system shall be within 50 air miles of the activity.

(e) *Message content.* The message on directional signs shall be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the attraction, such as mileage, route numbers, or exit numbers. Descriptive words or phrases, and pictorial or photographic representations of the activity or its environs are prohibited.

(f) *Selection method and criteria.* (1) Privately owned activities or attractions eligible for directional signing are limited to the following: natural phenomena; scenic attractions; historic, educational, cultural, scentific, and religious sites; and outdoor recreational areas.

(2) To be eligible, privately owned attractions or activities must be nationally or regionally known, and of outstanding interest to the traveling public.

(3) Each State shall develop specific selection methods and criteria to be used in determining whether or not an activity qualifies for this type of signing. A statement as to selection methods and criteria shall be furnished to the Secretary of Transportation before the State permits the erection of any such signs under section 131(c) of title 23, United States Code, and this part.

§ 750.155 State standards.

This part does not prohibit a State from establishing and maintaining standards which are more restrictive with respect to directional and other official signs and notices along the Federal-aid highway systems than these national standards.

Subpart C [Reserved]

Subpart D—Outdoor Advertising (Acquisition of Rights of Sign and Sign Site Owners)

AUTHORITY: 23 U.S.C. 131 and 315; 23 CFR 1.32 and 1.48(b).

SOURCE: 39 FR 27436, July 29, 1974, unless herwise noted.

§ 750.301 Purpose.

To prescribe the Federal Highway Administration (FHWA) policies relating to Federal participation in the costs of acquiring the property interests necessary for removal of nonconforming advertising signs, displays and devices on the Federal-aid Primary and Interstate Systems, including toll sections on such systems, regardless of whether Federal funds participated in the construction thereof. This regulation should not be construed to authorize any additional rights in eminent domain not already existing under State law or under 23 U.S.C. 131(g).

§ 750.302 Policy.

(a) Just compensation shall be paid for the sign and site owner's rights and interests in or pertaining to the following outdoor advertising signs, displays and devices:

(1) Those lawfully in existence on October 22, 1965;

(2) Those lawfully on any highway made a part of the Interstate or Primary System on or after October 22, 1965, and before January 1, 1968; and

(3) Signs lawfully erected on or after January 1, 1968 in accordance with 23 U.S.C. 131 (Highway Beautification Act).

(b) Federal reimbursement will be made on the basis of 75 percent of the acquisition, removal and incidental costs legally incurred or obligated by the State.

(c) Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4651, et seq.) applies except where complete conformity would defeat the purposes set forth in 42 U.S.C. 4651, would impede the expeditious implementation of the sign removal program or would increase administrative costs out of proportion to the cost of the interests being acquired or extinguished.

(d) Projects for the removal of outdoor advertising signs including hardship acquisitions should be programed and authorized in accordance with normal program procedures for right-of-way projects.

[39 FR 27436, July 29, 1974, 39 FR 30349, Aug. 22, 1974]

§ 750.303 Definitions.

(a) *Sign.* An outdoor sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard or other thing which is designed, intended of the advertising or informative contents of which is visible from any place on the main-traveled way of the Interstate or Primary Systems, whether the same be permanent or portable installation.

(b) *Lease* (license, permit, agreement, contract or easement). An agreement, oral or in writing, by which possession or use of land or interests therein is given by the owner or other person to another person for a specified purpose.

(c) *Leasehold value.* The leasehold value is the present worth of the difference between the contractual rent and the current market rent at the time of the appraisal.

(d) *Illegal sign.* One which was erected and/or maintained in violation of State law.

(e) *Nonconforming sign.* One which was lawfully erected, but which does not comply with the provisions of State law or State regulations passed at a later date or which later falls to comply with State law or State regulations due to changed conditions. Illegally erected or maintained signs are not nonconforming signs.

(f) *1966 Inventory.* The record of the survey of advertising signs and junkyards compiled by the State highway department.

(g) *Abandoned sign.* One in which no one has an interest, or as defined by State law.

§ 750.304 State policies and procedures.

The State's written policies and operating procedures for implementing its sign removal program under State law and complying with 23 U.S.C. 131 and its proposed time schedule for sign removal and procedure for reporting its accomplishments shall be submitted to the FHWA for approval within 90 days of the date of this regulation. This statement should be supported by the State's regulations implementing its program. Revisions to the State's policies and procedures shall be submitted to the FHWA for approval. The statement should contain provisions for the review of its policies and procedure to meet changing conditions, adoption of improved procedures, and for internal review to assure compliance. The statement shall include as a minimum the following:

(a) *Project priorities.* The following order of priorities is recommended.

(1) Illegal and abandoned signs.

(2) Hardship situations.

(3) Nominal value signs.

(4) Signs in areas which have been designated as scenic under authority of State law.

(5) Product advertising on:

(i) Rural Interstate highway.

(ii) Rural primary highway.

(iii) Urban areas.

(6) Nontourist-oriented directional advertising.

(7) Tourist oriented directional advertising.

(b) *Programing.* (1) A sign removal project may consist of any group of proposed sign removals. The signs may be those belonging to one company or those located along a single route, all of the signs in a single county or other locality, hardship situations, individually or grouped, such as those involving vandalized signs, or all of a sign owner's signs in a given State or area, or any similar grouping.

(2) A project for sign removal on other than a Federal-aid primary route basis e.g., a countywide project or a project involving only signs owned by one company, should be identified as CAF-000B( ), continuing the numbering sequence which began with the sign inventory project in 1966.

(3) Where it would not interfere with the State's operations, the State should program sign removal projects to minimize disruption of business.

(c) *Valuation and review methods.* (1) *Schedules—formulas.* Schedules, formulas or other methods to simplify valuation of signs and sites are recommended for the purpose of minimizing administrative and legal expenses necessarily involved in determining just compensation by individual appraisals and litigation. They do not purport to be a basis for the determination of just compensation under eminent domain.

(2) *Appraisals.* Where appropriate, the State may use its approved appraisal report forms including those for abbreviated or short form appraisals. Where a sign or site owner does not accept the amount computed under an approved schedule, formula, or other simplified method, an appraisal shall be utilized.

(3) *Leaseholds.* When outdoor advertising signs and sign sites involve a leasehold value, the State's procedures should provide for determining value in the same manner as any other real estate leasehold that has value to the lessee.

(4) *Severance Damages.* The State has the responsibility of justifying the recognition of severance damages pursuant to 23 CFR 710.24, and the law of the State before Federal participation will be allowed. Generally, Federal participation

Subpart B—National Standards for Directional and Other Official Signs

AUTHORITY: Issued under 23 U.S.C. 131, 315, 49 U.S.C. 1651; delegation of authority in 49 CFR 1.4(d).

§ 750.151 Purpose.

(a) In section 131 of title 23, United States Code, Congress has declared that:

(1) The erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to promote safety and recreational value of public travel, and to preserve natural beauty.

(2) Directional and other official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, shall conform to national standards authorized to be promulgated by the Secretary, which standards shall contain provisions concerning the lighting, size, number and spacing of signs, and such other requirements as may be appropriate to implement the section.

(b) The standards in this part are issued as provided in section 131 of title 23, United States Code.

750.152 Application.

The following standards apply to directional and other official signs and notices which are erected and maintained within 660 feet of the nearest edge of the right-of-way of the Interstate and Federal-aid primary system, and which are visable from the main traveled way of the system. These standards do not apply to directional and other official signs erected on the highway right-of-way.

750.153 Definitions.

For the purpose of this part—

(a) Sign means an outdoor sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main traveled way of the Interstate or Federal-aid primary highway.

(b) Main traveled way means the through traffic lanes of the highway, exclusive of frontage roads, auxiliary lanes, and ramps.

(c) Interstate System means the National System of Interstate and Defense Highways described in section 103(d) of title 23, United States Code.

(d) Primary system means the Federal-aid highway system described in section 103(b) of title 23, United States Code.

(e) Erect means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(f) Maintain means to allow to exist.

(g) Scenic area means any area of particular scenic beauty or historical significance as determined by the Federal, State, or local officials having jurisdiction thereof, and includes interests in land which have been acquired for the restoration, preservation, and enhancement of scenic beauty.

(h) Parkland means any publicly owned land which is designated or used as a public park, recreation area, wildlife or waterfowl refuge or historic site.

(i) Federal or State law means a Federal or State constitutional provision or statute, or an ordinance, rule, or regulation enacted or adopted by a State or Federal agency or a political subdivision of a State pursuant to a Federal or State constitution or statute.

(j) Visible means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

(k) Freeway means a divided arterial highway for through traffic with full control of access.

(l) Rest area means an area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control for the convenience of the traveling public.

(m) Directional and other official signs and notices includes only official signs and notices, public utility signs, service club and religious notices, public service signs, and directional signs.

(n) Official signs and notices means signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in Federal, State, or local law for the purposes of carrying out an official duty or responsibility. Historical markers authorized by State law and erected by State or local government agencies or nonprofit historical societies may be considered official signs.

(o) Public utility signs means warning signs, informational signs, notices, or markers which are customarily erected and maintained by publicly or privately owned public utilities, as essential to their operations.

(p) Service club and religious notices means signs and notices, whose erection is authorized by law, relating to meetings of nonprofit service clubs or charitable associations, or religious services, which signs do not exceed 8 square feet in area.

(q) Public service signs means signs located on school bus stop shelters, which signs—

(1) Identify the donor, sponsor, or contributor of said shelters;

(2) Contain public service messages, which shall occupy not less than 50 percent of the area of the sign;

(3) Contain no other message;

(4) Are located on schoolbus shelters which are authorized or approved by city, county, or State law, regulation, or ordinance, and at places approved by the city, county, or State agency controlling the highway involved; and

(5) May not exceed 32 square feet in area. Not more than one sign on each shelter shall face in any one direction.

(r) Directional signs means signs containing directional information about public places owned or operated by Federal, State, or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational, and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public.

(s) State means any one of the 50 States, the District of Columbia, or Puerto Rico.

§ 750.154 Standards for directional signs.

The following apply only to directional signs:

(a) *General.* The following signs are prohibited:

(1) Signs advertising activities that are illegal under Federal or State laws or regulations in effect at the location of those signs or at the location of those activities.

(2) Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic.

(3) Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

(4) Obsolete signs.

(5) Signs which are structurally unsafe or in disrepair.

(6) Signs which move or have any animated or moving parts.

(7) Signs located in rest areas, parklands or scenic areas.

(b) *Size.* (1) No signs shall exceed the following limits:

(i) Maximum area—150 square feet.
(ii) Maximum height—20 feet.
(iii) Maximum length—20 feet.

(2) All dimensions include border and trim, but exclude supports.

(c) *Lighting.* Signs may be illuminated, subject to the following:

(1) Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited.

(2) Signs which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of an Interstate or primary highway or which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.

(3) No sign may be so illuminated as to interfere with the effectiveness of or obscure an official traffic sign, device, or signal.

(d) *Spacing.* (1) Each location of a directional sign must be approved by the State highway department.

(2) No directional sign may be located within 2,000 feet of an interchange, or intersection at grade along the Interstate System or other freeways (measured along the Interstate or freeway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way).

(3) No directional sign may be located within 2,000 feet of a rest area, parkland, or scenic area.

(4) (i) No two directional signs facing the same direction of travel shall be spaced less than 1 mile apart;

(ii) Not more than three directional signs pertaining to the same activity or

will not be allowed in the payment of severance damages to remaining signs, or other property of a sign company alleged to be due to the taking of certain of the company's signs. Unity of use of the separate properties as required by applicable principles of eminent domain law, must be shown to exist before participation in severence damages will be allowed. Moreover, the value of the remaining signs or other real property must be diminished by virtue of the taking of such signs. Payments for severance damages to economic plants or loss of business profits are not compensable. Severance damage cases must be submitted to the FHWA for prior concurrence, together with complete legal and appraisal justification for payment of these damages. To assist the FHWA in its evaluation, the following data will accompany any submission regarding severance:

(i) One copy of each appraisal in which this was analyzed. One copy of the State's review appraiser analysis and determination of market value.

(ii) A plan or map showing the location of each sign.

(iii) An opinion by the State highway department's chief legal officer that severance is appropriate in accordance with State law together with a legal opinion that, in the instant case, the damages constitute severance as opposed to consequential damage as a matter of law. The opinion shall include a determination, and the basis therefor, that the specific taking of some of an outdoor advertiser's signs constitutes a distinct economic unit, and that unity of use of the separate properties in conformity with applicable principles of eminent domain law had been satisfactorily established. A legal memorandum must be furnished citing and discussing cases and other authorities supporting the State's position.

(c) *Review of value estimates.* All estimates of value shall be reviewed by a person other than the one who made the estimate. Appraisal reports shall be reviewed and approved prior to initiation of negotiations. All other estimates shall be reviewed before the agreement becomes final.

(d) *Nominal value plan.* (1) This plan may provide for the removal costs of eligible nominal value signs and for payments up to $250 for each nonconforming sign, and up to $100 for each nonconforming sign site.

(2) The State's procedures may provide for negotiations for sign sites and sign removals to be accomplished simultaneously without prior review.

(3) Releases or agreements executed by the sign and/or site owner should include the identification of the sign, statement of ownership, price to be paid, interest acquired, and removal rights.

(4) It is not expected that salvage value will be a consideration in most acquisitions; however, the State's procedures may provide that the sign may be turned over to the sign owner, site owner, contractor, or individual as all or a part of the consideration for its removal, without any project credits.

(5) Programing and authorizations will be in accord with § 750.308 of this regulation. A detailed estimate of value of each individual sign is not necessary. The project may be programed and authorized as one project.

(e) *Sign removal.* The State's procedural statement should include provision for:

(1) Owner retention.
(2) Salvage value.
(3) State removal.

§ 750.305 Federal participation.

(a) Federal funds may participate in:

(1) Payments made to a sign owner for his right, title and interest in a sign, and where applicable, his leasehold value in a sign site, and to a site owner for his right and interest in a site, which is his right to erect and maintain the existing nonconforming sign on such site.

(2) The cost of relocating a sign to the extent of the cost to acquire the sign, less salvage value if any.

(3) A duplicate payment for the site owner's interest of $2,500 or less because of a bona fide error in ownership, provided the State has followed its title search procedures as set forth in its policy and procedure submission.

(4) The cost of removal of signs, partially completed sign structures, supporting poles, abandoned signs and those which are illegal under State law within the controlled areas, provided such costs are incurred in accordance with State law. Removal may be by State personnel on a force account basis or by contract. Documentation for Federal participation in such removal projects should be in accord with the State's normal force account and contractural reimbursement procedures. The State should maintain a record of the number of signs removed. These data should be retained in project records and reported on the periodic report required under § 750.308 of this regulation.

(5) Signs materially damaged by vandals. Federal funds shall be limited to the Federal pro-rata share of the fair market value of the sign immediately before the vandalism occurred minus the estimated cost of repairing and recrecting the sign. If the State chooses, it may use its FHWA approved nominal value plan procedure to acquire these signs.

(6) The cost of acquiring and removing completed sign structures which have been blank or painted out beyond the period of time established by the State for normal maintenance and change of message, provided the sign owner can establish that his nonconforming use was not abandoned or discontinued, and provided such costs are incurred in accordance with State law, or regulation. The evidence considered by the State as acceptable for establishing or showing that the nonconforming use has not been abandoned or voluntarily discontinued shall be set forth in the State's policy and procedures.

(7) In the event a sign was omitted in the 1966 inventory, and the State supports a determination that the sign was in existence prior to October 22, 1965, the costs are eligible for Federal participation.

(b) Federal funds may not participate in:

(1) Cost of title certificates, title insurance, title opinion or similar evidence or proof of title in connection with the acquisition of a landowner's right to erect and maintain a sign or signs when the amount of payment to the landowner for his interest is $2,500 or less, unless required by State law. However, Federal funds may participate in the costs of securing some lesser evidence or proof of title such as searches and investigations of State highway department personnel to the extent necessary to determine ownership, affidavit of ownership by the owner, bill of sale, etc. The State's procedure for determining evidence of title should be set forth in the State's policy and procedure submission.

(2) Payments to a sign owner where the sign was erected without permission of the property owner unless the sign owner can establish his legal right to erect and maintain the sign. However, such signs may be removed by State personnel on a force account basis or by contract with Federal participation exce where the sign owner reimburses t State for removal.

(3) Acquisition costs paid for aba doned or illegal signs, potential sign sit or signs which were built during a peri of time which makes them ineligible f compensation under 23 U.S.C. 131, or f rights in sites on which signs have be abandoned or illegally erected by a si owner.

(4) The acquisition cost of supporti poles or partially completed sign stru tures in nonconforming areas which not have advertising or informative co tent thereon unless the owner can sho to the State's satisfaction he has n abandoned the structure. When the Sta has determined the sign structure h not been abandoned, Federal funds w participate in the acquisition of t structure, provided the cost are i curred in accordance with State law.

§ 750.306 Documentation for Feder participation.

The following information con each sign must be available in t State's files to be eligible for Feder participation.

(a) *Payment to sign owner.* (1) photograph of the sign in place. Exce tions may be made in cases where in o transaction the State has acquired number of a company's nominal val signs similar in size, condition and shap In such cases, only a sample of repr sentative photographs need be provid to document the type and condition the signs.

(2) Evidence showing the sign w nonconforming as of the date of takin

(3) Value documentation and proof obligation of funds.

(4) Satisfactory indication of owne ship of the sign and compensable inte est therein (e.g., lease or other agreeme with the property owner, or an affidavi certification, or other such evidence owne ship).

(5) Evidence that the sign falls with one of the three categories shown § 750.302 of this regulation. The speci category should be identified.

(6) Evidence that the right, title, interest pertaining to the sign has passe to the State, or that the sign has bee removed.

(b) *Payment to the site owner.* (1) Evidence that an agreement has bee reached between the State and owner.

(2) Value documentation and proof of obligation of funds.

(3) Satisfactory indication of ownership or compensable interest.

§ 750.307 FHWA project approval.

Authorization to proceed with acquisitions on a sign removal project shall not be issued until such time as the State has submitted to FHWA the following:

(a) A general description of the project.

(b) The total number of signs to be acquired.

(c) The total estimated cost of the sign removal project, including a breakdown of incidental, acquisition and removal costs.

§ 750.308 Reports.

Periodic reports on site acquisitions and actual sign removals shall be submitted on FHWA Form 1424 and as prescribed.

PART 751—JUNKYARD CONTROL AND ACQUISITION

Sec

751.1 Purpose.
751.3 Applicability.
751.5 Policy.
751.7 Definitions.
751.9 Effective control.
751.11 Nonconforming junkyards.
751.13 Control measures.
751.15 Just compensation.
751.17 Federal participation.
751.19 Documentation for Federal participation.
751.21 Relocation assistance.
751.23 Concurrent junkyard control and right-of-way projects.
751.25 Programming and authorization.

AUTHORITY: 23 U.S.C. 136 and 1.9, 42 U.S.C. 4331-4347 and 4601-4655, 23 CFR 1.23, 49 CFR 1.48.

SOURCE: 40 FR 8351, Feb. 28, 1975, unless otherwise noted.

§ 751.1 Purpose.

Pursuant to 23 U.S.C. 136, this Part prescribes Federal Highway Administration (FHWA) policies and procedures relating to the exercise of effective control by the States of junkyards in areas adjacent to the Interstate and Federal-aid primary systems. Nothing in this Part shall be construed to prevent a State from establishing more stringent junkyard control requirements than provided herein.

[40 FR 12260, Mar. 18, 1975]

§ 751.3 Applicability.

The provisions of this Part are applicable to all areas within 1,000 feet of the nearest edge of the right-of-way and visible from the main traveled way of all Federal-aid Primary and Interstate Systems regardless of whether Federal funds participated in the construction thereof, including toll sections of such highways. This Part does not apply to the Urban System.

§ 751.5 Policy.

In carrying out the purposes of this Part:

(a) Emphasis should be placed on encouraging recycling of scrap and junk where practicable, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.);

(b) Every effort should be made to screen nonconforming junkyards which are to continue as ongoing businesses; and

(c) Nonconforming junkyards should be relocated only as a last resort.

§ 751.7 Definitions.

For purposes of this Part, the following definitions shall apply:

(a) *Junkyard.* (1) A Junkyard is an establishment or place of business which is maintained, operated or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. This definition includes scrap metal processors, autowrecking yards, salvage yards, scrap yards, autorecycling yards, used auto parts yards and temporary storage of automobile bodies and parts awaiting disposal as a normal part of a business operation when the business will continually have like materials located on the premises. The definition includes garbage dumps and sanitary landfills. The definition does not include litter, trash, and other debris scattered along or upon the highway, or temporary operations and outdoor storage of limited duration.

(2) An Automobile Graveyard is an establishment or place of business which is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts. Ten or more such vehicles will constitute an automobile graveyard.

(3) An Illegal Junkyard is one which was established or is maintained in violation of State law.

STATEMENT OF THE ALASKA VISITORS ASSOCIATION

RELATING TO

MOTORIST INFORMATIONAL SIGNS

My name is Dean Ehrich and I am The Executive Director of The Alaska Visitors Association. For your records, AVA is a statewide trade association engaged in the promotion of Alaska as a visitor destination. Its membership of over 460 firms includes businesses ranging in size from the "one man" guide service to large hotels, airlines and tour operators. The Association also has Chapters located in Juneau, Fairbanks, Anchorage, Haines, Valdez, Sitka, Skagway and Seattle. Total membership in these Chapters currently stands at 500 individuals employed in the Alaska visitor industry.

We are speaking today in support of HB 267 which would amend the statute (A.S. 19.25.105) relating to motorist informational signs placed along Alaska's highways. The suggested amendments would basically permit the placement of tastefully designed motorist informational signs which could include the logos or the name of a business or businesses providing public accomodations to the motoring public. The amendments would also permit the highway department to grant a permit for an informational sign in cases where the service business may be located more than one mile off the highway, something that is not presently permitted under

Alaska law but may, as a practical matter, be reasonable under some of the special circumstances existing in Alaska.

The amendments were developed as a result of certain problems experienced by highway oriented businesses in our membership. Many of them have experienced difficulty in obtaining signs which would inform a motorist of the existance of their service or accomodation. Additionally, the signs which are permitted merely indicate that a service is available without really informing the motorist of precisely what is available. We have also been informed of cases where a service, accomodation or attraction may be the only thing available within many miles but, because the business is located more than one mile off the highway, does not qualify for an informational sign.

As representatives of the Alaska visitor industy, we are vitally interested in insuring that Alaska's highways are not cluttered by garrish, distasteful advertising or signs that detract from the natural beauty of the scenery. However, we are also concerned that tourists and, indeed our fellow Alaskans traveling the highways are provided with adequate information regarding the availability of fuel, hotel accomodations, food and visitor attractions.

We feel that our suggested changes will provide a much needed service to the motoring public while still maintaining a sign system that is tastefully designed and which would not detract from the beauties of the Alaska countryside.

Under the system we suggest, a service business could obtain a permit to place its logo or business name on a uniform sign to be designed by The Highway Department. Permit fees would be set by The Department in amounts sufficient to defray the costs involved in providing this service. The basic design for the signs would be prescribed by regulations developed by the Highway Department.

The amendments in HB 267 are based, in large part on Oregon statutes and regulations. Similar systems relating to motorist informational signs also exist in several other states including Washington and Hawaii.

A-Section of the bill relates specifically to conditions in Alaska. There are quite a number of service businesses and attractions which are located more than one mile off the highway and, consequently, do not qualify for a sign. However, these are very often the only available services within many miles. Further, some private attractions which would be of interest to tourists are located well off the road but may not qualify for an informational sign under our present law.

As you will note, the bill would allow a little more discretion on the part of The Highway Department to issue permits in cases where doing so would be of benefit to the traveling public.

According to information developed during our research on the issue of motorist informational signs, the system established by our suggested amendments would, in no way, conflict with Federal

laws or regulations. In fact, The Federal Highway Administration has encouraged states to develop comprehensive motorist information systems, including logo signing which, for example, indicate which lodging chains, auto service stations or other facilities are represented at a given interchange.

Further, under existing law, the Federal government would pay 75% of what it costs a state to design, build and administer its own system of informational signs to direct interstate travelers to the necessary tourist facilities. This provision, however, is mentioned just as a matter of interest as our recommended amendments provide that the system would be financed by fees in amounts sufficient to cover the costs of implementation.

For the information of the committee, we are providing copies of existing Federal law relating to highway signs. We would call your attention to the provisions of section 750.105 (a) of the regulations which outline the conditions under which signs of this type may be erected. Briefly, our amendments relate to the type of sign described in that section as class 3 and class 4 signs. Other provisions of the Federal regulations describe various conditions under which such signs may be erected. (Please see sections 750.106, 750.107, and 750.108.) It is our opinion that existing Federal provisions clearly permit the type of system which would be established by the legislation before us.

In addition to providing additional convenience to motorists, the new system would provide a much needed safety factor. Distances between services are often very great on Alaska's highways. The availability of adequate motorist informational signs could very well prevent tragedies along our highways, particularly During our long and sometimes severe winters

We would once again emphasize that we are by no means advocating a system of advertising for highway related businesses. Our interest is in assuring that our visitors traveling Alaska's highways are provided with the greatest possible amount of information regarding available services and the various tourist attractions located along our highways.

We respectfully urge the Legislature's favorable consideration of HB 267.

Thank you for this opportunity to express our views on this important issue.

P.O. Box 336
Tok, Alaska 99780
(907) 883-2291

Winter Address:
345 N. E. 8th Avenue
Portland, Oregon 97232

April 18, 1979

The Honorable Mike Miller
Chairman, House State Affairs Committee
ALASKA STATE HOURS OF REPRESENTATIVES
Pouch V, State Capitol Building
Juneau, Alaska 99811

Dear Mike:

It has come to my attention that you are the chairman of the House State Affairs Committee which has Measure HB 267, a highway bill, but still has not passed it for proper signing along the highway. As you know, I have been in the hotel and motel business for a number of years and have recently purchased Rita's Trail Inn in Tok, Alaska, which is now called the Tundra Lodge. We have a large KOA campground, commercial laundry, car wash, liquor store, cocktail lounge and dining room. In fact, it is one of the finest facilities along the Alaska highway, but it is approximately one mile outside of Tok towards Fairbanks. Since we are unable to have any signing along the highway, or at least proper signing, a lot of folks stumble on to us quite by accident, particularly if they don't have a Milepost or some highway book that designates where everybody is.

It is certainly advantageous to the traveler here in Oregon to know where there is gas, lodging, food, campgrounds, etc., and it is equally advantageous in Alaska. This information could be distributed very neatly between the border and Tok in this particular instance as well as between Fairbanks and Tok and between Anchorage and Tok. It would also let people know what exactly is available.

I certainly hope that something can be done to expedite this particular bill in favor of the signs as soon as possible.

I look forward with pleasure to seeing you sometime soon.

Kind regards,

Norman H. Kneisel

NHK:pj

ALASKA VISITORS ASSOCIATION

AVA

Tourism is everybody's business

Please reply to:

Post Office Box 2220
Anchorage, Alaska 99510
(907) 279-4116

April 2, 1979

The Honorable Mike Miller
Chairman, House State Affairs
Committee
Alaska State House of Representatives
Pouch "V" State Capitol Building
Juneau, Alaska, 99811

Dear Mike:

During your hearing on March 2, 1979 on HB 267, relating to highway informational signs, most members of The State Affairs Committee appeared to be favorably disposed to the concept of the bill. Since that time, however, I understand some committee members have developed reservations, including the fear that the new system might create a prolification of additional signage.

It is my hope that we can alleviate those concerns with the following points:

(1) The new informational signs which would include logos of businesses providing motorist accomodations would replace the present "gas, food, phone, lodging" signs. The logo concept is intended to provide information regarding available brands of fuel, type of lodging, etc.

(2) The bill provides that The Division of Highways would design a uniform style sign, thus precluding the possibility of a "forest" of garish and distasteful signs springing up along Alaska's highways.

(3) HB 267 is written so that the new informational sign system would be "self supporting" as persons wishing their logo on an informational sign would apply for a permit and pay fees set in amounts sufficient to defray the cost to the state.

(4) Signs of the type contemplated in the bill would be placed in locations outside of cities. Services within urban areas are already well advertised. Services in rural areas, however, are very often not adequately marked. Highway operators have received complaints from motorists in this connection. The intent of the new system is to insure that motorists traveling Alaska's highways may do so in complete comfort and safety. Adequately marked services are necessary to this concept.

(5) Finally, similar motorist informational sign systems are already working quite well in Oregon, Washington and several other states. We think such a system would work equally well in Alaska. Indeed, adequately marked services are even more necessary in Alaska because of the vast distances between available motorist services in some areas of the state.

We respectfully urge early favorable action on HB 267.

Sincerely yours,

Dean

Dean Ehrich
Executive Director

DE/b

cc: All members of House State Affairs Committee

innovations

Vermont's New Signs of the Times

In Brief—*In March 1968, Vermont enacted a law controlling all outdoor advertising signs (Chapter 21, Title 10, Section 481-505). Billboards along highways, official highway directional signs, signs on the premises of businesses, and other business directional signs all are included in the law. The law sets criteria for the location of signs and the number of signs. Funds were appropriated for removing signs that are not in compliance with the law within a specific deadline.*

In place of the former signs, the state has established tourist information centers which list services and businesses, sign plazas which permit a large number of standardized signs at one location, clusters of uniform signs along highways, and individual business directional signs in approved locations.

Implementation costs of the program are partially offset by fees from business advertisers. Businesses that want a standardized directional sign placed beside a highway must pay an annual fee of $50.

After 10 years, there are still numerous critics of the sign program. The law has been amended slightly, but there have been no serious efforts to emasculate the law. It is doubtful anyone would claim that the sign program has increased the number of tourists visiting Vermont, nor is there evidence of economic decline as a result.

Background

Vermont began controlling highway signs with a 1927 law. As a result of that law, placement of a sign to be viewed from a public highway was "a privilege granted and not a right inherent in the ownership of land adjacent to the highway." It was a Vermont case, *Kelbro v. Myric* in 1943, that declared that withdrawal of permission to maintain a sign, given an adequate period for notification, was a valid exercise of the state's police power and not an unconstitutional taking of private property.

During the 1960 Vermonters' concern over the deteriorating scenic beauty of the state was reflected in the passage of a number of bills. Bills were passed that required screening of junkyards; removing derelict automobiles; setting mobile home park standards; banning nonreturnable beer and soda bottles and cans; and a local planning and zoning act encouraging historic districts, open spaces, and sign controls (including the 1968 law). By 1974, as a result of the various state initiatives, 104 Vermont cities had enacted ordinances controlling billboards.

The Council of State Governments

This Innovations Transfer report was prepared by Dick Howard, Director of the Innovations Transfer Program of the Council of State Governments. The author wishes to acknowledge the assistance provided by Leonard U. Wilson, Special Assistant to the Council of State Governments, and Boynton R. Sala, Supervisor of Roadside Beautification Sign Control, Tourist Information Council.

State officials who would like additional information on the program should contact Mr. Sala, (802) 828-2651.

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Vermont was an active participant in the federal government's grant bonus program for controlling outdoor advertising along interstate highways. Although Vermont's statute was stricter than the requirements of the Federal Highway Beautification Act of 1965, the state was not prepared for a decision of the U.S. Attorney General. That ruling required that states compensate sign owners (75 percent federal, 25 percent state) for removal of signs on primary roads. Vermont officials staunchly maintain that the U.S. Supreme Court would have overturned a district court decision supporting the attorney general's position. They also concluded that the cost to appeal the decision was not justifiable. As a result, the state has been settling claims on a case-by-case and there are still 12 nonconforming signs extant.

Initially, the 1968 Vermont law engendered considerable opposition from business interests. By the time legislative negotiations ended, most business groups had joined the garden clubs and preservation groups in support of the bill. The only group that remained adamantly opposed to passage of the legislation was the outdoor advertising enterprises.

Implementing the Sign Program

The method and organization for implementing the program is addressed rather clearly in the law. A seven-member Travel Information Council chaired by the secretary of state, was created. (In 1971 the secretary of state's functions were transferred to the secretary of the development and community affairs agency.) The six members appointed by the governor represent the restaurant, the lodging and recreation industries, agriculture, the highway department, and a representative from the Vermont Scenery Preservation Council. In addition, the law calls for the Travel Information Council (TIC) to appoint a three-member committee in each highway district to consider sign applications.

3,400 signs were removed voluntarily without compensation

The Travel Information Council regulates the size, shape, lighting, and lettering of official business directional signs. The highway department is responsible for erecting and maintaining the signs although the law allows the department to contract with private vendors for erecting signs. The highway department does not contract with outside vendors at this time. However, the first signs were installed by a private firm.

State law permits: (1) privately owned signs on the premises of the business where the product or service is offered, and (2) the state-owned official business directional signs in one of several forms (a) OBDS placed individually along the highway, (b) placed with one or two others on the same assembly and naming the specific businesses, (c) placed in a "multi-facility" OBDS which only names the types of services, or (d) placed in a group of up to 60 standardized signs (or plaques) in an information plaza.

For the first two years, the sign system was implemented in one highway district only. A consulting firm was hired to evaluate the program and recommend changes. The principal changes were that

DEFINITION OF TERMS

Official Business Directional Signs: Signs in the highway right-of-way indicating the location of a business. They may be single or in clusters up to three. With a few exceptions OBDS are permissible only for business on another road from that on which the sign appears. That is the traveler must change directions if the particular business is to be located.

Multi-Facility Official Business Directional Signs: These are official business directional signs for businesses that are grouped, such as in a shopping center. Individual businesses are not identified, only the type of service together with the appropriate symbol.

Significant Area Identification Signs: The signs ordinarily are used to describe the natural phenomena associated with a particular area or town. They are located outside of the highway right-of-way and there may not be more than four of these signs for any particular area.

Travel Information Plazas: Unmanned structures containing general state information, a state map and plaques for individual businesses in the area.

State Welcome Centers: State-manned information centers on interstate highways near Vermont's borders.

Symbol Sign: Announces a travel information plaza or information booth which may be on the same highway or require a direction change. They are not permitted on the interstate system.

Local Information Booths: Operated by localities frequently with travel information plazas adjacent to them.

Vermont now has 75 Tourist Information Centers. Some are attended year-round. (Photo courtesy of Division of Maintenance Management, Vermont Agency of Transportation.)

signs had to be in the same township as the business and that signs were to be used only when a change in direction was required.

Subsequently, other districts became involved as applications for directional signs were received. Not until August 1974 was the last district "adequately signed" so that removal could begin. During these six years, 3,400 signs were removed voluntarily without compensation.

In 1978, official business directional signs, for which businesses paid $50 per sign, numbered 896. Most of these signs were put in place by highway department personnel. Generally, it takes about 45 days between the time of application and the time a business sign is placed along a road or highway. An application for a sign can be made at any time during the year.

Sign Removal and Program Costs

Sign removal occurred on a district-by-district basis as erection of the new signs and sign plazas was completed. The court battle and the decision requiring Vermont to provide compensation to sign owners greatly delayed sign removal, however.

Generally, signs were not removed until and unless owners waived compensation. In 1968 there were 4,700 licensed signs. By 1974, 3,400 had been removed without compensation. The remaining 1,300 required compensation negotiations and settlements and there are still about a dozen of the old signs yet to be removed. When the final negotiations and court costs are completed, between $500,000 and $560,000 will have been paid in compensation for sign removal. The state and federal shares of sign removal compensation are estimated at 40 percent and 60 percent, respectively. Overall, program costs cannot easily be determined. Much of the early work that went into plaza construction was contributed by an army reserve unit.

The highway department absorbs a substantial portion of necessary maintenance costs. The Agency of Development and Community Affairs also has provided considerable support to the porgram and continues to pay for a full-time information specialist in the Travel Division.

Over the life of a program, the signs and plaques have brought in approximately $353,000 from initial fees and renewal fees from businesses using signs. The $50 fee for signs in sign plaza plaques more than covers the cost of producing the plazas and a downward sliding scale is being considered for purchasers of additional signs. On the other hand, the $50 fee for official business directional signs falls far short of construction, maintenance, and administration costs, and the Travel Information Council is asking the General Assembly to hike the fee to $125. The $50 renewal fee also is deemed inadequate.

... the signs and plaques have brought in approximately $353,000 from initial fees and renewal fees from businesses using signs.

Guidelines for the size, location, and message of information plaza plaques, individual official business directional signs, significant area identification signs, multi-facility official business directional signs, and on-premise signs are numerous and rather detailed. The major guidelines are listed on page 6. The color of signs and lettering material composition, size of lettering, number of lines in the message and their placement, types of sign supports and fastenings are also specified by the law and the TIC.

Program Results

A survey was conducted by the Vermont Agency of Transportation in cooperation with the Federal Highway Administration from the spring of 1977 until the winter of 1978. Vermont businessmen, representatives of business associations, and travelers were surveyed by questionnaire. Roadside interviews also were conducted. Results were mixed. Reaction to the uniform color-coded directional signs was positive. The most common complaints by all groups of respondents were that the information plazas were poorly maintained and provided insufficient information. Despite these and other criticisms, the general conclusion was that the Vermont Travel Information Program "is reasonably effective." Among the major findings of the survey are the following:

(continued on page 5)

SIGN SPECIFICATIONS

Official business directional signs (OBDS) are to be located inside the highway right-of-way and three sizes are permitted: full-sized, one-half sized, or one-quarter sized signs. Full-sized signboards are 16 inches high and 60 or 72 inches wide depending on whether a logo is incorporated in the sign. Half-sized signboards are 8 inches high by 30 or 36 inches wide. Quarter-sized signboards are 4 inches high by 24 inches wide.

- Content of OBDS is limited to the identification of the activity, facility, attraction, area or site, and useful information to the traveling public on locating the place.
- An OBDS is mounted on a support either as a single unit or in groups of two or three.
- The letter form that must be used is Helvetica bold, used in upper and lower case arrangements. Letters are 5 inches high on full-sized signs.
- Two hundred feet must separate individual sign assemblies.
- An OBDS is to be located on the same town as the business, service or point of interest to which the sign directs attention.
- Signs or sign assemblies must be six feet outside the highway shoulder, 200 feet from a traffic control sign, 750 feet from a numbered route junction or signalized intersection, 200 feet from other public highway intersections, and 750 feet from a railroad crossing.

Full-sized signboards or clusters may be placed in 50-mile-per-hour zones on primary, secondary, and lesser highways, half-sized signboards may be located in 30-mile-per-hour zones, and quarter-sized signboards may be placed on back roads, town roads and in built-up areas where the speed limit is not more than 30 miles per hour.

Information Plazas. These structures replace directional signs in some circumstances. They serve as a solution to the need for directional signs in built up areas and as informational and orientation devices in downtown areas. The plazas provide descriptive plaques, symbols, travel information, directories and listings, maps of Vermont, and some local maps.

- One plaza has two faces and is four by eight feet in size. On one side is an official highway map of Vermont, the local map, and space for 60 six-by-six self-adhesive plaques indicating the location of businesses.
- On the reverse side, or second face, is information listing recreation places, sporting facilities, historic places, museums, and galleries; or it may be used for non-commercial local information.
- Businesses located within 20 miles of an information plaza shall have priority for space although if space is available, i.e., not rented, businesses from further away may apply for the space.

Multi-Facility Official Business Directional Sign. In the case of businesses that are located in a group, a multi-facility OBDS may be most appropriate. Examples might be shopping centers or resort and recreation areas. The names of specific businesses are not shown.

- The multi-facility OBDS can consist of up to three standard 16-inch by 72-inch signboards per assembly.
- Applying businesses in the group must apply to the Travel Information Council as a group.
- No multi-facility OBDS are permitted in urban areas.
- A maximum of two multi-facility OBDS assemblies will be permitted for any one group applicant.

On-Premise Signs. The premises are the part of the owner's or occupant's real property to which the public is invited and on which the business, profession, commodity, service, or entertainment to which an on-premise sign directs attention is carried on, sold, or offered. In the guidelines the premises are not defined broadly.

- An on-premise sign shall not be located more than 1,500 feet from a main entrance from that highway to the activity or premises advertised.
- An on-premise sign advertising the sale of real estate by the owner or his agent shall not have an area of more than six square feet.

Significant Area Identification Signs (SAIS). Recently the Travel Information Council revised its rules permitting a new type of sign, the Significant Area Identification Sign, which enables a town or region to apply for signs in the terms by which it is popularly known. Examples are Wilmington "The Mount Snow Region" and Proctor "Vermont's Marble Center."

In general SAIS distinctive to a town or region are limited to four. SAIS must be located outside the right-of-way limits and not within 2,000 feet of an interstate or freeway intersection or within 2,000 feet of parklands. Fabrication, installation and maintenance of approved SAIS are the responsibility of the applicant.

SYMBOLS

Symbols are integral to Vermont's tourist information program. The symbols adopted by the TIC and in use are shown below. Now, there is an international system of symbols that may be adopted. When Vermont began its program, there was not. Any business qualifying for a business directional sign is entitled to make use of only one of the TIC symbols in order to make it easier for the traveling public to identify the service offered.

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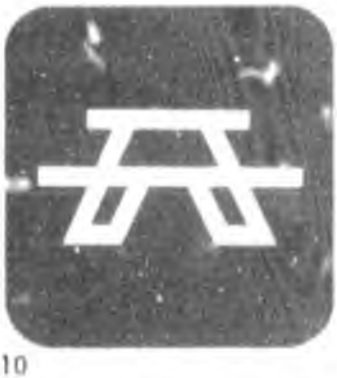

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7. Water sports area
8. Marina
9. Camping
10. Rest or picnic area
11. Phone
12. Historic plaque
13. Winter sports area
14. Golf
15. Automobile
16. Bus

(continued from page 3)

- Almost two-thirds of the travelers interviewed at roadside parks (63.3 percent) believed the signs were helpful. However, a significant number thought the signs were too small. Only 4.2 percent of the travelers had trouble understanding the signs;
- The great majority of travelers had not stopped, and did not intend to stop, at the information plazas;
- Businessmen participating as sign licensees in the program viewed it more favorably than those who did not participate. Nevertheless, a plurality of the participants, 36.2 percent, would prefer to use conventional roadside signs than the new signs program or some combination of the new signs;
- Among participating businessmen, 39.9 percent thought business had increased compared to 21.2 percent of the nonparticipants who thought there had been an increase, and
- Forty-three percent of participating businessmen and 62.5 percent of nonparticipating businessmen thought the new sign program had had no effect on their business volume.

Adopting a Tourist Information Sign Program

Based on the travel information council's survey results, a number of factors should be considered in implementing a state tourist information program that eliminates off-premise signs and billboards.

(1) If unmanned sign plazas are to be used and their effectiveness is questionable then thought should be given to how these plazas can be maintained, kept attractive and clean, visible from the road, and accessible year-round. Some of the Vermont information plazas are not easily accessible during parts of the winter months because of snow. It is clusters of signs that the IIC wants to transfer to municipalities.

(2) Map plazas should also be accessible year-round and 24 hours a day.

(3) The traveling public does not understand that not all area businesses are listed at the information plazas, hence the present system is somewhat misleading. The Vermont IIC suggests that a system could be devised whereby all area businesses are listed, but a full description is provided only for paid advertisers.

(4) The relationship between the cost of the program and the revenues from licensees should be closely examined. The $50 fee in Vermont is meant to cover the program costs, but it does not. It is also believed that some businesses do not apply for business directional signs because of the $50 fee. A federal court decision required compensation by the state to sign owners on taking of their signs. The likelihood of other states being harnessed with these costs cannot be dismissed if they implement a similar program. Furthermore, funding for the Federal Highway Beautification Program is being significantly reduced suggesting that 75-25 matching funds for primary highways may not be available, and

The size and location of official business directional signs are strictly controlled by the state. Companies using directional signs may use their own logo or may use the symbols developed by the state. (Photo courtesy of Division of Maintenance Management, Vermont Agency of Transportation.)

(5) This program may be practical only in scenic, rural areas. Heavily populated, industrial states might find costs prohibitive, the number of signs to be removed enormous, the mechanics of hardship waiver hearings, and the general administration and maintenance of the sign program extremely difficult, not to mention the confusion over the placement of 10,000 signs. Nevertheless, it might be possible to adopt a Vermont-type sign program in rural parts of industrial states.

A program to control outdoor advertising signs probably will not be a high priority item in the austere fiscal environment of 1979. Any program with billboard removal as its goal might only be possible if it is self-supporting. However, Vermonters seem pleased with their program. There have been no serious efforts to return to the conventional roadway advertising system for several years. One former state planning official observed, "The absence of roadside signs is a subject of much comment by travelers. Vermont is unique in the Canadian-American corridor. The approval and enthusiasm of visitors appears to easily overcome business resentment of deprivation and interference."

CS HB 267

Dick Holden

$225,000 first year

Sec. 1 - fed reg require limited to changes line 14, 21,

sec 2 (2) → department will erect signs

wants 12 mo. to develope regulations

gardiner -

businesses should pay entire costs (administrative + maintenance etc.)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill 267
Title Motorists Information Signs
Requested by House State Affairs Committee Date March 5, 1979

II. FISCAL DETAIL
Agency Affected Department of Transportation and Public Facilities
Program Category Affected Transportation
Budget Request Unit(s) Affected Central, Interior, Southeast, Southcentral, & Western Regions

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES		28	28	28	28	28
200 TRAVEL		3	3	3	3	3
300 CONTRACTUAL		187	140	140	140	140
400 COMMODITIES		3	1	1	1	1
500 EQUIPMENT		5	7	7	7	7
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		226	179	179	179	179

FUNDING (Thousands of Dollars)

GENERAL FUND		25	28	28	28	28
FEDERAL FUNDS		140	20	20	20	20
OTHER (Specify)						
PROGRAM RECEIPT		60	131	131	131	131

POSITIONS

FULL TIME		3	3	3	3	3
PART TIME						
TEMPORARY						

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

IV. DATE March 5, 1979 PREPARED BY M. H. Nicholson
AGENCY DOT/PF
PHONE 465-2393

Original: Legislative Finance
cc: Bill Sponsor
Prime Sponsor

33 001 (Rev 10/78)

Work Order #6396

Original sponsor: State Affairs Committee

IN THE HOUSE

CS FOR HOUSE BILL NO. 267

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to motorist informational signs."

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

* Section 1. AS 19.25.105 is amended by adding a new paragraph to read:

(4) signs displaying the business name or logo of a public accommodation or service, for the convenience of motorists and to inform them of the availability of the accommodations and services, including, ~~but not limited to~~, gas, food, lodging, recreational services, and visitor attractions erected under permit and in accordance with AS 19.25.107. as provided in federal regulations

* Sec. 2. AS 19.25 is amended by adding a new section to read:

Sec. 19.25.107. MOTORIST INFORMATIONAL SIGNS. Motorist informational signs authorized under AS 19.25.105(4) may be erected subject to the following conditions:

(1) an informational sign may display only the business name or logo of an applicant, in accordance with (3) of this section, and may be attached only to a sign, other than a traffic control ~~or warning~~ sign, erected by the department;

(2) a person desiring to erect an informational sign shall apply to the department for a permit; application shall be on a form prescribed by the department and shall include the name and address of the applicant, name, address, and nature of the business to which the sign will relate, the proposed location of the sign, and any other information the department may request; the application shall include a permit fee, as prescribed by the department, for each sign; in addition,

if the permit is granted, the applicant shall pay for the cost of the sign and the cost of erecting it;

(3) the department shall p cribe by regulation the number, size, shape, color, lettering, manner of display of business logo or name, and lighting of informational signs;

(4) maintenance of informational signs is the responsibility of the permittee; however, the permittee may, after payment of a fee prescribed by the department, contract with the department for maintenance of the signs;

(5) informational signs relating to public accommodations or services that are closed for more than 14 consecutive days shall be removed or covered by the permittee in a manner prescribed by the department; and

(6) in determing whether to issue a permit to erect an informational sign, the department shall consider, among other things, the distance from the highway of the public accommodations or services to be advertised.

Copy of Bill to Scott Magnuson

3700
1600

720 West Fifth Avenue • Anchorage, Alaska 99510 • Phone (907) 276-3236, 276-2223

February 13, 1979

Representative Mike Miller
STATE OF ALASKA
Pouch V
Juneau, Alaska 99801

Re: Highway Visitor Information Signs

Dear Mike,

We are glad to hear from John Munroe that you are working on the above need for law revision to accomplish improved signing along our highways.

Every reasonable effort should be made throughout Alaska to accurately and effectively direct and inform motorists, both Alaskan and visitors, alike, to all the visitor services and attractions available. Many new residents in our State have yet to travel extensively the great distances and to the destinations along our highway system. Travelers need the convenience of informational signs whether they live here or visit us from out of state. We believe practices followed in Washington and Oregon and others of the Lower '49 States are appropriate in Alaska.

Although the Alaska State Auto Club is not yet an affiliate of the American Automobile Association, it is our objective to become so. Reflecting the position of that national organization, we quote from the AAA Compilation of Policies and Resolutions regarding highway informational signs:

> "The American Automobile Association urges all governmental jurisdictions to take appropriate action for improving directional and informational signs on all classes of highways. The AAA emphasizes that improvements are urgently needed in routing and destination signs on freeways as well as on other highways. Special attention needs to be given to guiding strangers much more effectively through urban areas".
>
> "The American Automobile Association urges highway authorities to give adequate consideration and continued research to the important problems which relate to the providing of motorist services and informational areas along controlled access highways. The Association urges that consideration be given to the establishment and improvement of safety-rest areas at appropriate points along controlled access highways. Such areas should be so designed, equipped, and maintained as to attract motorists to use them regularly for their own safety as an antidote to driving fatigue. There is also a separate need in some places for information sites which will provide a telephone facility, or other means of communication, and directory-type information on location of, distance to, and route to nearby service facilities, accommodations and attractions. AAA supports the provision of service areas along controlled access highways which should,whenever desirable and feasible, include information, communication, rest areas including toilet facilities and emergency facilities".

BOARD OF DIRECTORS
James E. Johnson, *Chairman*, Robert M. Scott, *President*, Frank A. Seymour, *Secretary Treasurer*, Ervin L. Brady, *Executive Committee Members* Connel L. Murray, William J. Sheffield, John V. Munroe, C.R. "Steve" Helling, Robert E. Beer, Joe D. Blechard, Charles P. Cranston

AAA relates, perhaps, more to Interstate Highways than to our need, nonetheless, their position certainly reflects the same need to provide correct direction and informational signing.

Testimony and suggested revision in legislation and regulations provided to you by the Alaska Visitors Association certainly meets with our approval. We sat in on sessions with the committee to formulate those suggestions. There is no doubt in our minds that adoption of the recommendations will better serve Alaskans and our important visitor industry.

Many thanks for your constant good interest in behalf or our visitors and our industry. Please let us know if we can help provide further evidence of the highway signing need.

With all best personal regards.

Cordially,

Robert M. Scott
ALASKA STATE AUTO CLUB

cc: John Munroe
Gary Crabb
Jerry Colrud
John & Harriett Kimball
Dean Ehrich
Betty Oyster

'80 MAR 2 PM 12 17

TELE

ALASCOM, INC.
PHONE 586-6047
JUNEAU, AK 99802

02017 NL TDA VALDEZ ALASKA [illegible] 946A EST

PMS REP MIKE MILLER

JUNEAU AK

VISITORS TO OUR STATE MUST HAVE HIGHWAY INFORMATIONAL SIGNS TO KNOW WHAT THEY SEE AND WHERE TO GO. PLEASE VOTE YES ON HB167 ON MONDAY MARCH 3RD.

VILLAGE MOTEL - ED AND FRANCES WALKER

BOX 365 VALDEZ AK 99686

TELEGRAM

ALASCOM, INC.
PHONE: [illegible]
JUNEAU, AK 99802

02176 NL ANCHORAGE ALASKA 209 02-29 350P AST '80 FEB 29 PM 10 17

PMS REP MIKE MILLER

JUN 3272

UNDERSTAND THAT HB267 RELATING TO MOTORIST INFORMATIONAL SIGNS IS UP FOR A RECONSIDERATION VOTE ON MONDAY MARCH 3RD. THE UNDERSIGNED URGES YOUR SUPPORT FOR PASSAGE OF THIS MEASURE. HB267 WOULD PERMIT ERECTION OF SIGNS WHICH COULD INCLUDE LOGOS INFORMING MOTORISTS OF THE TYPES OF SERVICES AVAILABLE ALONG THE ALASKAN HIGHWAY AND WOULD MORE CLEARLY OUTLINE THE CONDITIONS UNDER WHICH SUCH SIGNS MAY BE ERECTED. PRESENT LAW IS SOMEWHAT VAGUE. SIGNS PERMITTED BY HB267 WOULD BE ABSOLUTELY CONTROLLED BY THE HIGHWAY DIVISION AND OBTAINED ONLY BY PERMIT. PASSAGE OF THIS BILL HOWEVER WOULD SERVE TO PROVIDE ESSENTIAL INFORMATION TO TOURISTS AND ALASKANS TRAVELING OUR HIGHWAYS THAT IS NOT PRESENTLY AVAILABLE. LITTLE OR NO COST TO THE STATE WOULD BE INVOLVED AS PERMITTEES WOULD BE REQUIRED TO PAY UNDER A SET FEE SCHEDULE. FURTHER THE STYLE OF THE SIGNS AUTHORIZED UNDER HB267 WOULD NOT DETRACT FROM THE SCENIC BEAUTY OF THE STATE. CLARIFICATION OF THE PRESENT INFORMATIONAL SIGN LAWS AS WOULD BE ACCOMPLISHED UNDER THIS MEASURE IS ESSENTIAL TO THE WELLBEING OF THE HUNDREDS OF SMALL BUSINESSES LOCATED ALONG OUR HIGHWAYS AND INDEED TO THE TRAVELING PUBLIC IN A STATE WHERE ESSENTIAL SERVICES ARE OFTEN FEW AND FAR BETWEEN. YOUR VOTE FOR PASSAGE OF HB267 WILL BE DEEPLY APPRECIATED BY YOUR CONSTITUENTS.

DEAN EHRICH, EXECUTIVE DIRECTOR

ALASKA VISITORS ASSOCIATION

HB
278

(7)

COMMITTEE REPORT

HOUSE

FURTHER:

Date: February 22, 1979

Mr. Speaker:

The Committee on WAYS AND MEANS has had HB 278

"An Act relating to the purge of the state voter register."

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)

[X] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____

CHAIRMAN

H 60 (Rev. 12/78)

Alaska State Legislature

House of Representatives

Committee on State Affairs

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

April 12, 1979

M E M O R A N D U M

TO: State Affairs Committee Members
FROM: Representative Mike Miller, Chairman
RE: H.B. 278

The Legislative Affairs Agency staff has advised me that we have to be more specific in describing state elections and can't use the language "any state election". Therefore I have changed the language of the bill to read "primary, general, special, or presidential primary". Let me know if you have any objections to this change.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM April 17, 1979

SUBJECT: Committee Substitute for HB 278
relating to purge of voter lists.

TO: Representative Mike Miller, Chairman
House State Affairs Committee

FROM: Richard A. Bradley, Legislative Counsel RB

The committee requested that a voter purge be delayed on a vote in "REAA, Coastal Zone Management, or state elections;" the committee left untouched the earlier addition of "municipal" to the phrase. It later requested addition of a reference to the proposed presidential primary election.

I have redone the entire approach consistently with the committee's apparent request. I take that request to be that essentially any vote in an election conducted under state law suspend the voter purge.

I have deleted "municipal" and substituted "local election" AS 15.60.010(2) defines "local election" as "any election held by a borough, city, or other local unit of government." This clearly comprehends "municipal" or "REAA." Within a code such as AS 15, it is preferable to use the defined terms and not add new terms. My use of "municipal [election]" in HB 278 violated this rule and was undesirable.

The term "state election" is not defined in AS 15.60.010, and curiously, neither is "primary election" defined; since "election" [AS 15.60.010(1)] is defined as including only "general" [AS 15.60.010(10)], and "special" [AS 15.60.010(22)] elections, it is necessary to refer to "general," "special," and "primary" elections in the bill.

I consider it unnecessary to add a reference to presidential primary elections. The term primary clearly comprehends all primaries.

And while it is not clear whether a coastal management election is a special state election or a local election, for the purposes of this bill, with references to both elections included, it seems unnecessary to resolve the question - it is covered in either case.

RAB:nem

Enclosure

HB
285

(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

February 13, 1979 Date: 2-14-79

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 265

"An Act making special appropriations to the Department of Transportation and Public Facilities; and providing for an effective date."

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

[x] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____ CHAIRMAN

H 60 (Rev. 12/78)

MEMORANDUM

TO: Clair W. Harmony, City Manager

FROM: John C. Stafford, City Engineer

SUBJ: Near Island Bridge

DATE: February 20, 1979

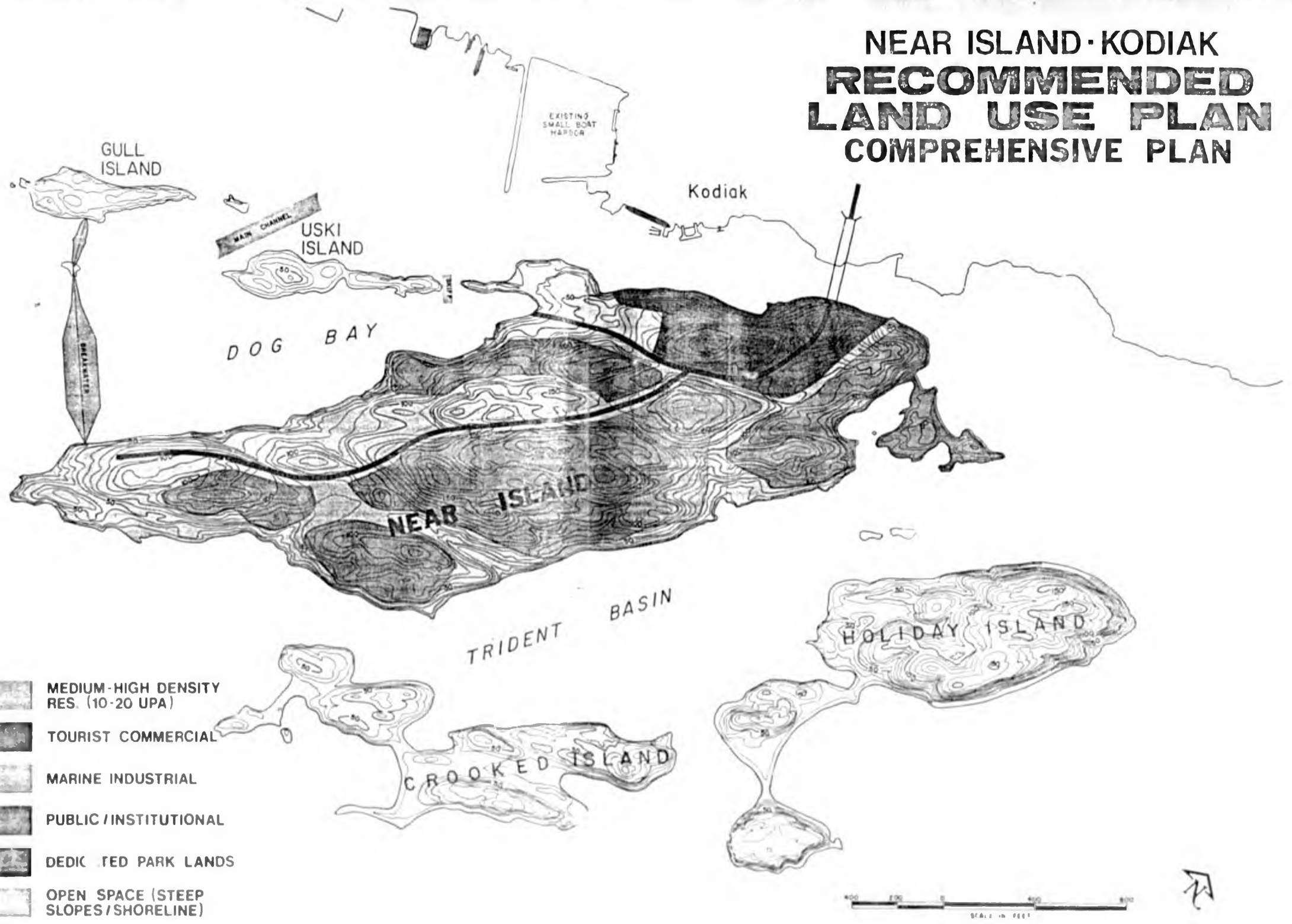
Reference telephone communication with Paul Carr of Simpson, Usher, & Jones on 16 February, 1979. The cost of a feasibility study and design of the Near Island Bridge was estimated at $280,000 a year ago. I estimate the cost today at $320,000. If contracted six months from now (August, 1979) I would place the cost at $340,000.

The State road system proposed in the Near Island Comprehensive Plan of 1974 includes 3450 feet of 36' wide paved roadway and 5100 feet of 24' wide paved roadway. A budgetary estimate for the design of this system is $65,000. This estimate should be good for the next six months.

John C. Stafford

JCS/lkg

NEAR ISLAND · KODIAK
RECOMMENDED LAND USE PLAN
COMPREHENSIVE PLAN



MAP 4

HB
299

(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

Date: _____

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 299

"An Act making a special appropriation to the Department of Community and Regional Affairs for a study of the effects of landslides and tsunamis on Kodiak Island, and date"

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

[X] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____ CHAIRMAN

H 60 (Rev. 12/78)

Funding Information
General Fund $900,000
Other Funds -0-
$900,000

Introduced: 2/26/79
Referred: State Affairs and Finance

State Affairs

IN THE HOUSE BY ~~ZHAROFF~~

CS for HOUSE BILL NO. 299

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of ~~Community and Regional Affairs~~ Natural Resources for a study of the effects of landslides and tsunamis on Kodiak Island; and providing for an effective date."

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

* Section 1. The sum of ~~$900,000~~ $ 479 000 is appropriated from the general fund to the Department ~~of Community and Regional Affairs~~ Natural Resources for geotechnic studies of the Pillar Mountain landslide and tsunamic hazard area on Kodiak Island ~~and for preliminary slope stabilization design.~~

* Sec. 2. The unexpended and unobligated portion of this appropriation lapses into the general fund June 30, 1980.

* Sec. 3. This Act takes effect ~~July 1, 1979.~~ immediately

$900,000 committee & holds
225,000
DNR Geological & Geophysical Services

DEPARTMENT OF THE ARMY
WATERWAYS EXPERIMENT STATION, CORPS OF ENGINEERS
P. O. BOX 631
VICKSBURG, MISSISSIPPI 39180

IN REPLY REFER TO WESSR

21 April 1978

Dr. Reuben Kachadoorian
U. S. Geological Survey
345 Middle Field Road
Menlo Park, CA 94025

Dear Reuben:

As requested after the Kodiak meeting, a revised outline of an investigation to obtain needed data and possible costs for evaluating the Pillar Mountain slide is inclosed (Incl 1). Inclosure 1 could be used to answer Mr. Stewart Denslow's request to you for more details. As revised, the possible costs and time for each of the five phases are listed below.

a. Phase I. Site investigation to obtain needed data on current movements, surface and subsurface geology, and engineering properties of in situ material and defects (4 months plus 4-6 months of slope indicator readings).	$447,300
b. Phase II. Analyses to develop type of slide mechanism, slide geometry, current stability, and probability of rapid slide movement (5 months).	100,000
c. Phase III. Time displacement and velocity predictions if Phase II shows high probability of rapid slide movement (3 months).	45,000
d. Phase IV. Wave height predictions from numerical hydraulic model, if warranted by Phase III (4 months).	27,000
e. Phase V. Wave height and run-up predictions from hydraulic physical model, if warranted by Phases III and IV (12 months).	227,000
Total	$846,300
Plus 10% contingency	84,630
Total possible cost	$930,930

WESSR
Dr. Reuben Kachadoorian

21 April 1978

I contacted Mr. Ron Backer, Spokane Mining Research Center, on precise air photo monitoring of landslide movements. He sent the report "Rapid Monitoring of Coal Refuse Embankments" (Incl 2). Ron referred me to Mr. Larry Roth of CH2M Hill for costs. Mr. Roth's guess on costs was $600-$1000 for one flight, including data reduction to provide X, Y, Z coordinates. He is checking further to obtain a better cost estimate for Kodiak.

As you know, we cannot begin any work, if requested, until October 1978. Parts of Phase I might be handled by the State or Kodiak Burrough initially to get the field work underway this season. Another possibility is the Advanced Technology Group at Dames and Moore. Dr. Peter Cundall and others in this group have the capability for th work, including velocity predictions possibly using Dr. Cundall's computer model for jointed rock masses. The capability for numerical and physical hydraulic model studies is unique with the Waterways Experiment Station.

If you need further assitance, please call me at area code 601; 636-3111, extension 2604.

Sincerely yours,

Bill

2 Incl
As stated

W. E. STROHM, JR.
Res Civil Engineer
Engineering Geology and
Rock Mechanics Division

April 21, 1978

Summary of Required Data and Approximate Costs for Evaluation of Pillar Mountain Slide Area, Kodiak, Alaska

Phase I: Site investigation to obtain needed data to evaluate current movement, existing stability, and potential for rapid landslide.

A. Surface movement observation program.		
1. Monthly survey (horizontal and vertical) of line of spikes along Abbott Highway from old docks to new docks. Nine surveys @ $2,000 each	$ 18,000	6 000
(2) Bimonthly precise airphoto surveys of markers inside and outside the slide area (including DH-1, DH-2, C-1, C-2, and S-1) to further define surface movement directions. Four surveys @ $5,000 each (CH2M engineers)	20,000	
(3) Supplement to 2 above. Electronic Distance Measurement (EDM) survey of targets inside slide area from two locations on Gull Island (0.6 miles away). Eight monthly surveys @ $2,000 each	16,000	
B. Collect and review existing reports and information, including movements of new city dock and determine if White Alice Station structures have experienced movement or distress. One engineer, three weeks @ $1200/week	3,600	
C. Field reconnaissance.		
1. Inspect old land slide areas along Inner Harbor to determine possible location of slide debris (i.e., at base of slide or out in the harbor)		
2. Inspect Gull and Uski Islands to check for ancient slide debris or how islands were formed		
IC Two geologists, three weeks each @ $1200/week plus travel ($2,000)	9,200	
D. Geological mapping to refine surface geology, crack pattern, joint sets, bedding, etc (includes low-level air photography, field mapping, and office work)	45,000	45,000
Subtotal IA-ID	($111,800)	

E. Subsurface Investigations.

1.	Four core borings to obtain 4-in.-diam cores of beds and joints (may require slant holes)	
	a. Near DH-2 to depth of Inner Harbor, elevation 145 to elevation 72, 210 ft @ $100/ft	$ 21,000
	b. Near center of main slide along Abbott Highway, elevation 50 to elevation 72, 122 ft	12,200
	c. Vicinity of DH-1, elevation 900 to elevation 100, 800 ft	80,000
	d. Vicinity of S-1, elevation 1100 to elevation 700, 400 ft	40,000
	e. Shipment of samples	10,000
2.	Borehole camera survey of four core borings @ $4,000 each	16,000
3.	Grout slope indicator casing in four borings and install "poor boy" in each (3-ft piece of pipe in bottom of hole attached to airplane cable), 1,532 ft @ $25/ft	38,300
4.	Install piezometers at three depths in two additional borings, one near DH-1 and one near the core boring along Abbott Highway, 900 ft @ $40/ft	36,000
5.	Field supervision and logging of core borings. Two geologists, 20 weeks each @ $1,200/week plus travel	52,000
	IE Subtotal	($305,500)

F. Laboratory tests.

1.	Drained direct shear tests on selected core samples of slide debris base material, weak fracture zones, weaker strata of argillites and graywacke material, 20 tests @ $1,000/test	$ 20,000

2. Repeated direct shear tests on existing joints, joint filling, or precut sections of core samples to determine residual shear strengths, 10 tests @ $1,000/test — 10,000

IF Subtotal — ($ 30,000)

Phase I Subtotal — $447,300

Phase II: Analyses to evaluate potential for rapid slide.

A. Analysis and interpretation of data, define slide mechanism and geometry, determine existing stability, and assess probability of rapid slide movement. Four-man engineer and geologist team, 16 weeks @ $1,200/week — $ 76,800

B. Computer time, drafting, photo reduction, and report — 23,200

Phase II Subtotal — $100,000

Phase III: Velocity predictions.

A. Revision of mathematical model program. — $ 10,000

B. Analyses, two engineers, 10 weeks each @ $1,200/week — 25,000

C. Computer time, drafting, photo reduction, and report — 10,000

Phase III Subtotal — $ 45,000

Phase IV: Wave prediction, numerical model.

It is believed that the WES numerical model should be used initially to define the severity of the wave problem. It can provide an estimate of the initial wave height within a ±25 percent accuracy and the time of the wave's arrival from the source within ±10 percent accuracy at any selected location within the area of consideration. Information needed to conduct the numerical model includes:

A. Bathymetry of the area of consideration.

B. Landslide alignment or direction of slide if it is anticipated that the slide will not move along the landslide axis (from Phase II).

C. An assumed cross section of the landslide as it enters and travels through the water (from Phase II).

D. The velocity and final position of the slide material or better, a calculated or hypothesized time versus displacement curve of the slide (from Phase III).

Assuming a maximum of 10 test cases are required to define the problem, time and cost estimates are as follows:

Item	Time (weeks)	Cost
Revitalizing and adapting present model to Kodiak scheme	4	$ 5,000
Set up and conduct 10 test cases	4	13,000
Letter report	2	1,000
Final report	8	8,000
Total	18	$ 27,000

Since the Rock Mechanics Division's Landslide Velocity Numerical Model Program and the Wave Dynamics Division's Numerical Wave Prediction Model Program both operate on a time-step basis, it would be advantageous to combine the operation of the two programs once a specific landslide scheme is selected. Should this be desired, it is estimated that reprogramming contributions by the Wave Dynamics Division would not exceed an additional cost of about $5,000 and four weeks' time.

Phase V: Hydraulic physical model.

If the numerical study wave-height predictions are not of sufficient accuracy and/or the wave heights need refining, or if further detailed information such as wave run-up, extent of area inundated, and techniques to reduce the severity of the wave action are required, a physical model should be considered. Although such a model is expensive, its application is much more versatile. It is recommended that the model include the area shown on Fig. 1 and that the model scale not be greater than 1:100. Model scales greater than 1:100 would increase the viscosity effect of the model and reduce the accuracy of wave height and run-up measurements. Reproducing the proposed prototype area at a 1:100 undistorted scale would require about 7612 sq ft of model area. This is considerably more area than was estimated in the initial estimate (November 1976). Also, the size and layout of the landslide mass described in Kachadoorian and

Slater's report indicates that the existing model landslide mechanism is not wide enough or structurally strong enough to accommodate the proposed Kodiak landslide; thus our mechanism will have to be reconstructed to meet the wider and heavier loads. Based on these assumptions, time and cost estimates for the physical model are as follows:

Item	Time (weeks)	Cost
Design and Construction (including all model construction, rehabilitation and preparation of landslide material)	16	$141,000
Model testing	16	60,000
Data analysis, conferences, travel, etc.	4	10,000
Report:		
Draft	4	5,000
Final	12	11,000
Total	52	$227,000

Information needed to construct and operate the physical model is as follows:

A. Topography data of the land areas included in the model layout, especially land-water interfacing (slope, vertical walls, etc.), along the immediate shoreline from Gibson Cove through Kodiak Harbor.

B. Bathymetry of the water bodies enclosed by the model (if better survey data are not available, existing C&GS charts can be used to reproduce the required areas of St. Paul's Harbor and the Inner Anchorage area; however, additional contours are needed along the coastal shoreline from Gibson Cover through Kodiak Harbor).

C. In-place mass-volume-elevation-shape characteristics of the various probable landslides (from Phase II).

D. Assumptions as to what size pieces the landslide mass will break into upon sliding (from Phase II).

HB
312

(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

February 28, 1979

Date: 3-1-79

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 211

"An Act making a special appropriation to the Department of Transportation and Public Facilities for road construction and improvement at Alakanuk, Emmonak, and Hooper Bay; eff. date."

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

[X] 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" [X] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Seddon, no fee

CHAIRMAN

H 60 (Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. H.B. 312
Title Road Construction at Alakanuk, Emmonak & Hooper Bay
Requested by Hurlbert Date 2/28/79

II. FISCAL DETAIL
Agency Affected DOT/PF
Program Category Affected Design & Constructio
Budget Request Unit(s) Affected Highway Design & Constructio

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES		140				
200 TRAVEL		10				
300 CONTRACTUAL		1200				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND		1350				
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Funds in this bill are inadequate to construct and/or improve these projects properly. Our analysis indicates a total of $3,710,000 will be necessary to do the job properly.

Alakanuk - 1,900,000
Emmonak - 950,000
Hooper Bay - 860,000
3,710,000

IV. DATE PREPARED BY Barry Feller
AGENCY
Office of Legislative Finance PHONE 465-3473
Office of Management and Budget
Prime Sponsor of Last Legislator Named

(Rev. 10/78)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. H.B. 312
Title Road Construction at Alakanuk, Emmonak & Hooper Bay
Requested by State Affairs Committee Date March 9, 1979

II. FISCAL DETAIL
Agency Affected D.O.T.P.F.
Program Category Affected Design and Construction
BRU, Program, or Subprogram(s) Affected Highway Design and Construction
(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES		140				
200 TRAVEL		10				
300 CONTRACTUAL		1200				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		1350				

FUNDING (Thousands of Dollars)

GENERAL FUND		1350				
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The source of this fiscal information came from Deputy Commissioner Dick Holden's attached letter.

IV. DATE March 9, 1979 PREPARED BY
AGENCY State Affairs Committee
PHONE 465-4967

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

33 001 (Rev. 1 -78)

INFORMATION ON HB 312 "Road Construction"

This bill provides for road construction and improvement projects in the villages of Alakanuk, Emmonak and Hooper Bay totaling $1,350,000.

The cost estimate comes from the Department of Transportation and Public Facilities. It is figured on the basis of combining all three projects into one contract with a total need of 15,000 yards of gravel that would probalby have to be taken from the Cape Rumanzoff area. A Corps of Engineers wet land permit will also be needed before construction work could begin.

The estimates are based on the following length of road:

Alakanuk (5mi)	$600,000
Emmonak (3mi)	500,000
Hooper Bay (airport road)	250,000
TOTAL	1,350,000

If the whole project is not funded and the contracts for each of the above villages will have to be done separately the cost for each individual village would double or triple.

We contacted the following villages and got the description of their specific road problems:

ALAKANUK

The estimates that we got from Mayor Paul Phillips--
The most critical problem is a 2 mile stretch of road from the airport to the main road. This road is only a dirt road with no gravel. The second priority is another 2 or 3 mile stretch of road in front of town. The worst part is the first portion between the airport and the highschool. The other section also needs repair that may only constitute fill in work. They would suggest that the road first get a underlayer of dirt with a gravel top. The road is complete mud in the summer and is not usuable.

EMMONAK

The estimates that we got were from Stan Peters--
The present road condition is typical tundra with sand top soil and very silty. It is extremely solft and muddy when wet in the summer and because of vehicle traffic it gets very bumpy. When it is in the mud stage any vehicle traffic at all breaks through the top to the bottom sand. When the road is dry it gets very hard and can take on vehicle weight.

Recently when they fixed the airport in Emmonak they put down an undercoating membrane and then a 6" gravel top. This has worked out very well and has withstood heavy airplane traffic and summer fish hauling even in wet weather.

Emmonak (continued)

This summer the Native Corporation in Emmonak plans to begin house-to-house oil delivery using an oil truck. The oil service tank area is 1½ miles from the village and the truck will not be able to run at all on the muddy road. Total road length including that service road and the road area between houses is estimated to be at least 4 miles.

HOOPER BAY

Certain portions of this airport road have suffered serious erosion. Approximately 5 years ago the road was repaired by putting gravel over a sand base. The road has since settled and much of the gravel in portions has washed away. The Dept. of Transportation has an idea of using metal planks that fit together over a built up sand base. Local labor could be used to build up the base and repairs to the road would be easily done locally. The worst part is a 600 foot section in a low area where the planks would be used.

NO ROAD CONSTRUCTION OR IMPROVEMENTS ARE SCHEDULED IN ANY OF THESE THREE VILLAGES AT THE PRESENT TIME

According to the Department of Transportation and Public Facilities

3/2

STATE OF ALASKA

JAY S HAMMOND GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
DEPUTY COMMISSIONER – FACILITIES PLANNING AND RESEARCH

POUCH Z
JUNEAU, ALASKA 99811

Representative Vernon L. Hurlbert
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Hurlbert:

In reference to your request for information on transportation facilities in your district, I am furnishing the following information.

Takotna Airport and road to village - There are not any presently authorized capital projects for this facility.

Taylor Highway - Our Interior region maintenance personnel have estimated the cost of $4,000,000 per year to keep the Taylor Highway open on a year around basis.

Kalskag - The airport project in the 1974 program was closed due to inadequate funding and land problems concerning gravel from native allotments. A new project to surface the Kalskag airport would require $250,000.

Sheldon Point - The contract for airport improvements at Sheldon Point was awarded to Brice Inc. Construction Co. in September, 1978, and actual work will be completed during the summer of 1979.

Galena to Alexander Lake - An asphaltic surface stabilization project to relieve dust problems would cost $1,000,000.

Hooper Bay Airport to village -
Alakanuk Airport to village -
Emmonok Airport to village -
By combining these three projects for contracting, all three could be gravel surface for $1,350,000. By seperating into individual projects the cost would be substantially higher.

Fortuna Ledge - Reconstruction of the airport is estimated at $2,000,000.

Koyukuk - The State has been unable to secure any land interest in the Koyukuk airport project. The future of the project is doubtful at this time.

Why

Russian Mission - Design is complete on this airport project and will be constructed during the summer of 1979.

If this office can be of further service please let us know.

Sincerely,

Richard Holden
Deputy Commissioner

cc: Robert Ward
Warren Sparks
Keith Specking

HB
329

(7)

COMMITTEE REPORT

HOUSE

FURTHER:

Date:

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 329

"An Act making a special appropriation to the Department of Transportation and Public Facilities for school improvement projects in the unorganized borough; and ..."

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

MEMBERS HAVING OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill 329
Title An Act Making a Special Appropriation to DOT/PF for School Improvement in Unorganized
Requested by State Affairs Committee Date April 5, 1979 Borough

II. FISCAL DETAIL
Agency Affected Department of Transportation and Public Facilities
Program Category Affected General Government
BRU, Program, or Subprogram(s) Affected Facility Planning and Research
(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES	15.0	15.0	0	0	0	0
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.	8974.65	0	0	0	0	0
	TOTAL	8989.65	15.0	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	8989.65	15.0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	0	0	0	0	0

POSITIONS

FULL TIME	0					
PART TIME						
TEMPORARY						

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

This new fiscal note was prepared at the sponsor's request.

IV. DATE April 5, 1979 PREPARED BY Representative Mike Miller
AGENCY House State Affairs Committee
PHONE 465-4964

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

38-001 (Rev. 12/78)

Funding Information
General Fund $9,704,650
Other Funds -0-
$9,704,650

Introduced: 3/2/79
Referred: State Affairs and Finance

IN THE HOUSE BY ANDERSON

HOUSE BILL NO. 329

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Transportation and Public Facilities for school improvement projects in the unorganized borough; and providing for an effective date."

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

* Section 1. The sum of $9,704,650 is appropriated from the general fund to the Department of Transportation and Public Facilities for school improvements in the following regional educational attendance areas in the amounts set out after each:

(1) Lake and Peninsula REAA -- $3,769,750;

(2) Southwest Region REAA -- $2,875,000;

(3) Lower Kuskokwim REAA -- $3,059,900.

* Sec. 2. The appropriation made by this Act is for capital projects and is subject to AS 37.25.020.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-070(c).

THE
LAKE AND PENINSULA
SCHOOL DISTRICT

P. O. Box 119
Naknek, Alaska 99633
Phone (907) 268-4280

CHARLES R. WHITE, Supt.

December 15, 1978

Representative Nels A. Anderson, Jr.
P. O. Box 234
Dillingham, AK 99576

Dear Nels:

Re: Construction Plans

Our plans for construction to be accomplished in the upcoming construction season are as follows:

Kokhanok for new elementary and high school on new site	$1,485,000
Newhalen for multipurpose room, restrooms, expand shop, renovate three classrooms	$ 930,000
Igiugig multipurpose room, high school classroom	$ 791,800 (may be reduced)
Port Heiden new school at new site	$1,030,000
Chignik Lake multipurpose room, kitchen, high school classroom	$ 950,000
Perryville small multipurpose room, siding for main building	$ 115,000

Chignik Bay add one small classroom	$ 99,000
Egegik install sewage system	$ 10,000

For the coming year we are making the following requests:

Pedro Bay for high school classroom, multipurpose room, library-media room	$ 907,500
Pilot Point high school classrooms, shop, multipurpose room	$ 742,000
Chignik Lagoon shop, multipurpose room, kitchen	$1,060,125
Port Alsworth high school and elementary classrooms, kitchen, generator building, multipurpose room	$1,060,125
	$3,769,750

I wish you the best in your efforts in the legislature during the coming year.

Our best to you and your family for the holidays.

Sincerely yours,

Charles R. White
Superintendent

CRW/rjf

cc: Jim Barnett

Southwest Region Schools

P.O. Box 196
Dillingham, Alaska 99576
Phone (907) 842-5283

March 16, 1979

The Honorable Nels A. Anderson, Jr.
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Nels:

Thank you for your note and copy of HB 329. Your efforts to secure funds for the District are very much appreciated. I will make copies of your note and the accompanying bill available to our Board Members, and I am sure that they will also be very appreciative of your efforts.

Sincerely,

Bob

Robert Van Slyke
Superintendent

RVS:bd

rec'd 3/13/79

Southwest Region Schools

Community	Project	District Cost Estimate
Togiak	Voc. Ed. Shop	$ 700,000.00
Aleknagik	Elementary School	700,000.00
Togiak	Major Maint. Furnace replacements	125,000.00
Twin Hills	Generator Building	50,000.00
New Stuyahok	Library & Classroom	150,000.00
New Stuyahok	Roof Replacement	150,000.00
Togiak	Bulk Oil Storage	40,000.00
New Stuyahok	Bulk Oil Storage	30,000.00
Manokotak	Bulk Oil Storage	30,000.00
Koliganek	Bulk Oil Storage	30,000.00
Ekwok	Bulk Oil Storage	30,000.00
Portage Creek	Bulk Oil Storage	20,000.00
Twin Hills	Bulk Oil Storage	30,000.00
Levelock	Bulk Oil Storage	30,000.00
Clarks Point	Bulk Oil Storage	30,000.00
Aleknagik	Bulk Oil Storage	30,000.00

Lower
Kuskokwim
School
District

B.A.Weinberg
Superintendent

Box 305 Bethel, Alaska 99559
(907) 543-2677

March 13, 1979

The Honorable Nels Anderson
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Anderson:

We very much appreciate your introducing H.B. 329 which would appropriate much needed capital funds for our District. Your interest in our needs is very welcome, and we will eagerly watch the progress of this bill.

Very sincerely,

B. A. Weinberg, Superintendent
Lower Kuskokwim School District

BAW:lf

cc: Richard Hazen
Mike McHone

21.00

recld 3/16/79

LOWER KUSKOKWIM SCHOOL DISTRICT

Community	Project	District Cost Estimate
Kwigillingok	High School	$ 550,800.00
Platinum	High School	49,500.00
Quinhagak	High School	624,800.00
Goodnews Bay	High School	624,800.00
Kongiganak	School Life Safety Upgrade	880,000.00
Platinum	School Life Safety Uprgrade	130,000.00
Kongiganak	School Water Storage Tank	200,000.00

HB
358

(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

March 7, 1979 Date: 3 7

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 253

"An Act making a special appropriation to the Department of Transportation and Public Facilities for a road at Crooked Creek, eff. date."

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

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[X] AND atta hes a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____

CHAIRMAN

H 60 (Rev. 12/78)

Alaska State Legislature

House of Representatives

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

March 13, 1978

M E M O R A N D U M

TO: Russ Meekins, Chairman
House Finance Committee

FROM: Mike Miller, Chairman
House State of Affairs Committee

RE: HB 358

As you are aware the House State Affairs Committee passed out HB 358 with a majority do pass recommendation. It was voted by the committee to send along a memorandum to the finance chairman pointing out two items:

(1) The $350,000 appropriations may not end up being needed. The State of Alaska is at present negotiating with a property owner in Crooked Creek for property which would not require road access. If the negotiations are successful the $350,000 item in this bill will not be necessary. As I understand it the negotiations will be concluded, either successfully or unsuccessfully, within a couple of weeks.

(2) The committee directed that I point out that condemnation proceedings have not been undertaken. It was one member's thought that the condemnation process would be appropriate and might result in the property being obtained, thus alleviating the need for this legislation. Upon checking with the department of Transportation and Public Facilities however I find that condemnation would not be appropriate in this instance since the land under negotiation is not actually under private owner. ip. It is Indian Allotment land which is technicall, still under the jurisdiction of the federal gov ..ment. Although it will be conveyed to the individual in the not too distant future it would not be possible I was told, to condemn land that is presently under the jurisdiction of the federal government.

MM:bb
cc: Norm Gorbert

HB
373

(7)

COMMITTEE REPORT

HOUSE

FURTHER:

March 10, 1979

Date: 3-10-79

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 373

"An Act relating to withdrawal from the federal Social Security System; eff. 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)

[X] replace with CS for HB 373 [X] same title [ ] new title

and recommends CSHB 373

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

Alaska State Legislature
House of Representatives

POUCH V
JUNEAU, ALASKA 99811
OFFICIAL BUSINESS

M E M O R A N D U M

To: All Members of the
House of Representatives

From: Representative Terry Gardiner T.G.

Date: March 19, 1979

Re: HB 373, social security opt-out

Attached is a research memo from Ken Humphreys of our legislative research staff. I asked Ken to compare social security payments made by the average Alaskan versus the average citizen of the United States. The study reveals that the Alaskan citizen pays considerably more than the average American in social security payments to the federal government. Obviously, this would apply to both the employer and the employee. Since the taxable wage base is rising, Alaskans will continue to pay an increasingly higher dollar and percentage amount than the average American worker.

Also contained in the memo is information revealing that since the monthly benefits are not directly proportional to the average monthly wage base on which the benefits are paid during the workers lifetime, Alaskans again suffer a disadvantage. In effect, Alaskans would get a much smaller percentage of their earnings returned in future benefits.

This information is forwarded because I thought it might be useful in your consideration of HB 373, which would allow the state employees to opt-out of the federal social security program and to use the funding that is presently deducted for beneficial programs that they wish to set up.

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

MEMORANDUM

March 13, 1979

SUBJECT: Social Security Contributions - HB 373 (W.O. #6839)

TO: The Honorable Terry Gardiner

FROM: Ken Humphreys J.K.H.
Senior Policy Analyst

You have requested information on social security contributions for Alaska versus the United States as a whole.

We have estimated that the average full-year state employee earned $22,265 in 1978. Since employee contributions to social security in 1978 were set at 6.05 percent of wages and the taxable wage base was $17,700, the average full-year state employee would contribute the maximum of $1,070.85. For the U.S. as a whole, the average covered salary in 1977 was $9,779.44. If we adjust this figure upward by 10 percent to get an estimate of the 1978 average covered wage and multiply by 6.05 percent, we arrive at an average social security contribution of $648.39.

These are rough figures, but it is clear that, as you suspected, the average state employee in Alaska pays considerably more in dollar terms in social security contributions than an average wage earner in the U. S. as a whole. This is true despite the fact that, as a percentage of total payroll, full-year state employees in Alaska in 1978 paid a little over 4 percent while wage earners in the U. S. as a whole paid on the order of 5.5 percent of their total earnings.

The discrepancy between contributions made by the average full-year state employee in Alaska and the average worker in the Lower 48 can be expected to increase in future years. An average covered worker in the U. S. in 1979 is projected to earn $11,655 and would contribute 6.13 percent or $714.45. Assuming that the average full-year state employee earns $22,900 (the 1979 taxable wage base) or more in 1979, his contribution would be $1,403.77.

The fact that the social security benefit structure is highly skewed in favor of low income workers may be of greater significance than the difference in contributions. The following table shows benefits that would be paid to a hypothetical 65 year-old male worker retiring in

3/13/79

January of 1979 with three levels of covered earnings for 1956-1978. Benefits as a percentage of covered earnings are much higher under the lower wage assumptions.

Average Monthly Wage	Monthly Benefit	Benefit as a Percentage of Average Monthly Wage
$632.61 (Maximum $174,600 total covered earnings)	$503.40	80%
$474.46 ($130,950 total covered earnings)	$412.80	87%
$316.30 ($87,300 total covered earnings)	$314.90	100%

I hope this information is useful in your consideration of HB 373. Please let us know if you have further questions.

KH:jm

STATE OF ALASKA

Inter-Department Route Slip

TO:
MAIL STATION NUMBER 3104

DEPARTMENT Gov State Affairs

ATTENTION Joanne Stiteler

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

Remarks:

FROM:
MAIL STATION NUMBER 0204

DEPARTMENT Adm/Labor Svcs

BY K. Terrell DATE 4-5

2nd Floor
123 A
Cap

02-002 (REV. 10/73)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS for House Bill 373
Title Withdrawal From the Federal Social Security System
Requested by House Rules Date

II. FISCAL DETAIL
Agency Affected Administration - Division of Retirement and Benefits
Program Category Affected Retirement and Benefits (OTHER BENEFITS)
BRU, Program, or Subprogram(s) Affected 02-96-8-01-02-00
(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES		80.9	85.8	90.9	96.4	102.2
200	TRAVEL						
300	CONTRACTUAL		186.6	30.8	30.8	30.8	30.8
400	COMMODITIES		3.0	3.0	3.0	3.0	3.0
500	EQUIPMENT		1.5	0.1	0.1	0.1	0.1
600	LAND & STRUCTURES						
700	TRS STATE MATCH						
100	BENEFITS		-0-	(1290.9)	(1560.6)	(1713.7)	(1874.5)
	TOTAL		272.0	(1171.2)	(1435.8)	(1583.4)	(1738.4)

FUNDING (Thousands of Dollars)

GENERAL FUND			(1057.3)	(1278.0)	(1403.5)	(1535.3)
FEDERAL FUNDS			(59.4)	(71.8)	(78.8)	(86.2)
VETERAN'S FUND			(2.6)	(3.1)	(3.4)	(3.7)
FISH & GAME FUND			(7.7)	(9.4)	(10.3)	(11.2)
HIGHWAY FUND			(16.8)	(20.3)	(22.3)	(24.4)
AIRPORT FUND			(37.4)	(45.3)	(49.7)	(54.4)
CAPITAL FUND			(109.7)	(132.7)	(145.7)	(159.3)
PROGRAM RECEIPTS		272.0	119.7	124.8	130.3	136.1

POSITIONS

FULL TIME		3	3	3	3	3
PART TIME						
TEMPORARY						

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

1. Bracketed numbers represent savings to State as a result of freezing contribution rate at 6.13% of covered wage base. (Similar savings will accrue to State employees).

2. If employees vote to opt out of Social Security:

   A. All administrative costs will be funded from State contributions before the balance of the contributions made by the State are deposited into special individual employee benefit accounts. The first six (6) months operating costs will be paid from the State's general fund. The general fund will then be reimbursed via program receipts starting 1/1/80.

   If employees vote not to opt out of Social Security:

   B. Administrative costs incurred between the passage of this bill and the special election will have to be funded via a supplemental appropriation. Estimate $30 to $40 thousand will be incurred.

3. Administrative costs per attachments.

IV. DATE 4/2/79 PREPARED BY Paul B. Arnoldt, Director
AGENCY Division of Retirement & Benefits
PHONE 465-4460

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) House State Affairs Committee
Office of the Governor (Keith Specking)

Rev. 12/78

PERSONAL SERVICES:

One (1) Benefits Specialist (Range 18)
Salary and Merit Increases @ 6% yearly

FY 80 Monthly Salary	$2,186 X 12 =	$ 26,232	
Benefits @ 30.23%	=	7,924	
			$ 34,161

One (1) Accountant III (Range 16)
Salary and Merit Increases @ 6% yearly

FY 80 Monthly Salary	$1,886 X 12 =	$ 22,632	
Benefits @ 30.23%	=	6,841	
			$ 29,473

One (1) Clerk Typist III (Range 8)
Salary and Merit Increases @ 6% yearly

FY 80 Monthly Salary	$1,108 X 12 =	$ 13,296	
Benefits @ 30.23%	=	4,019	
			$ 17,315

TOTAL - PERSONAL SERVICES $ 80,949

CONTRACTUAL SERVICES:

Fee to retain a consulting firm to:

(1) Design/specify the supplemental benefits
(2) Prepare Bid Specifications
(3) Evaluate Bid Results
(4) Interface between carriers and State

FY 80	$ 80,000
Subsequent FY's	15,000

Data Processing Support (See Memo page 4):

FY 80	$106,560
Subsequent FY's	15,800

COMMODITIES:

Supplies for employees:

Forms (enrollment, statements, etc.)
Paper (Computer Reports, etc.)

FY 80	$ 3,000
Subsequent FY's	$ 3,000

EQUIPMENT:

(3) Desks
(3) Chairs
(1) Typewriter
(1) Calculator
Miscellaneous Equipment

FY 80	$ 1,500
Subsequent FY's	$ 100

of ALASKA

MEMORANDUM

CS for House Bill 373

TO: Paul Arnoldt, Director
Division of Retirement & Benefits
Department of Administration

DATE: March 20, 1979

FILE NO:

THRU: Gary W. Motley, Manager
Division of Data Processing

TELEPHONE NO:

FROM: Sally Hooton, EDP Programmer III
Division of Data Processing
Department of Administration

SUBJECT: Data Processing Cost Estimates

The following are rough cost estimates based on our meeting this morning. Costs for forms and paper are not estimated.

A. Modifications to the existing payroll system will be minimal for reporting of all contributions to the special benefits account to a new system. Estimates are based on in house maintenance cost of $30 per hour.

Analyst & Programming	200 hrs @ $30/hr	$ 6,000
Computer testing	6 hrs @ $110/hr	660
Total cost of payroll impact		$ 6,660

B. A new system will be required to administer and control the allocation of contributions. Listed below are estimated costs of this new system based on current contractual costs of $55 per hour which includes contractual expenses.

Initial analysis and design including forms design	200 hrs @ $55	$11,000

Analysis and programming costs by program task

1. Semi-monthly computer run

File load	30 hrs @ $55	1,650
On/line & batch input	150 hrs @ $55	8,250
Editing & reporting	120 hrs @ $55	6,600
Update & reporting	120 hrs @ $55	6,600
File backup	30 hrs @ $55	1,650
		$24,750

2.	Monthly computer run		
	Comparison with Payroll	90 hrs @ $55	4,950
	Update contributions & report	90 hrs @ $55	4,950
	Split contributions by type	90 hrs @ $55	4,950
	Report to 5 carriers 5 x 60 =	300 hrs @ $55	16,500
	Social security number changes	40 hrs @ $55	2,200
	Print turnaround document	50 hrs @ $55	2,750
			$36,300
3.	Semi annual computer run		
	File purge	60 hrs @ $55	3,300
	Reconciliation of accounts	100 hrs @ $55	5,500
	Employe statement	60 hrs @ $55	3,300
			$12,100
4.	Special request computer runs		
	Label print	50 hrs @ $55	2,750
	Two special lists	100 hrs @ $55	5,500
	Total Development Cost		$ 8,250
C.	Initial Additional Costs		
	Data entry		2,000
	Computer time for program and systems testing	50 hrs @ $110	5,500
			$ 7,500
D.	Initial Cost Totals		
	Modifications to existing payroll System (A)		6,660
	Developmental costs (B)		92,400
	Additional data entry & computer cost (C)		7,500
			$106,560

E. Projected annual costs

Program maintenance	200 hrs @ $30	$ 6,000
Computer test time	10 hrs @ $110	1,100
Computer time for production:		
Semi monthly	30 hrs @ $110	3,300
Monthly	30 hrs @ $110	3,300
Semi annual	5 hrs @ $110	550
Specials	5 hrs @ $110	550
Annual data entry cost		1,000
		$15,800

cc: George Crowder

HB
396

(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

March 15, 1979

Date: 4-4 19 79

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 396

"An Act making special appropriations for a two-year transportation capital improvement program; eff. 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)

[X] eplace with CS for HB 396 [ ] same title [X] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back witho' recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

No Rec

CHAIRMAN

H 60 (Rev. 12/78)

NOME-BELTZ ROAD

I.

The Teller Road services the Nome-Beltz Junior-Senior High School. It runs from Nome to Beltz School a distance of miles.

This stretch of road has been a constant source of problems and concern to the Nome School District for some years. The width of the road has never seemed adequate for the heavy trucks and school buses that travel it. It is the most traveled road in this part of Alaska.

In the Fall of 1977, a committee of some 15 members from the community did a study of school district facilities and needs for the future. Out of that work came a recommendation that the Nome-Beltz facility be increasingly utilized with more faculty and students assigned to that location. This brought under consideration the condition of the road from town to the Nome-Beltz facility. It was recommended by that group that efforts be commenced to bring state attention to the road and to accomplish the necessary re-building and repair.

Subsequent to the citizen committee's recommendations, the Nome School Board, on January 10, 1978, passed the following motion, "That the Board formally request the Dept. of Transportation to widen the Teller Road from Nome to Nome Beltz High School to accomodate potential growth in that area." A few weeks later, the Northwest Chamber of Commerce Board of Directors passed a resolution requesting that attention be given to the road. Other efforts have been made by various groups and individuals from time to time. Enough attention has been given to this problem by the community that it would be recognized by the Dept. of Transportation and others at the State level that the local community has placed a high priority on this project.

The most recent development which has affected School District programs and the transportation of students to the facility is the reduction of the legal speed limit. The reduced speed limt of 30 miles per hour has caused severe complications throughout the District in regards to the student transportation program. A great many problems have developed with the scheduling and extensive efforts have been made to reduce the conflicts in the transportation program. At this point, students are having to leave their homes earlier catch the bus; and still it seems buses continue to arrive at the school late.

The greatest concern of all the people in the District is the safety of their children. Traveling on this hazardous road places the most precious resource in danger, the lives of our children.

Alaska State Legislature

House of Representatives

Office of the Speaker

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

MEMO: April 7, 1979

TO: Rep. Mike Miller, chairman
House State Affairs Committee

FROM: Rep. Terry Gardiner TG

RE: appropriation for route survey
secondary road route in Ketchikan Gateway Borough

Rep. Freeman and I have requested that $500,000 be added to the Legislative Budget for FY 80 for survey of a bypass highway route in Ketchikan Gateway Borough. The survey would be performed for a right-of-way corridor approximately 18.5 miles long, running through the forested bench lands east of the existing Tongass Highway route.

The "center-line" study will designate a right-of-way corridor, enabling borough planners and developers to plan and build subdivisions now and in the future, in such a way that when a long-proposed secondary highway route is funded and built, those developments already in place will meet with design and engineering requirements of the road right-of-way and not conflict with road routing. The centerline study will consist of route survey and engineering to determine the most appropriate right-of-way, based on geology, engineering, cost and environmental safeguards, under established state and federal requirements.

Include in letter (mail out as attachment A, FY 23-24

Regional Transportation Comprehensive Transportation Plan $155,000

The comprehensive would be matched with $125,000 federal planning funds and would provide the comprehensive transportation plan for the region.

The Plan shall be a joint effort between the DOT, the KTIB and shall provide participation by all local governments and the general public. The plan shall be for a [illegible] planning period including all transportation modes but not limited to [illegible]

The plan will identify transportation [illegible] established by the local communities. It will also identify local governmental units (state, county, city) have the specific responsibility of implementing, undertaking and maintenance of each capital project.

Item No. 2

Include in letter of intent as attachment A. HB 512

Kenai Peninsula Borough Comprehensive Transportation Plan... $155,000

This appropriation would be matched with $125,000 in federal planning funds and would provide for a 15-month comprehensive transportation plan for the Kenai Borough.

The plan shall be a joint effort between the DOT and the KPB and shall include participation by representatives of all local communities within the borough. The existing planning commissions and village councils shall form the base of the effort.

The plan shall be for an intermodal transportation system, including all transportation modes (including but not limited to highways, trails, airports, harbors and roads).

The plan will identify transportation projects for the local communities. For each established [illegible] the local communities shall establish [illegible] governmental units (state and [illegible] have the opportunity [illegible] of each project, [illegible] of the [illegible] capital project.

Sen Halford

Alaska State Legislature

House of Representatives

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

M E M O R A N D U M

TO: Russ Meekins, Chairman, House Finance Committee

FROM: Mike Miller, Chairman, House State Affairs

DATE: April 9, 1979

Russ -- the State Affairs Committee passed out HB 396 with several changes. First of all we made the appropriation not for a two year period but for a single year, in recognition of the fact that most of these projects will not be under construction in a single year anyway. There are however compelling reasons why several of the items in the former second year catagory should be handled immediately -- most specifically the riprap construction at English Bay airport where the ocean is eroding away the current landing strip. Additionally you will notice that three new items appear in the legislation: the Nome Beltz road; an appropriation for survey of a secondary road route in Ketchikan Gateway Borough; and funds for a comprehensive transportation plan for the Kenai Peninsula Borough. Backup material from representatives Fuller, Gardiner, and Malone, respectively, is attached. In regards to the Kenai Peninsula transportation plan it should be especially noted that federal monies are anticipated in the amount of $125,000 in addition to the $155,000 authorized from the state general fund. If you have any further questions let me know or contact any of these three affected legislators.

Original sponsor: Rules/Governor

Funding Information

General Fund	$18,269,580
Other Funds	-0-
	$18,269,580

IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

CS FOR HOUSE BILL NO. 396

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making special appropriations for a two-year transportation planning and capital improvement program; and providing for an effective date."

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

* Section 1. The sum of $10,165,000 is appropriated from the general fund to the Department of Transportation and Public Facilities to be allocated as follows:

Tok Highway paving: Mile 18 - 75	$4,695,000
Glenn Highway paving: Long Lake - Mile 118	3,070,000
Miscellaneous local roads/Gilmore Trail	1,525,000
Sitka Harbor bridge	300,000
Manokotak runway repair	75,000
Schoenbar bypass	500,000
~~Enotisk Bay Airport~~ RIDGE RD	86,250

* Sec. 2. The sum of $8,104,580 is appropriated from the general fund to the Department of Transportation and ~~Public~~ Facilities to be allocated as follows:

Atmautluak and Akiak - gravel	$ 443,900
Alaknagik Road - gravel	287,500
Nome-Beltz Highway	2,018,250
Taglina District - crushed aggregate stockpile	402,500
Juneau Area - paving	690,000
Kodiak shop - insulate	57,500
Heal, Spur, Anderson Road, Sheep Creek Road - seal coat	219,075

Kenai Peninsula Transportation Plan	155,000
St Mary's - equipment and storage	485,300
Norcale Road - resurfacing	627,555
Kalsin Bay - replace wood culvert	57,500
Juneau - chemical storage	172,500
St Mary's Airport - pavement rehabilitation	1,150,000
~~English Bay Airport - riprap~~	~~86,250~~
Various bush airports - brush control	51,750
Northway Airport - resurfacing	575,000
Bells Flats road	780,000

* Sec. 3. Section 1 of this Act takes effect July 1, 1979. Section 2 of this Act takes effect July 1, 1980.

immediate effective date or English Bay airport or more effective date up to July 1, 1979

Integrated transportation plan Kenai peninsula area 155,000

letter of intent to finance

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. H. B. 396
Title Two Year Transportation Capital Improvement Program
Requested by Rules Committee Date 3/15/79

II. FISCAL DETAIL
Agency Affected DOT/PF
Program Category Affected Design & Construction
Budget Request Unit(s) Affected Highway, Aviation & General Design & Construction

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES				950		
200 TRAVEL				49.58		
300 CONTRACTUAL				16,000		
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL				16,989.58		

FUNDING (Thousands of Dollars)

GENERAL FUND				16,989.58		
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Funding appears adequate for the projects involved.

IV. DATE 4/3/79 PREPARED BY Harry Keller
AGENCY DOT/PF
PHONE 364-2121

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

33 001 (Rev. 10/76)

HB
421

(7)

COMMITTEE REPORT

HOUSE

FURTHER: JUDICIARY

March 22, 1979 Date: 4-3-79

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 421

"An Act relating to conflict on interest; eff. 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)

[X] replace with CS for HB 421 [X] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

ALASKA PUBLIC OFFICES COMMISSION

610 C STREET, SUITE 209
ANCHORAGE, ALASKA 99501
PHONE: 276-4176 AND 274-0321

SECTION ANALYSIS OF HB 421

"An Act relating to Conflict of Interest;..."

Prepared for: State Affairs Committee
Alaska State House of Representatives

Prepared by: Randall P. Burns RPB
Executive Director
Alaska Public Offices Commission

Date: April 3, 1979

AMENDMENT	EFFECT
Section 1	This amendment would require individuals who formally file for State elective office during an off-election year to file a "current" Conflict of Interest Statement before June 1 of the actual election year, thus guaranteeing that all candidates will have Statements on file covering the same preceding year.
Section 2	The proposed language would require that public officials subject to the Conflict of Interest Law who resign from their hired, appointed or elected positions file a Statement covering the period from the final date of their last Conflict of Interest Statement through the date of their termination. Current law does not require the public official leaving government to disclose his business and financial interests for any part of the period that he was in office since his previous Statement was filed. Thus, an official who resigns prior to April 15th can now have worked, at maximum, fifteen months for which there is no Statement from the official for his last year and one-quarter in office.

(Detailed rationale for these two proposed Amendments can be found on pages 10-13 of the Commission's 1977 Annual Report.)

01-A8LH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

ALASKA PUBLIC OFFICES COMMISSION

610 C STREET, SUITE 209
ANCHORAGE, ALASKA 99501
PHONE: 276-4176 AND 274-0321

SECTION ANALYSIS OF HB 422

"An Act relating to the regulation of election campaigns;..."

Prepared for: State Affairs Committee
Alaska State House of Representatives

Prepared by: Randall P. Burns RPB
Executive Director
Alaska Public Offices Commission

Date: April 3, 1979

AMENDMENT	EFFECT
Section 1	The proposed language makes clear that citizens of a municipality, when voting on exemption from AS 15.13, are voting to exempt all parties potentially subject to the Campaign Disclosure Law. In addition, the Legislature, in 1977, amended AS 15.13 to require groups sponsoring initiative, referendum or recall petitions to file Campaign Disclosure reports (see AS 15.13.110(e)). This language simply amends the "Applicability Section" to state that this law does apply to attempts to influence an initiative, referendum or recall effort.
Section 2	This section adds a single word ("purpose") to clarify that candidates should briefly identify the purpose of campaign expenditures. (Candidates are already providing this information to the public. However, in light of the Commission's recommended change in Section 6 of this bill -- which eliminates the need for suppliers of campaign services to file reports -- it is particularly important that the statute clearly require candidates to briefly state the purpose of expenditures.)
Section 3	This section requires the same reporting requirement of groups, as described above in Section 2 for candidates (i.e., that a group breiefly state the purpose of its expenditures).
Section 4	This amendment, in conjunction with the repeal of AS 15.13.080 listed in Section 24 of this bill, proposes to eliminate the requirement that individuals, person or groups contributing over $250 must file a Contributor's Statement (APOC Form 15-5) with the Commission.

Further proposed changes, on page 3, lines 1 & 2, clarifies, in accordance with the intent of the Legislature's 1977 amendment, that persons making expenditures for advertising must report when attempting to influence initiative, referendum or recall petition efforts, as well as clarifying that expenditures both for or against candidates and issues must be reported.

Section 5 — The changes in this section are coupled with the proposed elimination of the requirement that "major" contributors file reports in Section 4 of this bill. Removes the language requiring the Form 15-5 be filed in 10 days.

Section 6 — This proposed change would eliminate the need for the supplier of Campaign Services (newspapers, radio and television stations, printers, pollsters, etc.) to file reports with the Commission.

Section 7 — This section proposes new language which would allow the candidate who does not intend to spend money or raise money (i.e., no financial campaign activity) to be able to state that fact at the outset of his or her campaign and not have to file any reports, unless the candidate does later begin spending or raising funds during the campaign.

Section 8 — Actually, there are no proposed language changes in this section. What this section does is remove most of the language which is currently found in AS 15.13.130(3), which defines a "group," and places it here in AS 15.13.050, which specifically deals with the registering and reporting requirements of groups. This "move" is suggested so that people may read about groups in one section. People often do not read the definition section, where a substantial portion of the important information about campaign groups is currently found. This would solve that confusion.

Section 9 — This section proposes new language requiring groups organized in support or opposition to ballot issues or petition drives to register before beginning campaign activity. The law currently requires groups supporting or opposing candidates to register prior to commencement, but is silent on when other groups should register.

An additional new section is proposed, which would require "on-going" groups, like political parties and political action committees, to annually renew their registration. This is necessary, as treasurers and officers change often, and there is no required procedure for updating the original registrations.

Section 10 — The proposed language in this section clarifies that a candidate is responsible for the performance of not only his treasurer, but also any deputy treasurers the candidate or treasurer may appoint to assist in the campaign.

Section 11 — This section removes the confusion over the intent of the phrase "competing candidates," and also clarifies that the subdivisions of a political party are exempt from the $1,000 limitation so long as they are not, in actuality, acting as a candidates's campaign committee.

In addition, and in accordance with the 1977 amendment to AS 15.13.110(e), this clearly states that more than $1,000 may be contributed to groups attempting to influence a petition drive.

Section 12 — The intent of the proposed changes in this section is to allow candidates to raise and spend money for their campaign prior to formally declaring for office, so long as that activity is reported when required. The current language basically prohibits campaign activity prior to filing for office.

Section 13 — The proposed additional language in this section would eliminate the need for municipal candidates and groups to file the 30 day pre-election report, and would also eliminate the need for legislative candidates to file the 30 day report, so long as they had not experienced over $1,000 in contribution or expenditure activity.

Section 14 — The amendment would eliminate the need to report expenditures on a 24 Hour Report Form during the week prior to an election.

Section 15 — This section proposes new language which names the 10 day post-election report as the final campagin disclosure report, if the campaign has ceased and all debts are paid, and stipulates the reporting requirements upon groups who must remain in active status after the 10 day report is filed.

Section 16 — This section, and the following section, attempts to clarify the criminal penalty section of the Campaign Disclosure Law. This section limits the scope of the penalty section, and views as misdemeanors only those items specifically enumerated. The current law makes any violation of AS 15.13 a criminal offense.

Section 17 — The changes proposed here eliminate the (probably) unconstitutional provision that voided a candidate's election if he or she were found guilty of a violation of the Campaign Disclosure Law, and replaces that provision with language requiring the Lieutenant Governor to withhold certification of a candidate's election pending resolution of a suit against a candidate for a certain alleged violation of the Campaign Disclosure Law.

Section 18 — This section is basically housekeeping, eliminating language in conjunction with the proposed changes discussed in Section 4, and clarifying that the Commission should report to the Attorney General the names of both candidates and groups when they have failed to file a report.

Section 19 — This section is not actually proposed new language. This language already exists in the statute as AS 15.13.120(d). However, in order to make it easy for people to find the complaint procedures, the language in (d) has been placed in a new section by itself and entitled "complaints."

Section 20 — This section substantially amends and expands the civil penalty section of the law. In conjunction with the limitations to the scope of the criminal penalty section proposed in Section 16 of this bill, an expansion of the civil penalty section is proposed here. The Commission's ability to more quickly and fairly administer the Campaign Disclosure Law rests with its ability to assess civil penalties for violations previously considered criminal violations. In addition to current civil penalties for the filing of late reports, this section proposes penalties for failing to register when required or failing to properly identify political campaign communications.

Section 21 — The proposed language in this section would allow the Commission to also request the Attorney General to appoint a special prosecutor, and limit that choice to the private bar.

Section 22 — This section would considerably expand the definition of the word candidate, and encompasses the numerous alternative ways of becoming a "candidate."

Section 23 — This section clarifies what is meant by the word "group" and, in addition, removes most of the information about groups, which was transferred to AS 15.13.080 in Section 8 of this bill (see Section 8 analysis).

Section 24

This is the "repealer" section and repeals the following:

AS 15.13.070(f), (g) and (h) - these are the subsections of the law which set out the limitation on expenditures later declared unconstitutional by the U. S. Supreme Court.

AS 15.13.080 - this is the section which required major contributors to file a report of their contributions within 10 days (see Section 4 analysis).

AS 15.13.110(d) - this section required the supplier of campaign services to file reports of their business transactions within 30 days of an election (see Section 6 analysis).

AS 15.13.120(d) - this is the subsection dealing with complaints, which was placed into a separate section (see Section 19 analysis).

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

ALASKA PUBLIC OFFICES COMMISSION

610 C STREET, SUITE 209
ANCHORAGE, ALASKA 99501
PHONE: 276-4176 AND 274-0321

SECTION ANALYSIS OF HB 423

"An Act relating to the regulation of lobbying;..."

Prepared for: State Affairs Committee
Alaska State House of Representatives

Prepared by: Randall P. Burns RPB
Executive Director
Alaska Public Offices Commission

Date: April 3, 1979

AMENDMENT	EFFECT
Section 1	This amendment proposes new language in recognition of the two reasons for registering as a lobbyist: 1) because a person is specifically employed, contracted with, or retained to lobby, or 2) because a person expends more that $100 on public officials while attempting to influence the decisions of public officials.
Section 2	The language in this section proposes to reduce the number of unnecessary copies of the lobbyists' registration statements that are currently required to be distributed by the Commission.
Section 3	This is a new section of the law, and creates what has been labeled a "representational lobbyist" category. Section 16 of this bill defines a "representational lobbyist." This new section requires a representational lobbyist to register before lobbying, but the represenational lobbyist does not have to file reports. Only the "employer" (the person or group reimbursing the representational lobbyist) must report.
Section 4	This section proposes new language that sets out what a lobbyist is required to report. The current section is poorly written and confusing. This new language clearly states what is required, although it does not expand what is now required of lobbyists. Subsection (5) has been amended to increase the dollar threshold from $100 to $1000.
Section 5	This section amends the law to clarify the reporting requirements of employers of lobbyists. Generally, the proposed new wording makes it clear that groups employing lobbyists must file reports

as employers. The current language is unclear. In addition, the amendments will require the employer to report on the accrual basis rather than on the cash basis, and also will clarify the reporting of gifts to public officials or members of their immediate family.

Section 6 — This amendment creates a new subsection which stipulates that the Commission may not accept an employer of a lobbyist's registration until all delinquent reports from the previous year have been filed. This new language parallels already existing language regarding the annual renewal of a lobbyist's registration.

Section 7 — This section of the bill proposes a new section of the law, and would require the "employer" of a representational lobbyist to register as the source of the reimbursement within 15 days (also see Section 3 of this bill).

Section 8 — This proposed new language considerably simplifies the current section setting out the reporting periods, and amends the section so that both lobbyists and employers of lobbyists need only report quarterly. This amendment eliminates the lobbyist's monthly reporting requirement. This amendment does, however, require that the reports be filed within 15 days of the end of each calendar quarter, instead of the present one-month time frame allowed for the filing of reports.

Section 9 — This proposed amendment parallels the changes in Section 2 of this bill by eliminating the unnecessary duplication and distribution of reports filed.

Section 10 — This amendment would create a new section which gives the Commission discretionary powers to revoke or suspend the registration of a lobbyist or an employer of a lobbyist when they have refused or failed to file a required report. This language requires that an opportunity for a hearing must be afforded before the Commission can take such action.

Section 11 — This proposed language amends the exemption section of the law by making it clear that an individual who lobbies without compensation and does not spend over $100 on behalf of public officials or their immediate families should not register and report as a lobbyist. Current language requires that an individual, in order to remain exempt for registering as a lobbyist, must confine his or her comments to public hearings and appearances before legislative committees. This restriction upon uncompensated individuals seems overburdensome; therefore, its removal has been proposed.

Section 12 — The definition of what is considered "administrative" lobbying has been a major source of trouble for the Commission. The proposed language in this section attempts to place limits on the overbroad scope of what is currently considered reportable administrative lobbying by excluding from consideration those activities that are routine and necessary when dealing with the bureacracy, and those appearances at proceedings which are public and for which a record is generally kept.

Section 13 — This amendment narrows the scope of the law to the immediate family of public officials, not any individual in government.

Section 14 — The proposed changes in this section further emphasize the Commission's attempts to exclude from consideration as reportable lobbying activities those activities which are mandated by existing laws and regulations.

Section 15 — This proposed new language more clearly and simply defines a lobbyist. The current definition is vague and difficult to administer and enforce.

Section 16 — The proposed changes in this section only correct references to language in another statute (AS 39.50 - the Conflict of Interest Law) that do not exist as referenced.

Section 17 — This section proposes additions to the definition section of the law, It sets out definitions for "representational lobbyist" (i.e., one who lobbies without compensation but who receives reimbursement for expenses), and for the term "source of income" (i.e., either the person or group directly paying the lobbyist, or other entities making payments through the direct employer).

STATE of ALASKA

MEMORANDUM

Dwight

TO: Jack Chenoweth
Legislative Affairs Agency

DATE : March 27, 1979

FROM: Randall P. Burns
Alaska Public Offices Commission

SUBJECT: Revisions to HB 422 & HB 423

Per our discussion today, outlined below is a brief synopsis of the revisions that should be made to HB 422 and HB 423.

HB 422

Page	Line(s)	Should Read
2	5-6	, or the circulation of an initiative, referendum or recall petition.
4	4-9	(b) A candidate who receives contributions or makes expenditures after certifying to no campaign activity under (a) of this section is no longer exempt from the reporting requirements of this chapter. The candidate who loses his exemption shall amend his registration and shall file reports of his activity when required by AS 15.13.110.
10	20	"... file a complete and properly certified ..."
10	25	"... file a complete and properly certified report ..."
11	2-6	"(4) not more than $250 a day for each day the failure continues, if the person prints, publishes, or distributes ..."
12	18	"(3) 'group' means every [STATE AND REGIONAL EXECUTIVE] committee ..."

HB 423

4	13	"or with whom ..."
7	6	"public official or a state agency ..."

ALASKA PUBLIC OFFICES COMMISSION

APOC FORM 15-3 B

Refer to Bookkeeping Guide for Details

CAMPAIGN CONTRIBUTIONS

INSTRUCTIONS: Please list all contributions received, whether monetary (i.e., cash, check, etc.) non-monetary (i.e., gifts, goods or services), or loans, from any contributor.

Check one: ☐ 30 Day, ☐ 7 Day, ☐ 10 Day or ☐ Year-end Report

_____
(NAME OF CANDIDATE OR GROUP)

DATE	TYPE & CHECK NUMBER	NAME AND ADDRESS OF CONTRIBUTOR	OCCUPATION	EMPLOYER (if self-employed list name and address of business)	AMOUNT THIS PERIOD	CUMULATIVE AMOUNT EACH CONTRIBUTOR
•						

• Use continuation sheets if necessary

SUB-TOTAL _____ → Transfer this figure to line 4 below

1. CANDIDATE'S PERSONAL CONTRIBUTIONS THIS PERIOD . . . . . $_____

2. TOTAL OF CONTRIBUTIONS FROM OTHERS OF $100 OR LESS THIS PERIOD
NUMBER OF CONTRIBUTORS (_____) . . . . . _____

3. TOTAL OF CONTRIBUTIONS FROM OTHERS OVER $100 THIS PERIOD . . . . . _____

4. TOTAL CAMPAIGN CONTRIBUTIONS THIS PERIOD (add lines 1, 2 and 3) . . . . . $_____

5. CUMULATIVE TOTAL CONTRIBUTIONS FOR THE YEAR . . . . . $_____

ALASKA PUBLIC OFFICES COMMISSION
610 "C" Street, Suite 209
Anchorage, Alaska 99501

APOC FORM 15-3C
Refer to Bookkeeping Guide for Details

EXPENDITURES

INSTRUCTIONS: Please list each expenditure made during the reporting period, whether paid or accrued (i.e., charged). Basically, you need only list those checks written during the period, and any expenses you incurred during the period but have not yet paid for.

_____
(NAME OF CANDIDATE OR GROUP)

Check one: ☐ 30 Day, ☐ 7 Day, ☐ 10 Day or ☐ Year-end Report

Date	Check No.	Name and Address of Payee	Purpose of Expenditure (e.g., newspaper ads, radio & t.v. spots, printing, polling, etc.)	Type of Expenditure: Paid or accrued	Amount of Expenditure
•					

• Use continuation sheet if necessary

TOTAL AMOUNT OF EXPENDITURES THIS PERIOD ..... $ _____

CUMULATIVE TOTAL FOR YEAR ..... $ _____

HB
510

(7)

COMMITTEE REPORT

HOUSE

1/15/80

FURTHER: FINANCE

Date: 4-11-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 510

"An Act

"Making a special appropriation to the Department of Community and Regional Affairs for a grant to the Iliamna - Newhalen electrical cooperative; 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)

[X] replace with CS for HB 510 [ ] same title [ ] new title

and recommends CS FOR HB 510 (S) DO PASS

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

ILIAMNA-NEWHALEN ELECTRIC COOPERATIVE, INC.
P.O. BOX 111
ILIAMNA, ALASKA 99606

June 15, 1979 9673

The Honorable Nels A. Anderson, Jr.
P.O. Box 234
Dillingham, Alaska 99576

SUBJECT: Power Generating Facilities Cost Estimates

Dear Mr. Anderson:

We intend to supply power to the FAA and Alascom facilities as well as residential and commercial consumers in Iliamna only at the first stage. In order to make a grant application possible, we have estimated our needs.

The necessary equipment is as follows:

Generator building prefabricated 30' x 30' @ $60/ft^2	$ 54,000.00
2 x 200 kW diesel generators (used equipment) @ $100/kW	$ 40,000.00
Switchgear & controls (used equipment)	$ 10,000.00
Fuel storage tanks 70,000 gal @ $1/gal	$ 70,000.00
Substation 350 kVA @ $100/kVA	$ 35,000.00
Freight	$ 10,000.00
	$ 219,000.00
Engineering 10%	$ 20,000.00
	$ 239,000.00
Contingencies	$ 11,000.00
	$ 250,000.00

We plan on utilizing the existing FAA distribution system and at a later point in time extend service to Newhalen and eventually Nondalton.

Used equipment has been located and could be in service with 3 - 4 months from the time of purchase.

We trust this information is sufficient for consideration in a grant program.

If further information is required, do not hesitate to contact me. We do appreciate your help.

Sincerely,

ILIAMNA-NEWHALEN ELECTRIC COOPERATIVE, INC.

Dora Kropp

for William Lucas
Manager

WL:wp

June 23, 1979

Governor Jay Hammond
Pouch A
Juneau, Ak 99811

Dear Governor Hammond:

Mr. William Lucas, manager for the Iliamna-Newhalen Electric Cooperative, Inc. has requested a $250,000.00 grant to get their electric coop off the ground. I urge you to consider making this request an item for consideration at the August 6, 1979, special session in Juneau.

I am sure you are aware of the high cost of electricity in the Iliamna/Lake Clark area. The development of a cooperative in the area would be extremely helpful in reducing the cost of electricity to the villages.

Your support is respectfully requested for adding the Iliamna-Newhalen Electric Cooperative, Inc. grant request as a part of the special session in Juneau on August 6, 1979.

Sincerely,

Nels A. Anderson, Jr.

cc: Senator George Hohman
Mr. William Lucas

Bristol Bay Native Corporation 445 E. 5TH AVENUE / P.O. BOX 220 / ANCHORAGE ALASKA 99510 / PH (907) 278-3602

May 3, 1977

Mr. J. Lowell Jensen
Executive Director
Alaska Public Utilities Commission
MacKay Building
Anchorage, Alaska 99501

Subject: ILIAMNA/NEWHALEN ELECTRIC COOPERATIVE

Dear Mr. Jensen:

The villages of Newhalen, Iliamna and Nondalton are in need of a source of power. The Iliamna/Newhalen Electric Cooperative will initially provide power to Iliamna and Newhalen with Nondalton added at a later date.

The BBNC does not wish to comment on the economic viability of the project or the proposed rates because of lack of expertise in this area. We are currently assisting Iliamna and Newhalen in acquiring a land interest upon which the generating facility is to be constructed.

The BBNC concurs with the purpose for which the land is to be provided and supports the concept. It is time all the villages of Alaska enjoyed the conveniences of electrical power.

Very truly yours,

John C. Moores
Engineering Geologist

cc: Senator Mike Gravel
Senator Ted Stevens
Governor Jay Hammond
Representative Nels Anderson
Congressman Don Young
Senator George Hohman

ILIAMNA-NEWHALEN ELECTRIC COOPERATIVE, INC.

Loan Applications - Index of Documents

ALASKA 29A4 ILIAMNA

Board Resolutions:

1. Requesting loan from REA and 2% interest rate.
2. Accepting Financial Forecast.
3. Accepting System Planning Study.
4. Accepting Power Requirements Study.
5. Certification of Area Coverage and Line Extension Policy.
6. Naming Attorney, CPA and Manager.
7. Specifying Board Officers.
8. Certificate of Authority, REA Form 675.
9. Policy for accounts receivable, directors and employees.

Engineering Items:

1. REA Form 740c.
2. REA Form 740g.
3. System Planning Study and Environmental Report.
4. Newspaper ad for generation.

Operation Items:

1. Financial Forecast with footnotes and list of assumptions.
2. Retail Rate Schedules.
3. A.P.U.C. Certificate.
4. Articles of Incorporation.
5. Bylaws.
6. Property Schedule, page 4 of Mortgage.
7. Opinion of Counsel concerning legality of corporation.
8. Contracts: REA Form 320.
9. REA Forms 266, 268, and 291.
10. Statements: Name of Bank and Account Number
    Area Served
    Debt Limit
    Corporate Name

10/6/78

HB
514

(7)

COMMITTEE REPORT

HOUSE

1/15/80

FURTHER: FINANCE

Date: 4-14-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 514

"An Act
"Relating to increasing the minimum benefits of retired legislators 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)

[X] replace with CS for HB 514 [ ] same title [X] new title

and recommends CSHB 514 DO PASS

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

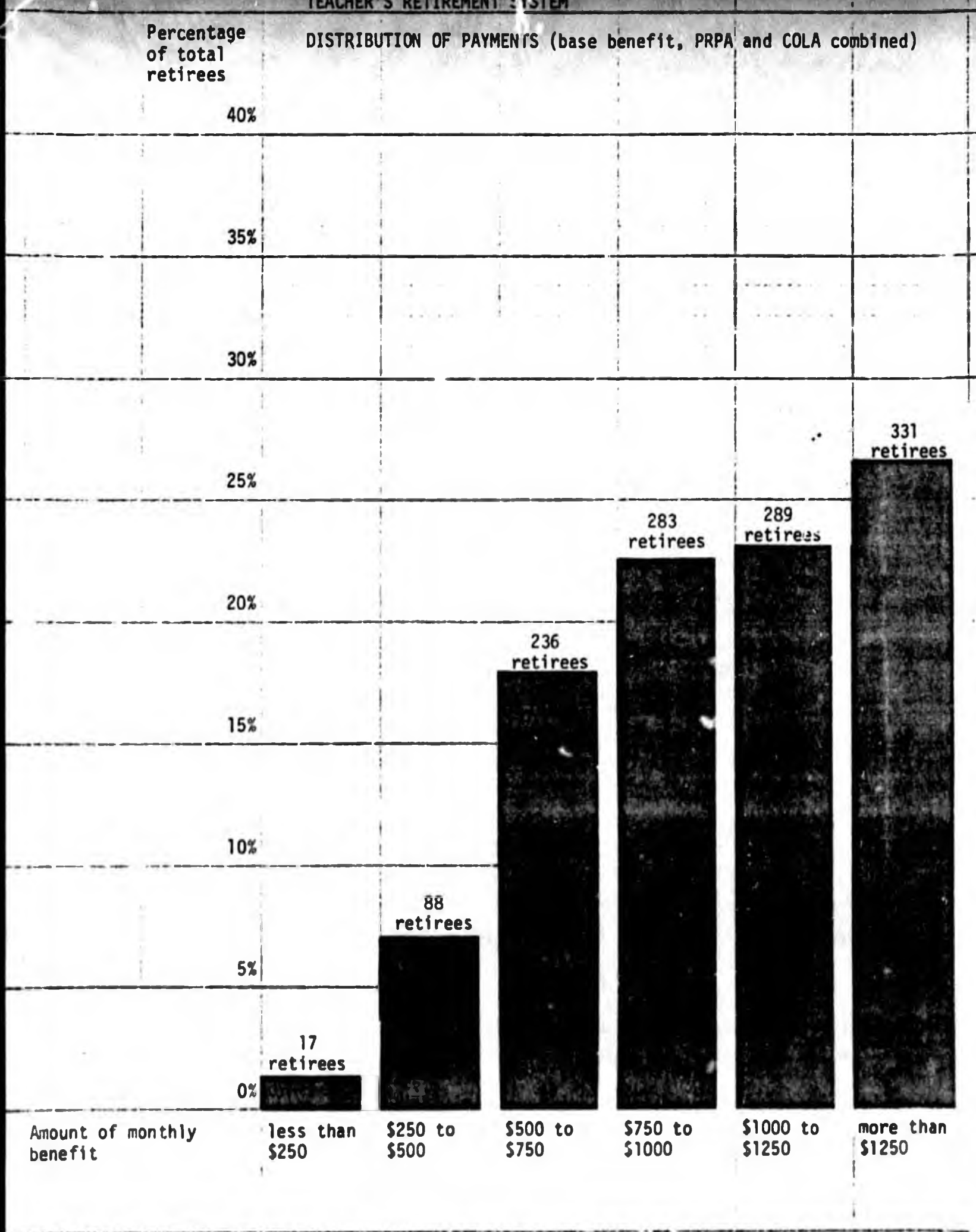
MEMBERS SIGNING
DO PASS

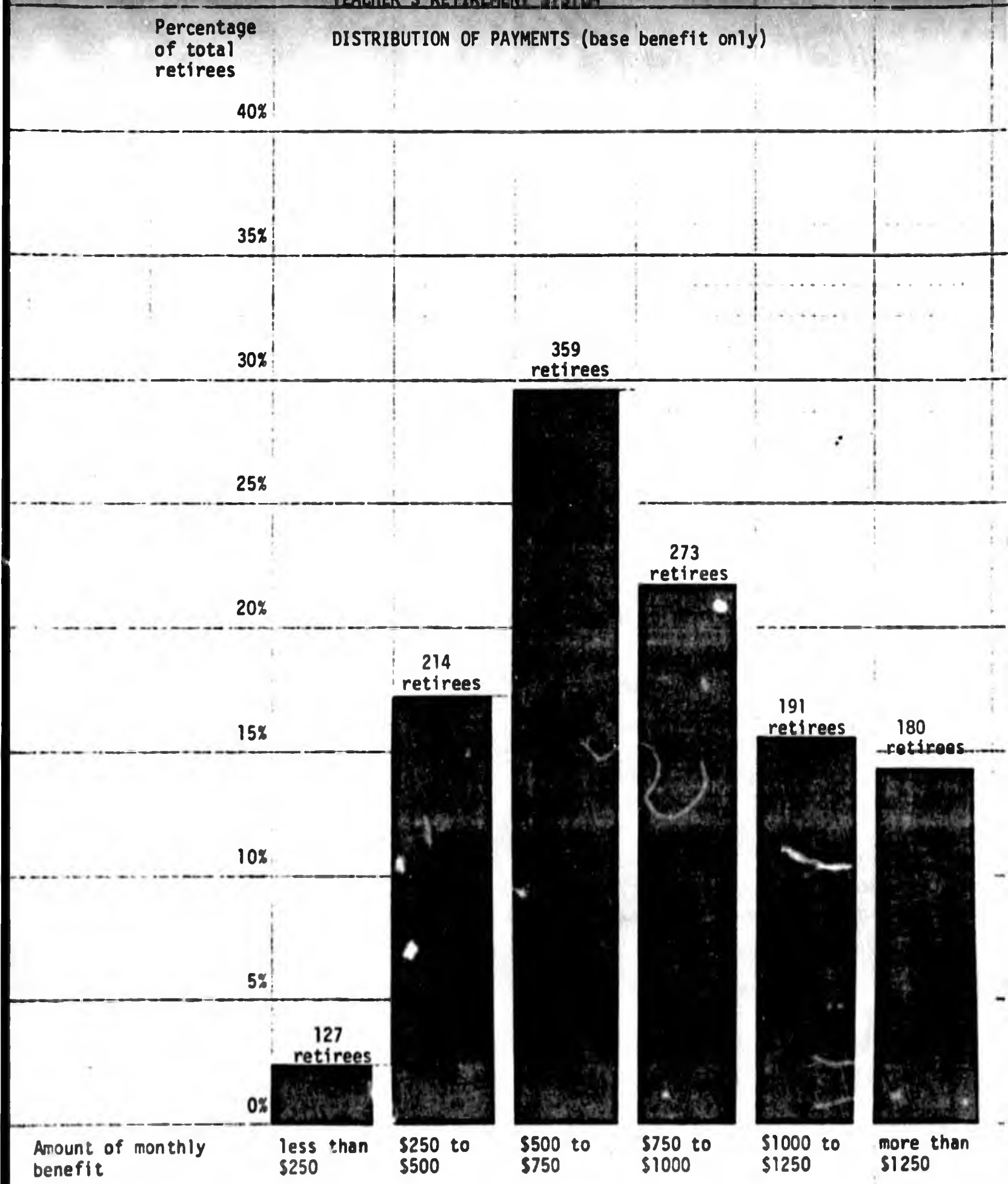
MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

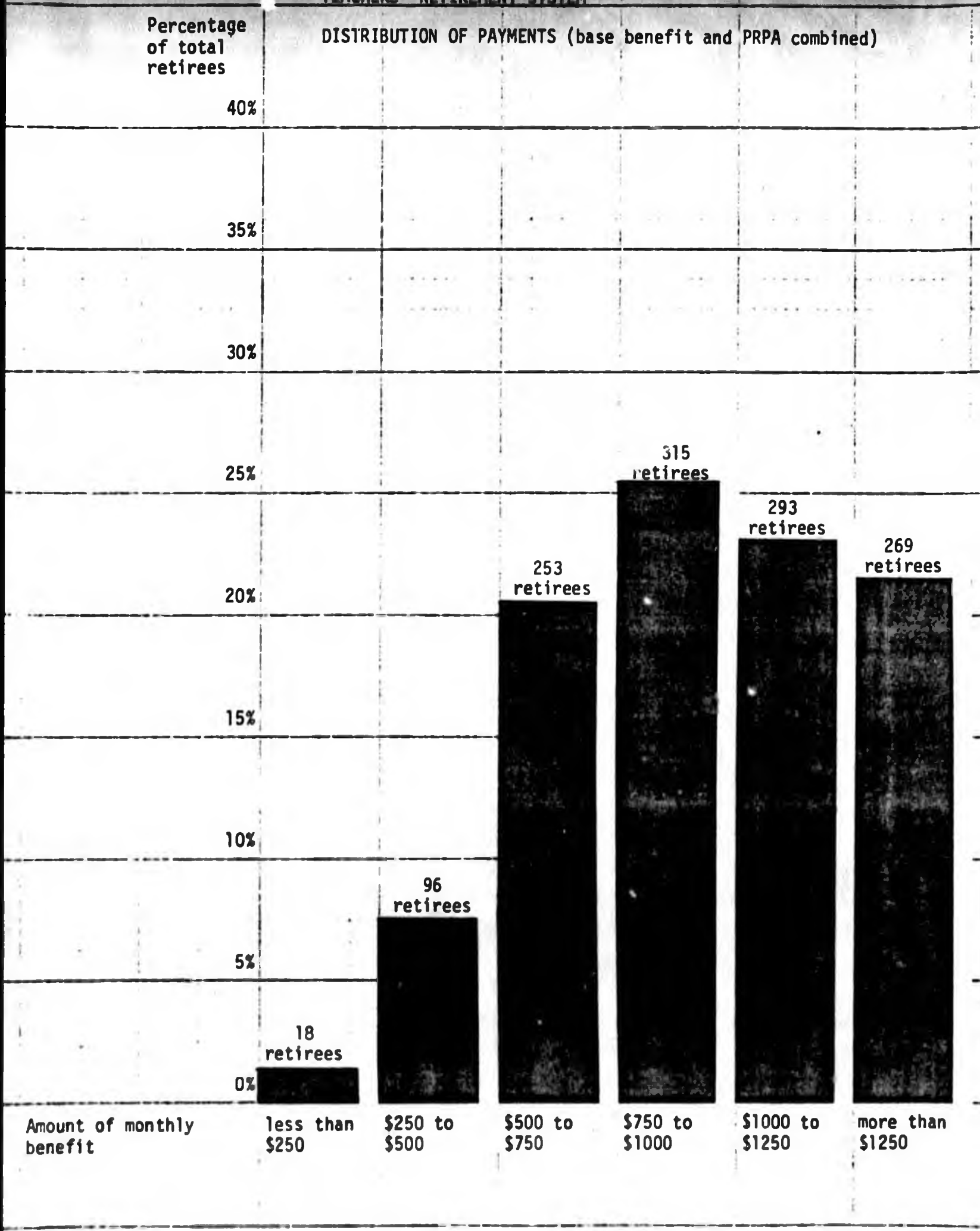
H 60 (Rev. 12/78)

TEACHER'S RETIREMENT SYSTEM

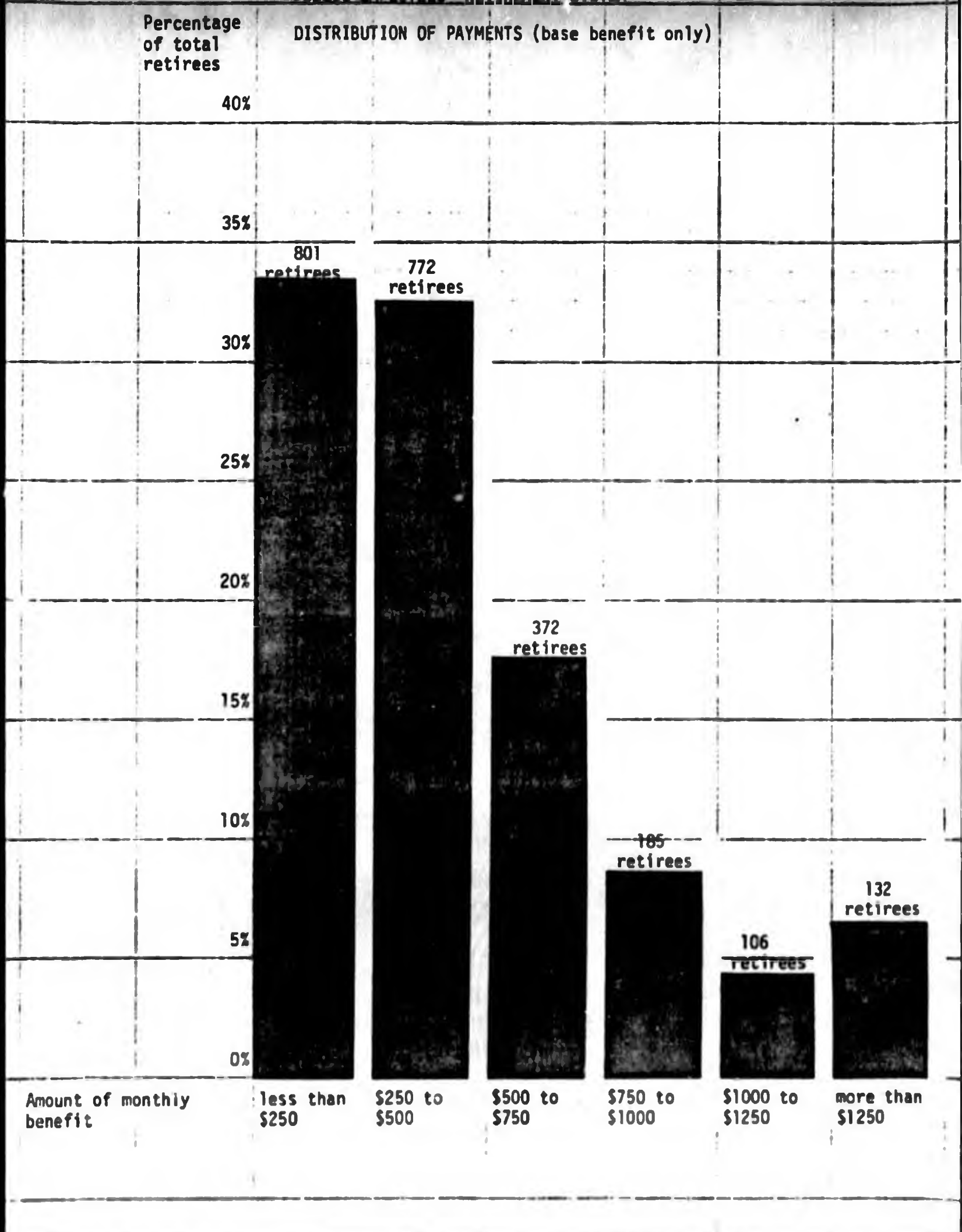



Percentage of total retirees
DISTRIBUTION OF PAYMENTS (base benefit only)
40%
35%
30%
25%
20%
15%
10%
5%
0%
127 retirees
214 retirees
359 retirees
273 retirees
191 retirees
180 retirees
Amount of monthly benefit
less than $250
$250 to $500
$500 to $750
$750 to $1000
$1000 to $1250
more than $1250

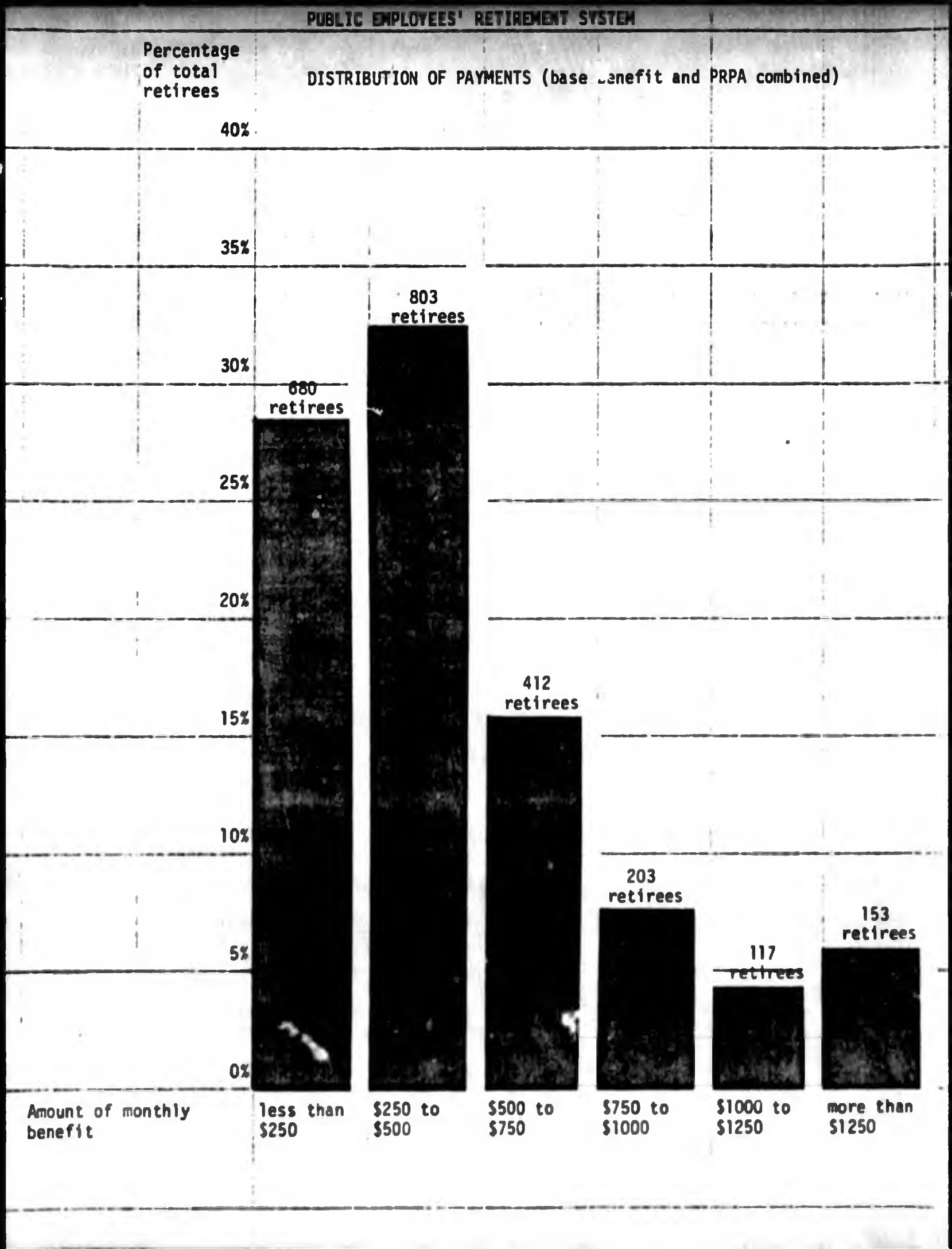
TEACHERS' RETIREMENT SYSTEM



PUBLIC EMPLOYEES' RETIREMENT SYSTEM

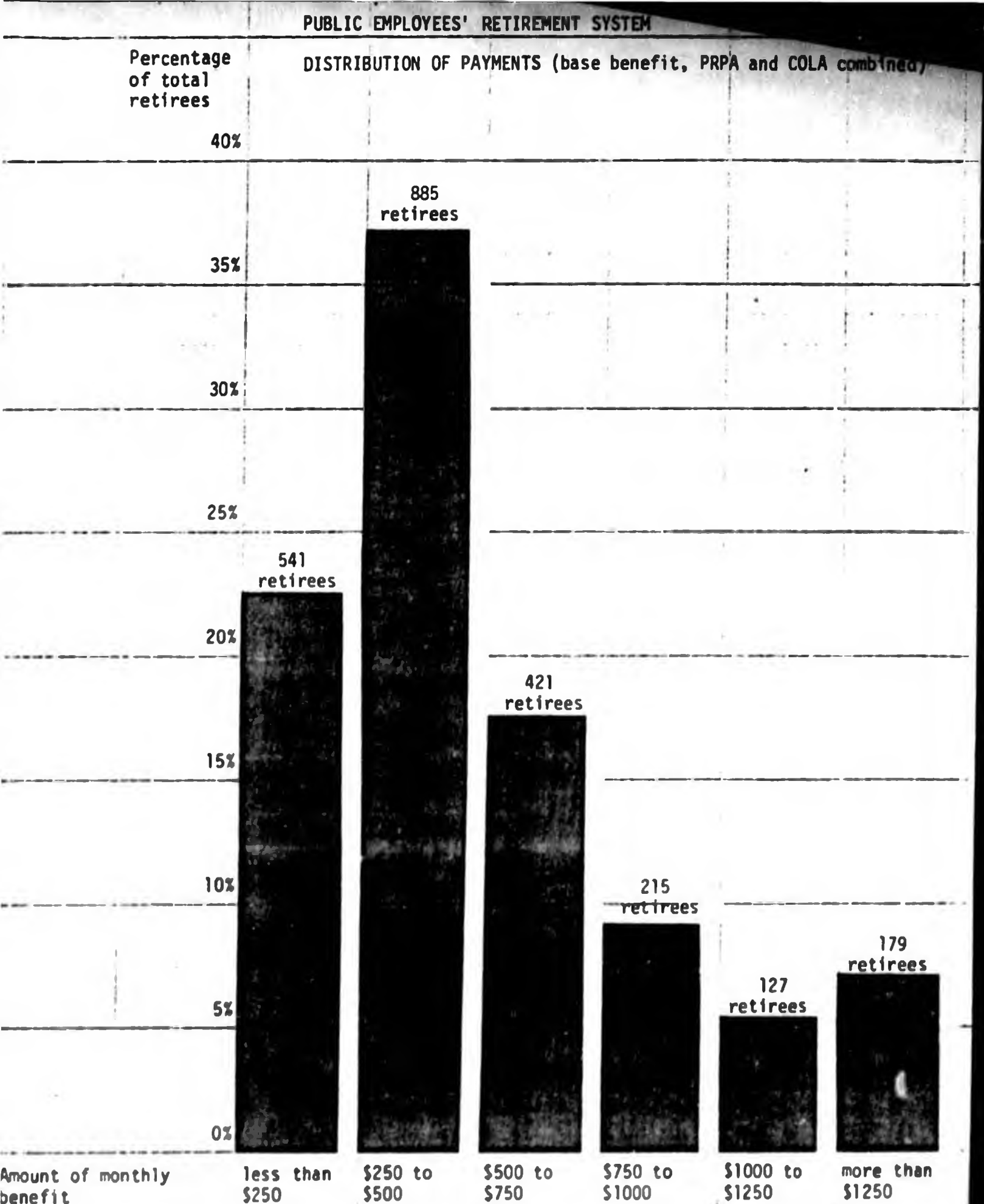


PUBLIC EMPLOYEES' RETIREMENT SYSTEM



PUBLIC EMPLOYEES' RETIREMENT SYSTEM

DISTRIBUTION OF PAYMENTS (base benefit, PRPA and COLA combined)



ESTIMATED FUTURE ANNUAL COST OF INCREASED MINIMUM BENEFIT FOR CURRENT RETIREES

*PERS

Increase monthly benefit from $17.50 to $20.00 per year of service: $227,600

Number of retirees affected: 539

Average monthly increase: $35

**PERS

Increase monthly benefit from $17.50 to $25.00 per year of service: $693,900

Number of retirees affected: 799

Average monthly increase: $72

***TRS

Increase monthly benefit from $20.00 to $25.00 per year of service: $172,000

Number of retirees affected: 154

Average monthly increase: $93

*would involve approximately 270 man hours to implement

**would involve approximately 400 man hours to implement

***would involve approximately 77 man hours to implement

MINIMUM BENEFITS

PERS

Estimated* number of retirees receiving minimum benefit:	245
Number of retirees receiving benefits (all types):	2368
Percentage of retirees receiving minimum benefit:	10.35

TRS

Estimated* number of retirees receiving minimum benefit:	49
Number of retirees receiving benefits (all types):	1244
Percentage of retirees receiving minimum benefit:	3.94

*these figures could be slightly off the mark. As we currently have no means to specifically identify those receiving minimum benefits, it was necessary to have the computer compare the years of credited service against the base benefit and arrive at an approximation. Variance could be as much as 10%.

JUDICIAL RETIREMENT SYSTEM

Average Monthly Benefit:	$2,160.14
Lowests Monthly Benefit:	$ 862.44
Highest Monthly Benefit:	$3,312.00
Average Years Service:	11.970
Lowest Years Service:	5.041
Highest Years Service:	15.000*

*Maximum

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill 514
Title An Act Relating to Increasing the Minimum Benefits of Retired Legislators
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Administration - Division of Retirement and Benefits
Program Category Affected Labor Services
BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-01 (PERS)
(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						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	STATE TRS MATCHING						
100	BENEFITS	17.7	53.0	53.0	53.0	53.0	53.0
	TOTAL	17.7	53.0	53.0	53.0	53.0	53.0

FUNDING (Thousands of Dollars)

GENERAL FUND	14.6	43.5				
FEDERAL FUNDS	0.8	2.4				
VETERAN'S FUND		0.1				
FISH & GAME FUND	0.1	0.3				
HIGHWAY FUND	0.2	0.7	SAME	SAME	SAME	SAME
AIRPORT FUND	0.5	1.5				
CAPITAL FUND	1.5	4.5				
PERS						
TRS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

1. Twenty-nine retired legislators are affected by this bill.
2. Average annual increase in benefits per legislator will be $1,829.
3. Assumed an effective date of March 1, 1980.

IV. DATE 1/22/80 PREPARED BY Paul B. Arnoldt, Director
AGENCY Division of Retirement & Benefits
PHONE 465-4460

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) Representative Gardiner
Office of the Governor (Keith Specking)

February 11, 1980

Legislative Board of Retirement Benefits analysis and recommendations on:

House Bill No. 514:

The board endorses the attached fiscal note as its fiscal analysis of HB 514.

A majority of the members of the board recommend that HB 514 Do Not Pass; one member recommends that the bill do pass.

Two members who recommend that HB 514 Do Not Pass did so because they felt the minimum base benefit on all retirement benefits should be reviewed for all PERS & TRS members, rather than a limited few persons in one system as HB 514 provides.

Three members felt that there was no showing of any special circumstances in this very small group of people that differentiates them from the PERS or TRS program.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE (REVISED)

HB 514

I REQUEST
Bill/Resolution No. HB 514
Title An Act Relating to Increasing the Minimum Benefits of Retired Legislators
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Administration - Division of Retirement and Benefits
Program Category Affected Labor Services
BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-01 (PERS)
(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						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	STATE TRS MATCHING						
100	BENEFITS	11.9	35.8	35.8	35.8	35.8	35.8
	TOTAL	11.9	35.8	35.8	35.8	35.8	35.8

FUNDING (Thousands of Dollars)

GENERAL FUND	9.8	29.3	29.3	29.3	29.3	29.3
FEDERAL FUNDS	0.5	1.6	1.6	1.6	1.6	1.6
VETERAN'S FUND	0.0	0.1	0.1	0.1	0.1	0.1
FISH & GAME FUND	0.1	0.2	0.2	0.2	0.2	0.2
HIGHWAY FUND	0.2	0.5	0.5	0.5	0.5	0.5
AIRPORT FUND	0.3	1.0	1.0	1.0	1.0	1.0
CAPITAL FUND	1.0	3.1	3.1	3.1	3.1	3.1
PERS						
TRS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

1. Twenty-seven retired legislators are affected by this bill.
2. Average annual increase in benefits per legislator will be $1,326.
3. Assumed an effective date of March 1, 1980.
4. This fiscal note supercedes the or dated 1/22/80.

IV. DATE 2/07/80 PREPARED BY Paul R. Arnold, Director
AGENCY Division of Retirement & Benefits
PHONE 465-3360

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) Representative Gardiner
Office of the Governor (Keith Specking)

HB
534

(7)

COMMITTEE REPORT

HOUSE

1/15/80

FURTHER: FINANCE

Date: 1-22-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 534

"An Act authorizing the state, through the Department of Public Safety, to participate in the Alaska avalanche warning system; and providing for an effective date."

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

[X] do pass [ ] do not pass

[X] do pass with attached amendments(s)

[X] replace with CS for HB 534 [ ] same title [X] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

OFFICE OF THE COMMISSIONER

POUCH Z
JUNEAU, ALASKA 99811
(TELEX 45-328)

January 31, 1980
000H

Re: 000H-
Avalanche Control Programs

Honorable Mike Miller
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Miller:

During your teleconference hearing on January 21, 1980 concerning avalanche control programs and the Avalanche Warning Center, Mr. Marco A. Pignalberi, Assistant Deputy Commissioner for Maintenance and Operations testified on behalf of DOT/PF.

The consultant report he referred to in his testimony came off the press on January 22, 1980. Enclosed are eight copies for your committee. Please bear in mind that this consultant's report has not yet been reviewed by our Department. The recommendations contained in it may be, in some cases, already implemented or planned or discounted. We will review the report and incorporate appropriate parts in our avalanche control plan.

We appreciate your interest in this important effort to protect our highway users.

Sincerely,

Robert W. Ward
Commissioner

CC: Patrick P. Ryan, Deputy Commissioner M&O

28A-T1LH

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
P.O. Box 1628, Juneau, Alaska 99802

3200
January 2, 1980

The Honorable Mike Miller
Alaska State House of Representatives
Pouch "V" State Capitol Building
Juneau, Alaska 99811

Dear Representative Mike:

As we discussed a few days ago, I am enclosing revised budgetary data to explain the two proposed appropriation bills for funding the Statewide Alaska Avalanche Warning System.

This financial plan essentially follows the original project proposal of 8/1/79 that you have, however, it is updated to reflect greater capital investments needed during the first-year of implementation. From then on for State participation, I would expect a financial need in the neighborhood of $150,000 per year. This would enable continued operation and maintenance of the system.

If any problem develops with the line-item appropriation approach, we would then have to consider existing capabilities of individual benefitting Departments to help carry the load. This would be unfortunate, as progress would probably be a lot slower in that case.

Thanks for your interest and help in this project, Mike. There seems to be good momentum for support right now, and I'm optimistic that significant progress can be made in the year ahead. Should you want to go over the financial plan in more detail, please give me a call.

Sincerely,

ROBERT C. JANES
Deputy Director of State and Private Forestry

Enclosures

F&AM #01-060
Amendment#_____

FIRST-YEAR FINANCIAL PLAN (PROPOSED)

Agency	Table is in Thousands of Dollars					
	Direct Funding-Coop Acct#				Indirect Support	Total
	1/1-6/30/80	7/1-9/30/80	10/1-12/31/80	Total		
USDA						
FS-R10	30	14	15	59	21	80
FS-RM	-	-	-	-	5	5
SCS	-	-	-	-	9	9
USDC						
NWS	-	-	-	-	20	20
USDI						
BLM	10	20	-	30	10	40
USDOT						
AR	-	-	-	-	5	5
State of AK						
DOT & PF	40	20	25	85	16	101
DNR	40	20	20	80	30	110
DPS	15	5	5	25	10	35
Boroughs						
Juneau	-	2	1	3	2	5
Anchorage	-	2	1	3	2	5
Private						
Alyeska Ski Resort	1	-	-	1	2	3
Totals	136	83	67	286	132	418

ALASKA AVALANCHE WARNING SYSTEM
and
FIRE WEATHER FORECASTING SERVICE

Implemention Plan

I. Objective: Commence first-year operations in January, 1980, with core-group staffing of the Warning Center in Anchorage installation of field observation stations, and capital investment items.

II. Direct Financing Needed: For the period January 1, 1980 through December 31, 1980, there is a total need of $286,000. Details are provided below. This amounts to 67% State, 31% Federal, and 2% other.

III. Indirect Financial Support: For the same period noted above, $132,000 of contributed support is furnished by various cooperators. This amounts to 53% Federal, 42% State, and 5% Other.

IV. Direct Financing Details:

A. Anchorage Warning Center (AWC) Personnel

1. Lead Forecaster (GS-12 @ $36,972/yr) for period 2/1-12/31/80.....$30,810

2. Assistant Forecaster (GS-11 @ $30,862/yr) for period 4/1-12/31/80.....$25,720

3. Two Fire Meteorologist Tecnicians (GS-7 @ $20,826/yr) for period 5/1-9/30/80.....$17,355

4. Moving costs for two permanent forecasters..$30,000

5. Travel and per diem for training, etc.....$ 8,000

6. Office communications, rent, etc.....$ 6,115

$118,000

B. Field Stations. Installation and contractual agreements. $ 20,000

C. Capital Investments

1. Data Collection Recall Program.....$ 6,000

2. Instrumentation.....$10,000

3. Orographic Precipitation Models. Contract for two: Southcentral @ $76M; Southeast @ $40M.....$116,000

$132,000

Sub Total $270,000

D. Overhead Assessment (@ 6%) 16,000

Total $286,000

RESOLUTION

NATIONAL SKI PATROL SYSTEM INC. - ALASKA DIVISION
Annual Meeting - Anchorage, May 25-26, 1979

WHEREAS, The National Ski Patrol System, Inc. is a non profit volunteer organization of 23,000 individuals, with more than 300 patrollers in Alaska dedicated to protecting the health and safety of thousands of winter recreationists including, but not limited to alpine and nordic skiers using both developed and undeveloped mountainous terrain, and

WHEREAS, The State of Alaska had the highest number of fatalities, (29) in the Nation due to snow avalanches since 1970, followed by the States of Colorado and Washington with 24 and 21 deaths respectively, and

WHEREAS, Snow avalanche hazards exist throughout the State of Alaska, with: (a) 180 known avalanche paths that cross public highways and railroads; (b) over 500 human occupancy structures lying directly in avalanche paths; (c) thousands of avalanche paths within heavily used developed and undeveloped public recreation areas; (d) the Juneau area posing the greatest potential threat than anywhere in North America for a catastrophic avalanche, with resulting loss of many lives and immeasurable property damage, and

WHEREAS, central snow avalanche warning systems have proven effective in the States of Colorado, Washington, and Oregon, and

WHEREAS, there is a need for a Statewide Avalanche Warning System in Alaska, to alert its citizens to changing snow conditions conductive to severe snow avalanche danger, and

WHEREAS, the U.S. Forest Service through its Division of State and Private Forestry in the Alaska Region, has proposed a cooperative project to implement an Alaskan Avalanche Warning System (AAWS) with joint financing by various Federal and State agencies, now

THEREFORE BE IT RESOLVED, the Alaska Division of the National Ski Patrol System, Inc. strongly supports the proposed Alaska Avalanche Warning System and urges first-phase implementation to start for the winter of 1979-1980, and

BE IT FURTHER RESOLVED, the State of Alaska Legislature is urged to adopt legislation to authorize the establishment and continuation of a line item annual appropriation to the Department of Public Safety, for the purpose of representing the State's interests in the participating Departments of Public Safety, Transportation, and Natural Resources; the annual appropriation should be consistent with the enclosed suggested financial plan, based upon benefitting State agencies.

Adopted May 26, 1979

NSPS - Alaska Division

J. Scott Grundy, Division Director

ALASKA AVALANCHE WARNING SYSTEM

SUMMARY

5-10-79

1. Situation: Alaska Avalanche potential exists year around which has resulted in Alaska being the highest in avalanche fatalities in the Nation since 1970. Approx. 500+ structures are directly exposed to avalanches with the Juneau area posing the greatest potential for catastrophic avalanching in North America. There are approximately 180 avalanche paths crossing public highways and railroads. There are thousands of avalanche areas within noted developed and undeveloped recreational areas with significant potential for avalanche fatalities.

2. Need: a) Main Objective - Establish an interagency Alaska Avalanche Warning System (AAWS) on a statewide basis to inform outdoor users of changing snow conditions and related hazard potential. Institute public awareness programs through lectures and formal schooling in snow management.

   b) Secondary objective: Provide fire weather forecasting and mountain meterology for mountain climbers during the summer months; provide flooding forecasting in areas covered by the Orographic Precipitation Model.

3. Organization: The USDA-Forest Service, Division of State and Private Forestry will be the lead agency with AAWS located in Anchorage at the National Weather Service Office comprising of a project leader and two meterologists. There will be six primary field stations manned by a Temporary Snow Mgt. Tech. and 25 supplemental field stations either manned by contractual arrangements or remote instrumentation. Field Stations will be scattered throughout Kenai-Anchorage-Mt. Mckinley and Juneau Areas. USDA-FS will provide personnel ceilings for permanent employees and administrative support.

4. Project cost (Estimated)

a. AAWS Operating Cost *

1)	Staffing	170,000
2)	Supplemental Station Contracts	24,000
3)	Travel for training and Supervision by Staff	15,000
4)	Project Travel for field personnel	10,000
5)	Commercial Communications	10,000
6)	Station Mtc. & Supplies	5,000
7)	Equipment Replacement	15,000
8)	Staff office space, clerical, data transmission & meterological support	18,000
9)	Cooperative agreements on remote site mtc.	3,000
10)	Overhead Cost	42,000
	Total	312,000

b. Capital Investments (Initial)

1)	Weather instruments & radio equipment	30,000
2)	5 remote weather instrumentation stations & installation cost	75,000
3)	Orographic Precipitation models for South-central, Mt. McKinley, Southeastern	100,000
4)	Overhead cost	28,000
	Total	$233,000

* Portion of this estimated cost can be absorbed through present agencies operating program.

FINANCIAL PLAN:

Suggested financial plan by Agencies based upon beneficial Cooperators.

AGENCY	By Fiscal Year in "M" Dollars 79	80	81	82	83
USDA - FS	50	90	115	115	100
RMF	25	-	10	-	-
SCS	9	1	2	2	2
USDC - WS	3	10	25	35	30
USDI - BLM**	-	25 **	25 **	25 **	25 **
NPS	-	-	20	25	20
USDOT -AR	-	5	6	11	10
State of Ak.	-	53	82	112	112
DNR SP (25%)	-	-	-	-	-
GS (10%)	-	-	-	-	-
FL&W (10%)	-	-	-	-	-
DOT (50%)	-	-	-	-	-
DPS (5%)	-	-	-	-	-
BOROUGHS - Juneau	-	2	6	6	6
Anchorage	-	-	-	10	7
Private - Alyeska Ski Resort	2	1	1	1	1
TOTAL	89	187	297	342	312

** For Fire Weather forecasting only. cost estimated at $25,000 per year which is based upon the meterologist salaries for 4 months.

5. ACTION PLAN

PHASE I- (FY 79 & 80)

FY 79 -

a. Install remote weather instrumentation on Max's Mt.

b. Activate Primary Stations at Girdwood, Juneau and Chugach State Park

c. Activate Supplemental Stations at Thompson Pass, Isabelle Pass, Bird Cr., Turnagain Pass, 6 Mile, Grandview, Tazlina Lodge, Summit Lake, Hatcher Pass, Eaglecrest Ski Area, Salmon Cr. Reservoir, Chugach State Park and Alyeska Ski Resort.

d. Project Leader duties will be carried out by present S&PF Staffing.

PHASE II (FY 81)

a. Hire Project Leader GS-12

b. Hire one GS-11 Meterologist *

c. Activate Primary Station at McKinley National Park

d. Activate Supplemental Stations at Arctic Valley Ski Area, Kluckwan, White Pass, Kahiltna Glacier, McKinley National Park Hdq.

e. Contract Orographic Precipitation Model for Mt. McKinley

f. Install remote weather instrumentation on Mt. Juneau

PHASE III (FY 82)

a. Activate Primary Station at Moose Pass and Valdez

b. Activate supplemental Stations at Sitka and Hyder

c. Install remote weather instrumentation sites at Mt. McKinley, Mt. Troy, and Eagle River Area

PHASE IV (FY 83 and on) - AAWS in full operaton.

a. Activate supplemental stations as needed.

* Will be hired during third quarter of FY 80 if BLM enters into a cooperative agreement with AAWS to perform Fires Weather forecasting.

SEWARD HIGHWAY AVALANCHE SAFETY PLAN

Prepared by: Alcan Avalanche Services

SEWARD HIGHWAY

AVALANCHE SAFETY PLAN

Prepared by: Alcan Avalanche Services

in collaboration with: Alaska Department of Transportation and Public Facilities; Central Region, Maintenance & Operations and Graphics Section

December, 1979

TABLE OF CONTENTS

ACKNOWLEDGEMENTS

PREFACE

Chapter I AN INTRODUCTION Page 1

History of Avalanche Control on the Seward Highway
Case History
Traffic Volume

Chapter II OPERATIONAL CONSIDERATIONS FOR AVALANCHE FORECASTING AND CONTROL Page 14

Uncontrolled Avalanche Paths
Selection of Control Criteria
Avalanche Forecasting and Control Office
Hazards to Highway Maintenance and Avalanche Control Crews
Plowing Avalanche Debris at Night
Coordination with Alaska Railroad
Differential Precipitation
Weather in Avalanche Formation
Collection of a Data Base
Weather Instrumentation

Chapter III AVALANCHE FORECASTING FOR THE SEWARD HIGHWAY Page 31

Storm Watch and Analysis
Stability Evaluation
Snow Cover Distribution, Current and Past Avalanches
Observation of Slope with Common Aspects
Observation of Slope with Common Elevations
Forecasting Relationship Between Frequent and Infrequent Paths
Thaw Warnings
Snowpack Structure
Local Meteorological Data
National Weather Service Data
Control by Explosives

Chapter IV DESCRIPTION OF ROUTINE FORECASTING AND CONTROL OPERATIONS Page 42

Outline of Public and Private Entities Involved in Avalanche Safety on Seward Highway

Summary of Roles, Responsibility and Authority
of Agencies
U.S. Forest Service
Department of Transportation and Public
Facilities
U.S. Weather Service
Alaska State Troopers
Chugach State Park
Private Entities
Hypothetical Control Activities
Public Information and Warning

Chapter V AVALANCHE RESCUE Page 50

Overview
Call-Out Procedures
Equipment List

Chapter VI AVALANCHE MAPPING Page 55

Chapter VII SIGNING SYSTEM Page 82

Chapter VIII ARTILLERY CONTROL

Weapons Available and Characteristics
Explosives for Avalanche Control
Gunners Qualifications and Training
Storage, Handling and Transport
Response Time
Continuity
Helicopter Bombing
Inventory of Gun Positions

Appendix I TRAFFIC COUNTS

Yearly, Monthly, Daily, Hourly

Appendix II HISTORY OF AVALANCHE ACTIVITY ON THE SEWARD HIGHWAY

Appendix III WEATHER INFORMATION

Graphs of Weather and Avalanche Activity for
February 1978 and March 1979
850 mb. Wind Patterns for Collaborative Data on
Differential Precipitation

Appendix IV AVALANCHE PATH INVENTORY

TABLE OF FIGURES

Figure 1-1	Seward Highway Avalanche Areas	Page 2
Figure 1-2	Avalanche Area March 1979	Page 9
Figure 1-3	Machinery Clearing Avalanche Debris March 1979	Page 10
Figure 1-4	Average Annual Daily Traffic 1959-1978	Page 12
Figure 2-1	Average Annual Precipitation	Page 25
Figure 2-2	Type 1 Storm Pattern	Page 28
Figure 2-3	Type 2 Storm Pattern	Page 29
Figure 6-1	Bird Hill Topographical Map	Page 57
Figure 6-2	Bird Flat	Page 58
Figure 6-3	Bird Point	Page 59
Figure 6-4	Bird Hill	Page 60
Figure 6-5	Bird Hill	Page 61
Figure 6-6	Bird Hill	Page 62
Figure 6-7	Side View of Bird Hill	Page 63
Figure 6-8	Kern-Peterson Topographical Map	Page 64
Figure 6-9	Kern	Page 65
Figure 6-10	Between Kern Creek and Peterson Creek	Page 66
Figure 6-11	Peterson	Page 67
Figure 6-12	Turnagain Pass-Silvertip Topographical Map	Page 68
Figure 6-13	N. Side Turnagain Pass	Page 69
Figure 6-14	S. Side Turnagain Pass	Page 70
Figure 6-15	S. Side Turnagain Pass	Page 71
Figure 6-16	Summit Lake Topographical Map	Page 72
Figure 6-17	S. of Summit Lake	Page 73
Figure 6-18	Summit Lake	Page 74
Figure 6-19	Seward-Sterling Y Topographical Map	Page 75
Figure 6-20	Seward-Sterling Y N. Side	Page 76
Figure 6-21	Seward-Sterling Y S. Side	Page 77
Figure 6-22	Kenai Lake Topographical Map	Page 78
Figure 6-23	Kenai Lake	Page 79
Figure 6-24	Kenai Lake	Page 80
Figure 6-25	Snow River	Page 81
Figure 7-1	Avalanche Area Warning Signs	Page 84
Figure 7-2	Electronic Message Board	Page 84
Figure 8-1	105 mm Recoilless Rifle	Page 95
Figure 8-2	75 mm Howitzer on Turntable Mount	Page 96
Figure 8-3	Ammunition Storage for 75 mm Howitzer	Page 96
Figure 8-4	Mt. Alyeska Ammunition Storage Facility	Page 97
Figure 8-5	Detail of Ammunition Storage	Page 97
Figure 8-6	Fixed Mount for 105 mm Recoilless Rifle	Page 98
Figure 8-7	Snowshed at Rogers Pass with 105 mm Howitzer Turntable Mount in Foreground	Page 98

ACKNOWLEDGEMENTS

The following personal thanks are written by David Hamre, the principal author of this report.

The need for a comprehensive report on avalanche forecasting and control for the Seward Highway developed from the unusually large and frequent avalanches of March 1979. Recognizing the long-term nature of avalanche problems, Marco Pignalberi (DOT/PF) concluded it was necessary to upgrade the avalanche control program. These conclusions brought to the surface the necessity of preparing this report. Marco has provided invaluable direction and assistance, without which this report would not have been produced as comprehensively.

Field observations were essential to provide an information base. A wealth of information was provided by Jack Morrow (DOT/-PF) who is probably more knowledgeable of the Seward Highway avalanche problems than any person interviewed. Without his assistance there would be an absence of substantive data on which to base the control program.

Forecasting avalanches is a difficult task. Describing the techniques one uses in forecasting is even harder. For this reason I asked Bengt Sandahl to write Chapter IV, AVALANCHE FORECASTING FOR THE SEWARD HIGHWAY, as he is one of the foremost forecasters in the country. Currently he is the forecaster for Little Cottonwood Canyon, Utah, but his experience with avalanches in Alaska from 1954 to 1964 has proven itself invaluable.

Assistance was provided by Geoff Freer (B.C. Ministry of Transportation, Communications, and Highways), and Peter Schaerer (Canada National Research Council), in the review of signing systems and avalanche defenses in use in British Columbia. Fred

Schliess, the Head Forecaster for Rogers Pass, B.C., gave a concise and revealing interview on avalanche forecasting and control at that location.

Interviews on the history of avalanche control on the highway were provided by Bob Bursiell, Bengt Sandahl, and Jack Morrow, offering a clear perspective on previous work.

To all these people and more go my thanks for assistance given in preparation of this document. Without this help the information contained in this document would have been inadequate for the purpose intended.

PREFACE

The primary purpose of this plan is to make the need for active avalanche control on the Seward Highway obvious to all parties providing monetary and material support. In addition, this plan is hoped to provide a basis of information for the implementation of a full-time control program.

This plan gives an historical perspective on problems, documents the current situation, and provides recommendations for the direction of a control program. Numerous problems will surface as this program becomes operational and revisions will be necessary to achieve the goal of avalanche safety.

This plan cannot encompass any of these operational problems, as each is unique and will have to be dealt with individually, therefore, flexibility is emphasized.

No government or private agency may use any of the material contained herein for the purpose of establishing avalanche zoning. Only those avalanche paths pertinent to highway operations have been documented.

The authors and consulting agency take no responsibility for any legal actions arising from the operation of a control program on the Seward Highway. Clearly this document is only intended as an aid to the program and in no way is connected with the operational aspects of an avalanche control program on the Seward Highway.

The problems in documenting this information under tight time constraints have been significant. Other similar plans have taken years to design and draft. Because of the great magnitude of the avalanche problems under discussion some minor discrepancies may arise. As a result of this and the evolution of the program itself, it will be necessary to revise this document on a yearly basis.

The program's integrity will rest upon the willingness of government and private agencies to cooperate and provide the resources necessary to run a sophisticated program.

Chapter I

AN INTRODUCTION

The Seward Highway is located in Southcentral Alaska and runs 128 miles from Seward to Anchorage. Leaving Anchorage, the road soon enters the Chugach Mountains in a parallel course with the Turnagain Arm of Cook Inlet. Steep mountains rise directly from the water, therefore the road bed is restricted to the hillside above tidal flats. As the highway runs across Bird Hill, 40 miles from Anchorage, it must travel across a five-mile section of almost uninterrupted avalanche terrain. This section constitutes the most severe avalanche exposure on the highway. After Bird Hill, the highway continues through the Chugach, intersecting 42 different avalanche paths, and joins the Sterling Highway at Mile 37, terminating at Mile 0 in Seward.

There are 68 identified avalanche paths intersecting the highway between Mile 18 and Mile 105 near Indian. Several other areas show evidence of avalanche activity by damage to vegetation. There is a concentration of paths clustered from Mile 18 to 24 around Kenai Lake (7 paths); from Moose Pass to the Sterling/ Seward "Y" (10 paths), around Summit Lake (4 paths), and on most of the section from Girdwood to Bird (20 paths). The remaining 17 paths are scattered between these clusters (Figure 1-1). Many paths will not reach the road regularly, primarily because of highway location.

History of Avalanche Control on the Seward Highway

Avalanche control and the systematic evaluation of weather conditions that lead to avalanche formation began on the Seward Highway in 1955, just three years after the Highway was completed. During Territorial days, the Highway was under the jurisdiction of the Bureau of Public Roads. After statehood, the Highway came under the Department of Highways and in 1977 this changed to the Department of Transportation and Public Facilities.

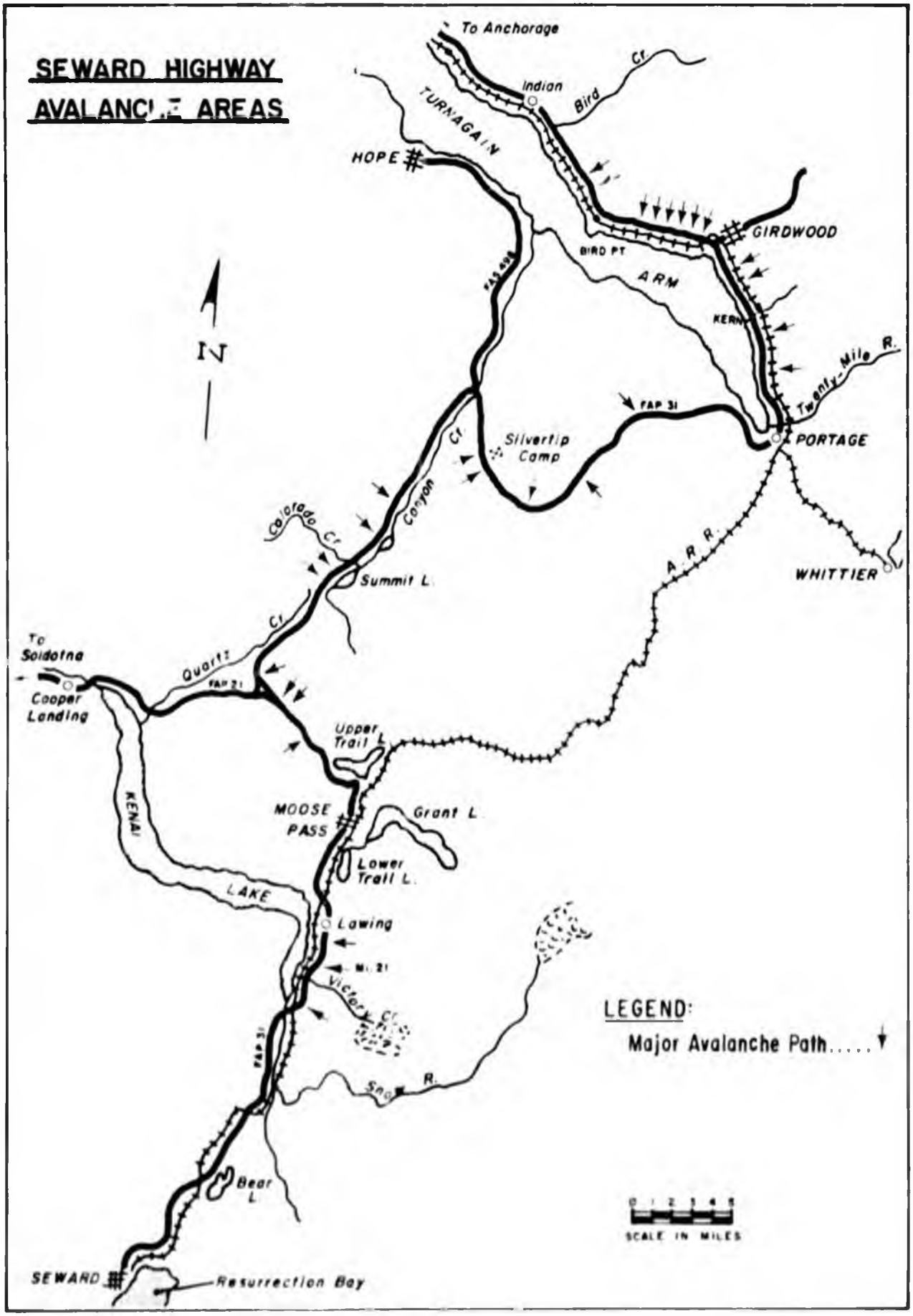

SEWARD HIGHWAY
AVALANCHE AREAS
To Anchorage
Indian
Bird Cr
TURNAGAIN
HOPE
GIRDWOOD
BIRD PT
ARM
KERN
Twenty-Mile R.
PORTAGE
FAP 31
Silvertip Camp
Canyon Cr
Colorado Cr
Summit L.
A.R.R.
WHITTIER
To Soldotna
Quartz Cr
Cooper Landing
Upper Trail L.
MOOSE PASS
Grant L.
Lower Trail L.
KENAI LAKE
Lawing
Victory Cr
Snow R.
Bear L.
SEWARD
Resurrection Bay
N
LEGEND:
Major Avalanche Path.....
SCALE IN MILES

FIGURE 1-1

From 1955 to 1957 Bob Goodwin and Bengt Sandahl established weather data as a basis for avalanche forecasts. They were able to call on the National Guard during periods of critical instability in an effort to control avalanche activity with artillery. During the winter of 1957-58, Bob Bursiel replaced Sandahl and efforts continued along the same lines.

In 1958 a formal research study of avalanche problems was initiated by the Bureau of Public Roads with major work being done on the Seward Highway and some work on the Glenn Highway. The project continued after statehood under the Planning and Research Section, Special Projects Division of the Department of Highways until the winter of 1961-62 when the Special Projects Division was disbanded.

This Division was able to work out an agreement with the U.S. Army for artillery control in weather that allowed for visual firing. This most often occurred just shortly after a storm, so the control work released avalanches approximately 50% of the time. The percentage of releases was greater in mid-winter, but there were reasonably good results even during the heavy snows of spring. Experience of U.S. Army crews in 1960 resulted in a smooth control program, which was difficult to attain in previous years due to rotation of gun crews. The end result was an increase in the percentage of avalanche release to rounds fired. This insight should speak for itself in terms of establishing the same continuity and team approach in projected control programs.

In 1959 weather instrumentation was situated on Bird Hill. From sea level to 3,500 feet, a 10-strand 1-inch cable was run from the research station located near the Whiskey Gulch mount to the top of Bird Hill. Thermistors were located at various levels to gain air and snowpack temperatures; and, an anemometer was placed at the top of the ridge to measure wind speed and direction. The thermistors worked quite well, but the wind system rimed[1]

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[1] Rime - An accumulation of granular ice tufts on the windward sides of exposed objects that is formed from supercooled fog or cloud and built out directly against the wind.

heavily and eventually blew apart in a 120 m.p.h. wind. In addition, there were snow stakes located up the ridge that could be read with binoculars during clear weather. Observations showed an appreciable difference in both temperature and precipitation between sea level and ridge top stations. Using instruments and Weather Service information, the forecasters were usually able to keep a day ahead of avalanche activity which effectively aided the control aspects of the program. Using the thermistors in particular, observers could determine when milder temperatures began influencing the snowpack. When the snowpack temperatures rose, control activities were usually called for.

The winter of 1959-60 generated unusually severe avalanche activity. This was largely due to an intense storm just before Christmas leaving 11 feet of snow in the Girdwood Valley. After the first three to four feet, it was obvious to the forecasters that avalanches were going to run; therefore, a request was made to close the highway. There had never been a clear procedure established for closing the highway on the basis of an avalanche forecast. Avalanches had already closed the road by the time permission was received. There were 42 avalanches that ran between Girdwood and Bird, one of which narrowly missed the research station in the middle of the night. Three new paths were opened through conifers during this storm cycle, but generally speaking, vegetation damage was not thought to be as severe as the cycle of March, 1979.

This was the only period that full-time personnel were involved in the study and control of avalanches on the Seward Highway. The Planning and Research Section of the Department of Highways did work on the Taku Glacier to determine the rate of advance in terms of highway location, permafrost studies near Glennallen, and winter recon on several highway routes to analyze avalanche and drifting snow problems. (Interview with Bob Bursiel Sept. 1979)

In 1963 the Planning and Research Section dropped the Special Projects Division and there was little or nothing done on the

Seward Highway avalanche problem until 1967. These intervening years were periods of relatively light avalanche activity.

During the period of 1963-73 one of the most significant problems that hampered efforts to deal with avalanches was a lack of adequate equipment. It should be kept in mind that an equipment operator is one of those most susceptible to injury by avalanches in that his work necessitates exposure to potential run-out zones for long periods of time. Large machinery was not available for various reasons.

In 1967 Jack Morrow was named Anchorage District Superintendent and avalanche problems fell under his jurisdiction.

During the early spring of 1968 there was a period of avalanche activity which caused a great deal of concern. Faced with an absence of artillery, permission to helicopter bomb was requested from the FAA. They immediately decided to squash the idea. It has only been since 1975 in Alaska that this method has proven itself a relatively safe and cost-effective means of avalanche control. During the spring and summer of 1968, Morrow worked with Charles Matlock, the District Engineer, to obtain a cooperative agreement with the U.S. Forest Service providing for the use of a 75mm recoilless rifle to be fired by the Snow Ranger, Chuck O'Leary. Once the rifle was obtained, there existed a shortage of ammunition. This was soon resolved by Ret. Col. Henry M. Turner of the Alaska Disaster Office. Finally in January of 1969, all of the equipment had arrived and artillery control was accomplished on Bird Hill.

From 1969 to 1975 the 75 mm recoilless rifle was used as a means of control during and after storms that could potentially result in avalanches. There were certain limitations to the control program mainly due to the lack of full-time personnel and the necessity to shoot only under visual fire conditions.

During 1972 Department of Highways sent the Anchorage District Superintendent to the National Avalanche School. This specialized training was necessary for the activity level which was expected.

In 1974 an event occurred which caused a sudden increase in avalanche awareness in Alaska. During a large storm cycle, an avalanche occurred on the Thane Road just south of Juneau. Clean-up efforts commenced at once and while plowing debris away from the first avalanche, an operator was caught and killed by a second avalanche. All of this occurred at night in an effort to keep a road open for approximately 30 residents. A ruling that operators would not be allowed to plow avalanche debris at night resulted. This ruling still holds true today.

By 1975 Department of Highways felt that control activities needed to be expanded. Because of the long ranges involved in artillery firing and lack of visibility for visual fire during most storms, it was felt best to use a 105mm recoilless rifle for control work. Negotiations were begun with the U.S. Army and eventually resulted in a cooperative agreement between the State of Alaska; Department of Highways and the U.S. Army to provide for the loan of a 105mm recoilless rifle for avalanche control. It was decided the Department of Highways employees would fire the artillery. This resulted in a general increase in avalanche control activities on the Seward Highway.

Morrow experimented with helicopter bombing in 1975 during a severe avalanche cycle and found it to be quite effective. Occasional use of this method since then has proven it to be very reliable under certain conditions. During the March, 1979 avalanches, helicopter bombing was used almost exclusively with approximately 200 10-pound charges placed in starting zones. This method of control is relatively safe, rapid, and cost-effective.

In February, 1976, the 105mm arrived. From then until today this rifle has been the mainstay of the avalanche control program and has fired approximately 800 rounds over the last three and one-half years.

Blind fire data was initially taken from the Whiskey Gulch gun mount in 1976 to allow shooting during storms and at night. This still left the majority of Bird Hill without blind fire control capability. In 1976 there was also an explosives handling school

at Mt. Alyeska covering many aspects of explosives used in avalanche control, including artillery. The Department of Highways sent two employees to this school.

During the summer of 1978 a significant change in the program took place when Morrow assumed the position as Assistant Manager of Maintenance and Operations, leaving Larry Lucas directing the avalanche control work. Lucas carried the program through the severe avalanche cycle of March, 1979 (personal conversations with Jack Morrow October 1979).

Since the opening of the Seward Highway in 1952 there has been a constant and severe avalanche threat to vehicles using this major transportation corridor. Avalanche control programs established to date have responded to the threat in a sporadic and irregular manner. There was a period of only three years, 1959-1962, where full-time personnel were funded to work on research and control. Since 1969 control efforts have been expanding slowly, but have not made the transition to a full-scale, line item in any government budget. Inevitable gaps have occurred where protection of the public was compromised because of a lack of funding, manpower, and equipment.

Case History

Modern avalanche control is based on several important precepts, one of which is the threat of personal injury or death can be controlled to a large degree. Safety and economics will sooner or later necessitate active control programs to avoid loss of life and revenue. With this in mind, it would be worth documenting a situation that graphically portrays these concepts.

January of 1979 saw the Chugach Mountains covered with a 4 to 8-foot snowpack, seemingly stable for the most part. Temperatures had been moderate all winter, consequently, the snowpack was

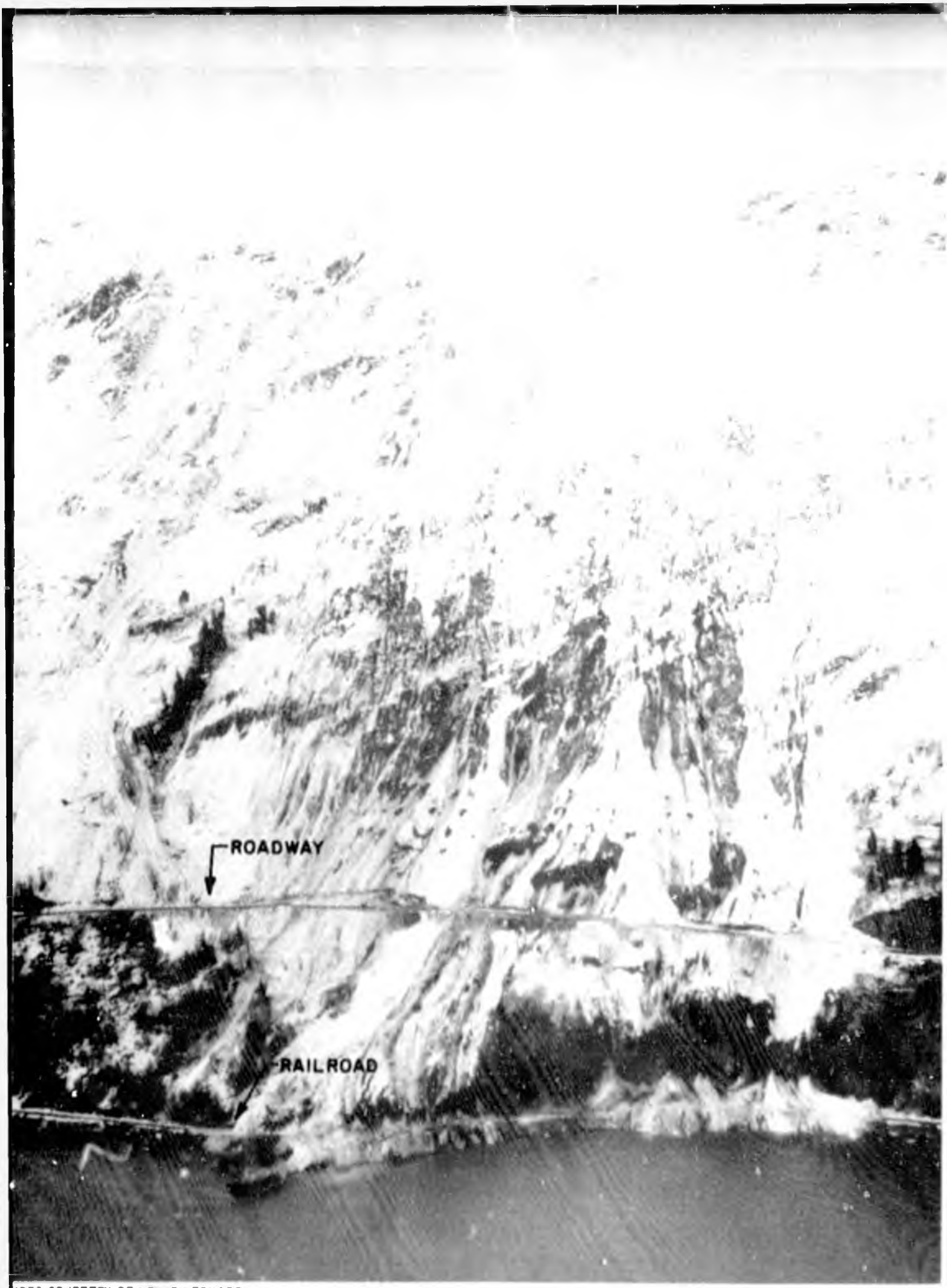
stable until the end of the month when a light freezing rain fell over the area. This rain froze forming a thin ice crust. A six-week period of very cold weather followed, allowing Temperature Gradient Metamorphism[1] just underneath the thin ice crust.

A series of snow storms hit the area March 4 and continued until March 22. During this period, at the 3,000 foot level on Mt. Alyeska, there was a total snowfall of 171 inches, which equated to 20.41 inches of water. Picture this amount of weight on an extremely fragile layer and steep slopes - the results were obvious and predictable.

Avalanches started immediately; growing in size and occurring frequently until the end of the storm. Artificial release of avalanches started on the 14th and continued until the 26th of March. During that time a lack of blind fire capabilities curtailed control activities on Bird Hill. As a result, there was considerable accumulation of snow. On March 19th avalanches started hitting the road. The next week many avalanches released on the highway with the situation reaching a climax level on the afternoon of March 23rd. Four large natural avalanches ran within fifteen minutes of each other, covering the road an average of 15 feet deep for nearly one mile. Figure 1-2 shows the approximate area of one of the natural avalanches and Figure 1-3 shows heavy machinery clearing avalanche debris.

---

[1]Temperature Gradient Metamorphism - The ground is near 32°F. for the entire winter. The presence of cold air on a shallow snowpack creates a steep temperature gradient between ground level and air. Warm air rises slowly through the snowpack bringing with it water vapor that has changed directly from a solid (snow) to a gas (water vapor). This process is called sublimation. Water vapor then condenses onto snow crystals higher in the snowpack in such a manner that the new crystals present the maximum surface area possible in an effort to lose heat. The end result is a large grained, loosley bonded crystal commonly referred to as depth hoar. For this report all references to this process will be referred to as T.G. metamorphism.



HOTO COURTESY OF LEWIS LEONARD

FIGURE 1-2

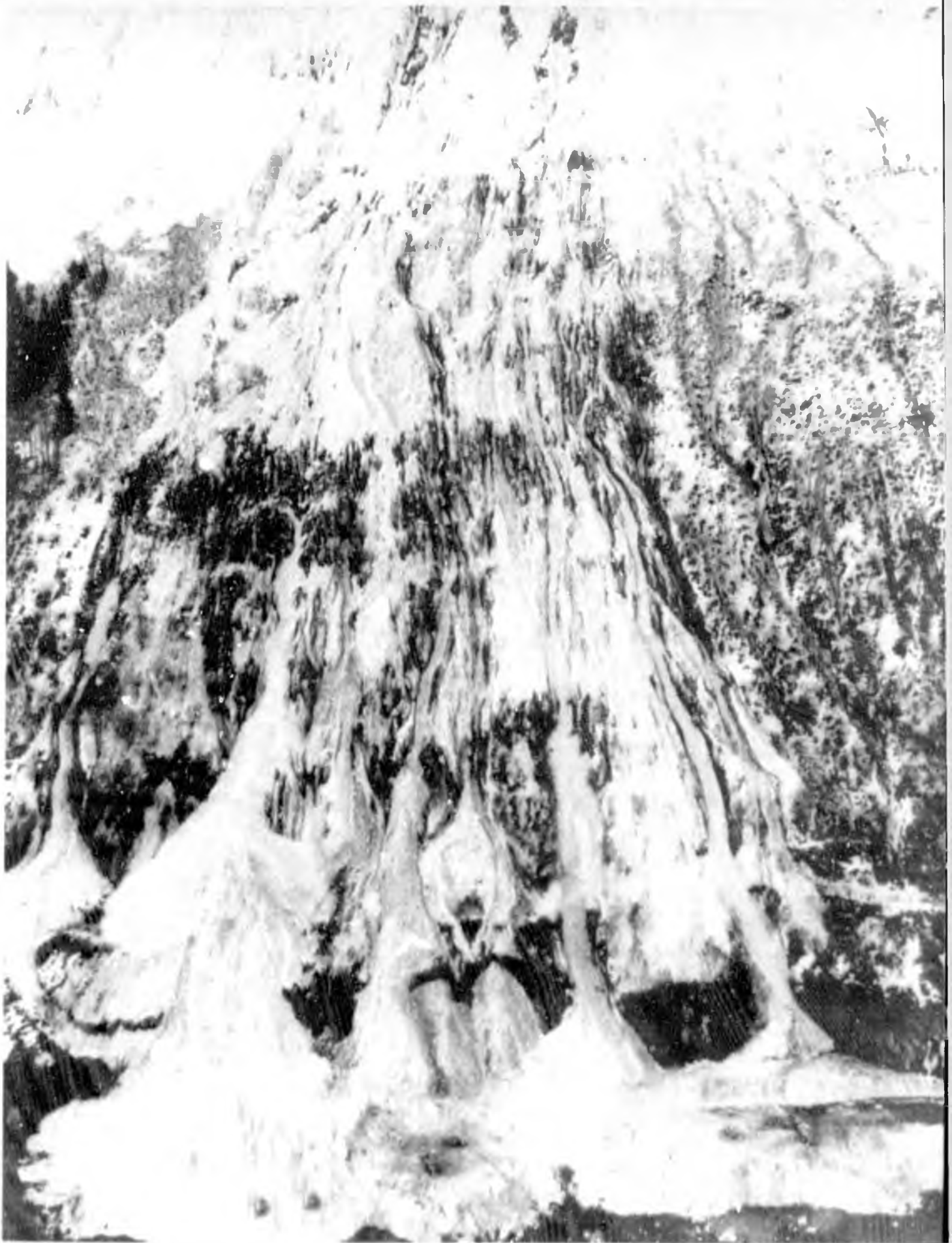


PHOTO COURTESY OF LEWIS LEONARD

FIGURE 1-3

The road was open, but fortunately there were construction activities at Potter and traffic was detained several hours. Had avalanches occurred later that day, there would certainly have been a steady flow of traffic and the outcome would have been catastrophic. Once the highway was blocked by the first natural avalanche, traffic would have backed up bumper to bumper in very short order and additional avalanche activity would have virtually inundated the roadway burying hundreds of people. The magnitude of the avalanches were such that there would have been few survivors. The first premise of avalanche control is that these situations are avoidable for the most part. This particular situation could have been avoided with an adequate avalanche control program.

For two days after the large natural releases of Friday, March 23, control activities continued to bring down more avalanches, resulting in a total of 1.6 miles of avalanche debris along the highway. An almost continuous daytime effort to open the road resulted in the removal of all debris by Sunday afternoon. Not all costs tied to these problems can be determined. There are some figures for parts of the affected operations; snow removal and avalanche control cost DOT/PF $60,000, Alyeska Resort lost $60,000 in revenue, the Alaska Railroad did not run for two days, truck transport ceased between the Kenai Peninsula and Anchorage, and electrical transmission lines were damaged.

Had control activities occurred on a regular basis during this severe storm the result would have been that numerous smaller avalanche releases would have occurred with far less debris reaching the road, fewer possibilities for the loss of life, less damage to facilities, and a much smaller economic impact.

Traffic Volume

Annual Average Daily Traffic (AADT), Fig. 1-4 has increased from 775 vehicles per day in 1959, to 3,503 vehicles per day in 1978 at Potter Flats, just outside of Anchorage. Monthly Average Daily Traffic (MADT) for the winter of 1977-1978 ranged from 1,769 vehicles in December, 1977 to 3,795 vehicles in April,

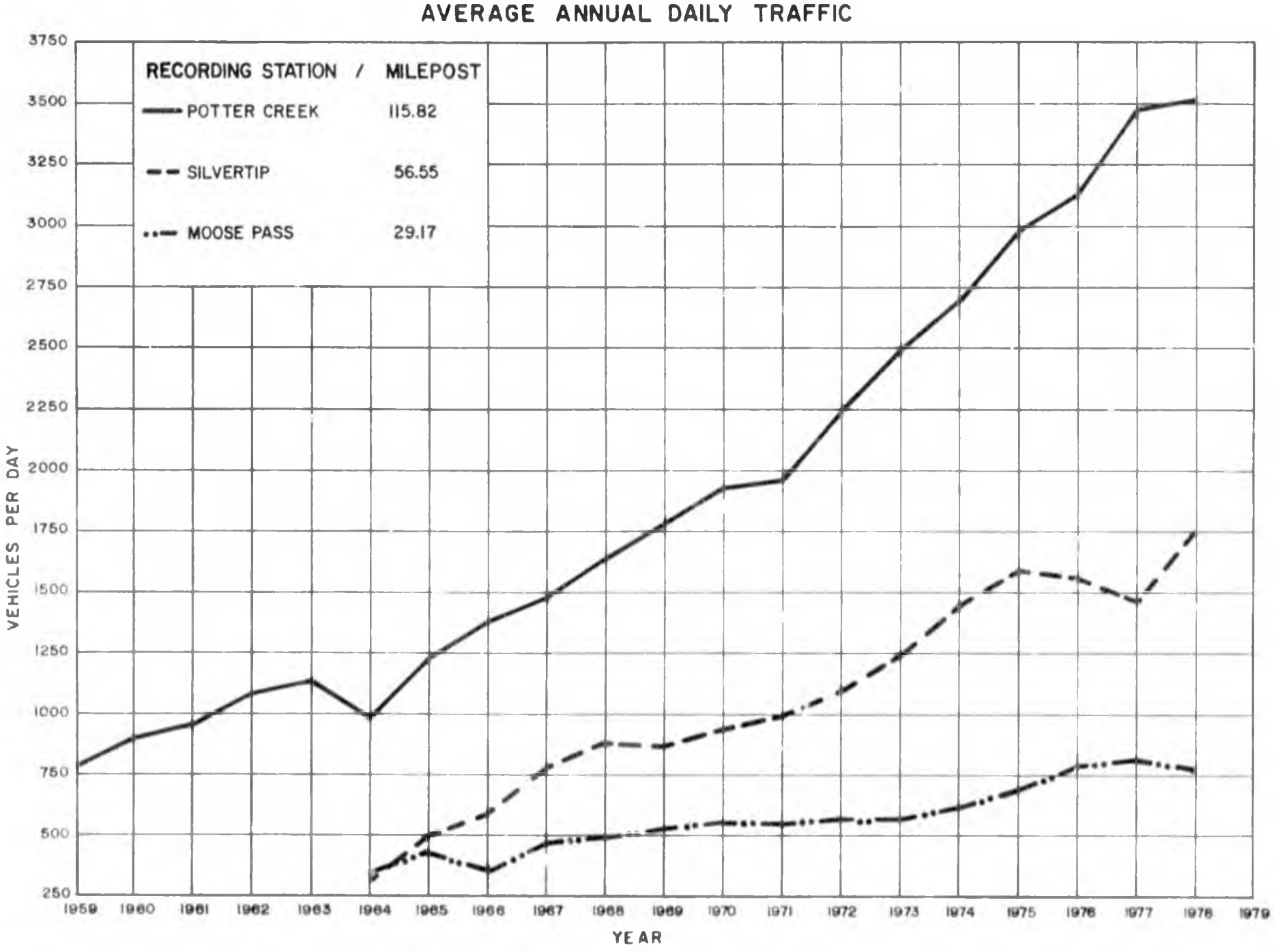

AVERAGE ANNUAL DAILY TRAFFIC
RECORDING STATION / MILEPOST
POTTER CREEK 115.82
SILVERTIP 56.55
MOOSE PASS 29.17
VEHICLES PER DAY
3750
3500
3250
3000
2750
2500
2250
2000
1750
1500
1250
1000
750
500
250
1959 1960 1961 1962 1963 1964 1965 1966 1967 1968 1969 1970 1971 1972 1973 1974 1975 1976 1977 1978 1979
YEAR

FIGURE I-4

1978. Peak traffic periods, occurring on weekends, are roughly 50% greater than the MADT (DOT/PF, Traffic Records 1976, 1977 1978).

This is only an average. Peak volumes must be considered in order to understand the probability of an avalanche interfering with traffic. On April 2, 1978, during the height of the avalanche season, there were 8,145 vehicles counted at Potter Creek. By statistical computation, it can be assumed that an unexpected avalanche on the highway to a width of 950 feet would have collided with traffic on that day. As traffic volumes increase, the odds grow proportionately that traffic will be affected by an avalanche.

These are the reasons for the preparation of this avalanche control plan. This plan is intended to provide a basis of information for the implementation of a control program. This is by no means a solution for all situations that will be encountered in day-to-day activities. Flexibility, responsiveness, training, and experience will allow this information to be utilized to its fullest advantage in the establishment of a full-time avalanche control program for the Seward Highway.

Chapter II

OPERATIONAL CONSIDERATIONS FOR AVALANCHE FORECASTING AND CONTROL

Avalanche forecasting and control has become a fairly exact process in several areas of the country. In these areas many years accumulation of data and knowledge among seasoned forecasters has resulted in programs which operate within small margins of error.

Forecasting and control activities go hand in hand and cannot be separated in an assignment of responsibilities. Some forecasting judgments are based upon results of control work, and control work is done on the basis of a forecast. It is quite common for a forecast to be revised during control operations because of unexpected activity or lack of activity.

There are some considerations in the operation of the more intensive control programs that need mention. When artillery control is used it should release avalanches most of the time. Efficient closures and resultant scheduling of the control operation will help keep public sentiment towards the operation on a positive note. Timing of the control operations should be done to achieve the best results, particularly if there is a severe instability, however, traffic flow will have to be considered, to a certain degree, in this timing. Avalanches could trap several thousand people at Alyeska on a heavy traffic day. These are just examples, but are representative of some of the considerations used in other control programs and is noteworthy in this situation.

A plan such as this can, at best, provide a solid basis of information for the implementation of a full-time control program. It has taken fifteen to twenty years in areas with comparable

problems to amass the data and experience necessary to run a sophisticated program. These areas have also been fortunate in attracting and keeping some of the finest people in the business today. Without this continuity of personnel much of the inituitive knowledge acquired in day-to-day operations is lost. This intuitive knowledge is perhaps the most important factor in the forecasting and control operation. It is extremely difficult for even the most competent forecasters to say why they do the activities necessary at the times they are done. There is usually good input from various objective parameters such as wind speed and direction, precipitation, and snowpack analysis, but there seems to be strong input from recollections of a similar storm years ago, or the distance a particular avalanche travelled, or an observation thought to be insignificant a few days earlier. This is the kind of information that is lost by shuffling personnel regularly and is probably every bit as important as the objective data gained and recorded.

There is no set procedure for running an avalanche forecasting and control program. Snow and weather conditions change constantly and as a consequence the flexibility of the program must be maintained to have the ability to re d to problems as conditions dictate. No plan can encompass al. the potential problems and this plan specifically avoids doing that.

There are some specific limitations to the set-up of this control program. These various topics are discussed below:

Limitations to Controllability

Occasional conditions occur which result in widespread, destructive avalanching commonly referred to as climax avalanches. These occur as extreme avalanches with longer than thirty years average return interval. Vegetation along the Seward Highway is relatively sparse due to climate factors and for the most part does not present much resistance to large avalanches. For this reason it is entirely possible that over a long period of time there will

be climax avalanches occurring, opening new avalanche paths. Several areas along the highway present evidence of vegetation damage indicating that this has occurred. This plan does not include all potential locations where this can occur, but an attempt was made to identify some of them. These are listed in the avalanche mapping by a slide path number (Chapter VI). It has been noted that a common misconception is that control work eliminates the possibility of these climax avalanches. While it is true that control work can reduce the effect of these widespread avalanches a good proportion of the time, there will always be conditions occurring that are resistant to the shock of artillery explosions, but react to other disruptive factors such as rapid accumulation of new snow.

Uncontrolled Avalanche Paths

Attempts were made in this study to locate gun positions that would effectively control all avalanche release zones. For the most part this was accomplished leaving some exceptions.

Until all of the fixed mounts are installed there will be problems in blind firing at certain avalanche paths. The U.S. Army should be contacted this winter to aid in setting up a means of using the mobile gun truck in conjunction with predetermined marks on the highway pavement and triangulation stakes for blind fire. This should be done at all locations requiring blind fire data (these locations are explained under Control Criteria) and at as many locations not specifically requiring blind fire data as time will allow. Eventually blind fire data should be accomplished on all avalanche paths, however, this will take a considerable amount of time.

Before Gun No. 3 is emplaced Slide Path (SP) 15 cannot be controlled effectively without considerable risk to the gun crew.

Without this mount the only means of firing on this release zone is from the highway immediately underneath the runout zone of the area being controlled.

On the Rocky Creek slide path (SP93) there are three large basins that constitute the release zone. Any of these three basins can independently reach the roadway. When emplaced, Gun No. 7 will be capable of firing on the north facing wall of the central basin; and there is a location 200 yards north of SP93 that the mobile gun truck could be used to fire on the south facing wall of the central basin. This still leaves an area approximately one-half mile across facing west that cannot be controlled from any position due to terrain features. Gun No. 8 controls the north and south basins. This area in the central basin could reach the road by itself so considerable care will have to be given to forecasting in this location.

SP1A cannot be controlled due to terrain features. Helicopter bombing can be used on any of these paths under favorable conditions, but is not reliable as the sole means of control.

Selection of Control Criteria

In order to establish a priority level for dealing with the avalanche paths on the highway, they were delineated into four different classifications: Infrequent or Frequent occurrence with an approximate return interval of three years dividing the two; and High or Low hazard according to the relative degree of hazard to a vehicle.

THIS CLASSIFICATION IS STRICTLY FOR PURPOSES OF ESTABLISHING CONTROL PRIORITIES AND DOES NOT IMPLY THAT HAZARD DOES NOT EXIST IN A LOW HAZARD AREA.

In low hazard areas avalanches usually occur infrequently, there are terrain features that somewhat buffer impact from avalanches, or the area is on the edge of maximum vegetation damage or run-out distance. The high hazard areas commonly have a run-out into water, or there is a steep bluff, bank, or cliff above which assures maximum impact to a vehicle.

Frequent Return Interval, High Hazard

Fixed mounts are recommended for firing on these paths. This will allow very accurate blind fire data to be taken for control work to be done at any time of the day or night. Guns for these fixed mounts should be brought in by a gun truck when control is needed. This has an obvious drawback in that avalanches can occur which prevent movement of artillery for control work. There may be a problem with security on the highway and therefore guns cannot be left on the platforms. Gun Position No. 2 is the exception to this if regulations will allow for a permanent storage facility and gun emplacement at a reasonable distance from the highway and public view. These fixed mounts are:

Gun Position No.	Type Weapon	Milepost
1	105 RR	99
2	105 How or 75 How	96
3	105 RR	92.7
4	105 RR	90.8
5	105 RR	44
7	105 RR	22.6
8	105 RR	20.5

RR - Recoilless Rifle; How - Howitzer

The availability of weaponry will determine the type and location of the No. 2 mount. This mount is extremely important for it controls the highest hazard area of the highway, Bird Hill, in such a manner that weapons do not have to be moved across the three miles of continuous avalanche path on the Hill. It provides the mechanism to assure control activities on this section even in the most severe storm cycles.

Frequent Return, Low Hazard

An additional mount in conjunction with the previous ones cover these paths from the following location:

Gun Position No.	Type Weapon	Type Mount	Milepost
6	105 RR	Fixed	37.4 (see attached gun position sheet)

Infrequent Return, High Hazard

These paths are covered by previously mentioned mounts or are controlled during visual fire conditions. Pavement marks and blind fire data should be acquired as time permits, but on a lower priority than the previous classifications. Some of these paths will present a significant hazard during large storm cycles.

Infrequent Return, Low Hazard

These can usually be controlled by visual firing. There may be paths that the lead forecaster requires artillery control on during storms, therefore, blind fire marks on the pavement and data can be acquired. By firing on these paths after large storms the control crews should be able to accomplish releases, reducing the volume of snow in the starting zone sufficient enough that hazards to the road will be reduced, if not controlled, for the remainder of the winter.

Following are some topics pertinent to the forecasting and control program.

Avalanche Forecasting and Control Office

A central office for the collection of information and dissemination of forecasts, control activities, and all related work needs to be established. This should be somewhere in the vicinity of Bird Hill, hopefully at the location of Gun No 2. This would not only provide for security of the gun, but would allow control work to be accomplished through the most critical section of the highway regardless of avalanche conditions. Due to the fact that the entire Bird Hill section is subject to some degree of avalanche hazard, moving control equipment through this area would be very hazardous during critical periods. By stationing a gun crew and equipment in Girdwood, and maintaining the forecasting office near Bird Point and Gun Position Nos. 1 and 2, the possibility of running into a situation where plowing cannot be accomplished because of a lack of control, and control cannot be accomplished because of

a lack of plowing, is sufficiently reduced. The siting of Gun No. 2, which is dependent on the type of weapon available, will probably determine the location of this office.

Living quarters could be built to allow for 24-hour coverage. This set-up will allow for continual control activities to take place on the most hazardous section of the highway, security of the weapons and ammunition, and a rapid response to a rescue call-out. Any reference to this headquarters will hereafter be termed S.H.A. (Seward Highway Avalanche) forecast office.

Staffing Requirements

A minimum of five persons should be hired to cover the full-time staffing requirements; including a lead forecaster to coordinate the program, two assistant forecasters and two gunners. These people would probably need to work for nine months, seven months, and six months a year, respectively. This arrangement would have to be augmented by the use of two assistant gunners on an on-call basis. There is a large quantity of data that needs to be gathered to have a sophisticated forecasting system. Much of this is gathered on a daily basis, but more is acquired on a regular schedule by field observations. These field trips must include two people for safety purposes. The forecast office must be staffed by at least one person on a 24-hour basis. Considering the necessity for time off and field observations, any less than five people full-time for the avalanche season would be compromising the integrity of the system. Since all facilities will not be built this year there may not be need for all of the projected positions to be filled. It may be more advantageous to wait until well-qualified personnel are available than to move too hastily to fill key positions with personnel not fully qualified.

Hazard to Highway Maintenance and Avalanche Control Crews

Hazards to these people are very high because of the long periods of exposure in avalanche run-out zones. More than ten miles of roadway between SP1 and SP97 is capable of being buried by avalanche activity. This leaves a one-in-eight chance of being in an avalanche path along this part of the roadway. Add to this the amount of time spent clearing avalanche debris by stationary equipment and the exposure level becomes critical. Some of this exposure is part of the job and a certain amount of risk is accepted. The rest of this exposure must be relieved by the control program. There can be no hard and fast rules applied to this situation, but procedures can be forged by a time-tested and proven control program. This is where the importance of establishing a team of professionals of both crews is evident. Well-qualified and trained personnel are indispensible to an operation of this nature.

A few simple guidelines will help lower the risk factor. A three-level personnel warning system could be initiated and posted in strategic locations. In order to identify hazard they would be white (low hazard), yellow (moderate hazard), and red (high hazard). A sample sheet from British Columbia containing the information to be included in a red hazard sheet is contained in the following page. During periods requiring display of the yellow or red sheet, crews should not move through hazard zones without making the forecasting office aware of its objectives. There should always be an avalanche watch posted when crews are clearing debris. This watch must have a fool-proof method of warning crews should the need arise. All crews should wear functioning electronic locators during yellow and red hazard periods. Light rescue equipment such as collapsible probes and a shovel should be carried on all vehicles operating through avalanche zones. Radios are needed in all equipment.

HIGH

AVALANCHE HAZARD

Date:
Time:

Snowpack: Special layers _____

_____

Temperatures _____

_____

_____

_____

Weather: New snow _____ inch _____

Storm snow _____ inch _____

Temperature: Maximum _____ °F _____

Minimum _____ °F _____

Present _____ °F _____

Wind: Speed _____ m/hr _____

Direction _____

Avalanche Occurrences:
(Slope tests) _____

_____

_____

Stability of snow: _____

_____

_____

Hazard to Highways: _____

_____

_____

Weather Forecast: _____

_____

_____

Hazard Prognosis: _____

Avalanche Control: Road Closure at _____ hours
Control begins at _____ hours
Order of gun positions _____

Plowing Avalanche Debris at Night

This plan specifically avoids encouraging or discouraging the practice of plowing avalanche debris at night. Control work or closure will be necessary at night, therefore, without debris removal the road would remain closed all night. On the other hand, the avalanche watch will probably be unable to see an impending avalanche, thereby reducing the safety margin for the crew.

Plowing at night is an accepted practice at Roger's Pass, B.C. where a high level of integrity in a difficult situation has been maintained for a number of years in the forecasting and control operation.

Coordination with the Alaska Railroad

The Alaska Railroad runs parallel to the Seward Highway from Anchorage to Portage and again around Kenai Lake. The same avalanche paths that threaten the highway create a hazard to the railroad.

This would not be a major problem if not for the fact that the railroad has numerous operational contingencies they are required to follow which inhibit the timing of avalanche control operations on the highway. When a rail barge arrives in Whittier it must be off-loaded at the high tide. The train must then make the passage to Anchorage in less than eight hours, including barge off-load time, or it is left sitting.

Union regulations are cited as being the cause for such a situation. If avalanche control operations delay the train the DOT/PF could be charged for expenses incurred. This plan does not encompass any operational consideration for this as there is no way of knowing what working relationship can be established.

Weather in Avalanche Formation

Climate patterns in Southcentral Alaska vary radically in a relatively short distance. (Figure 2-1). Take for example the difference in annual precipitation between Whittier (175 in./yr.)

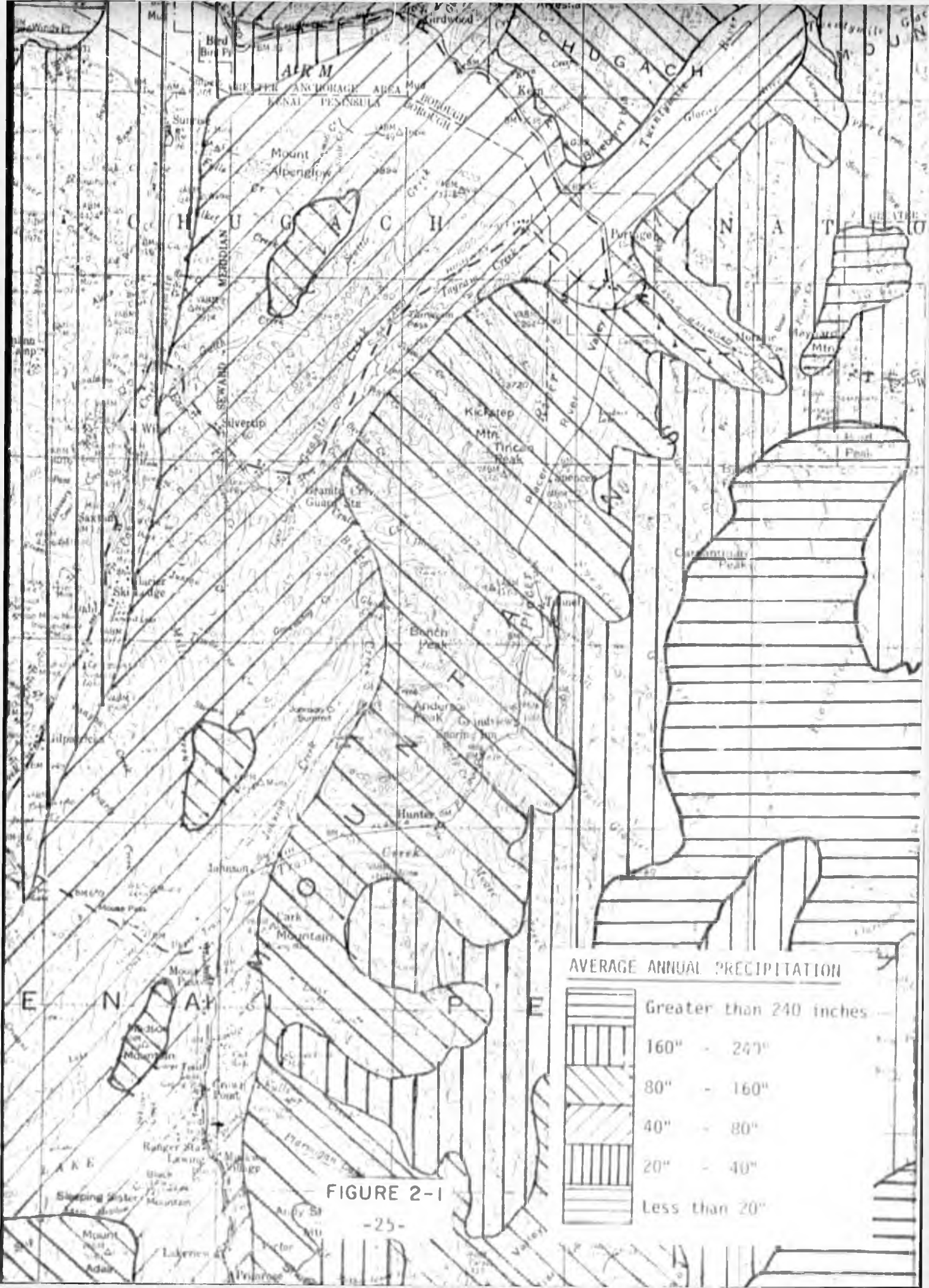
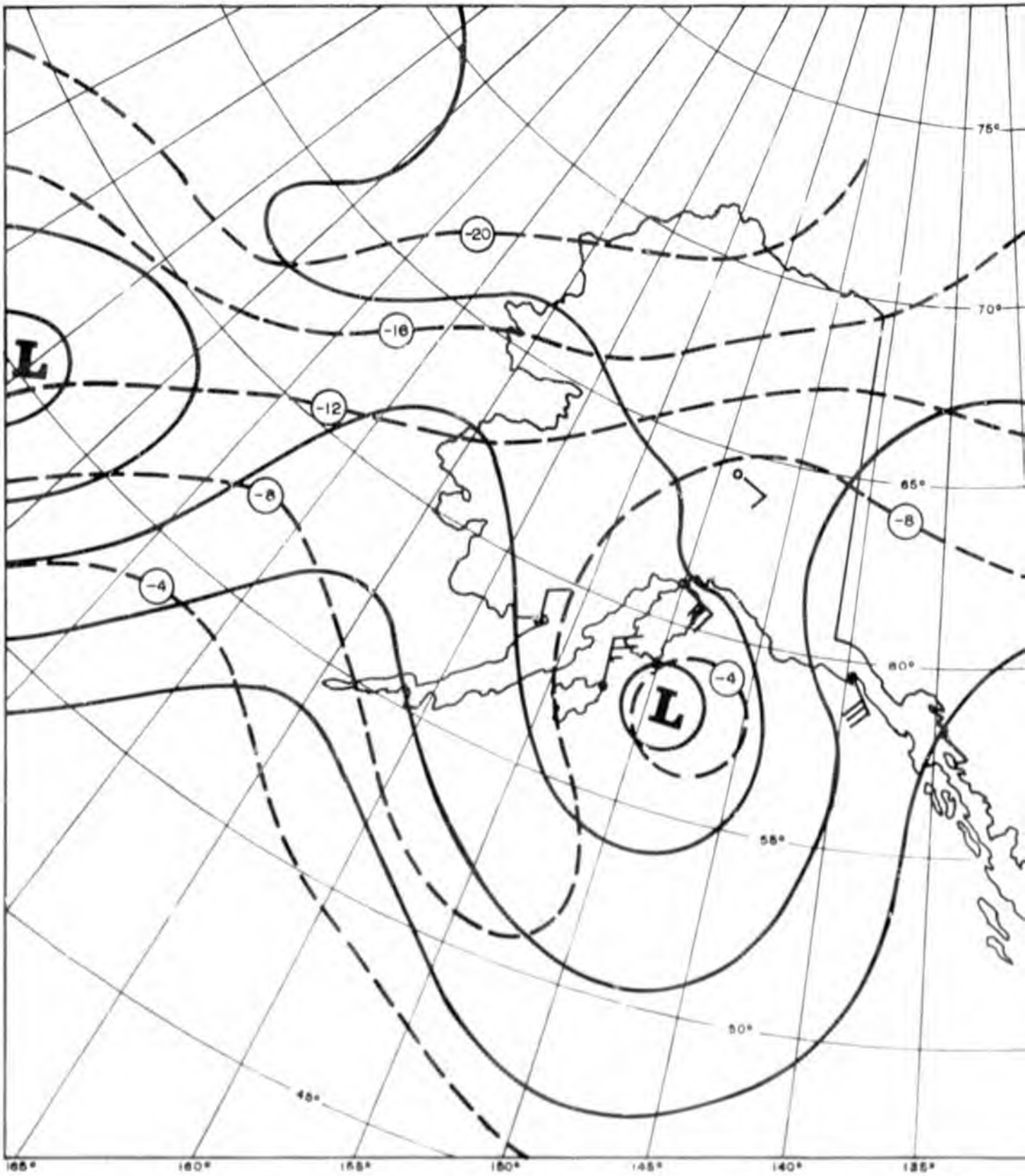
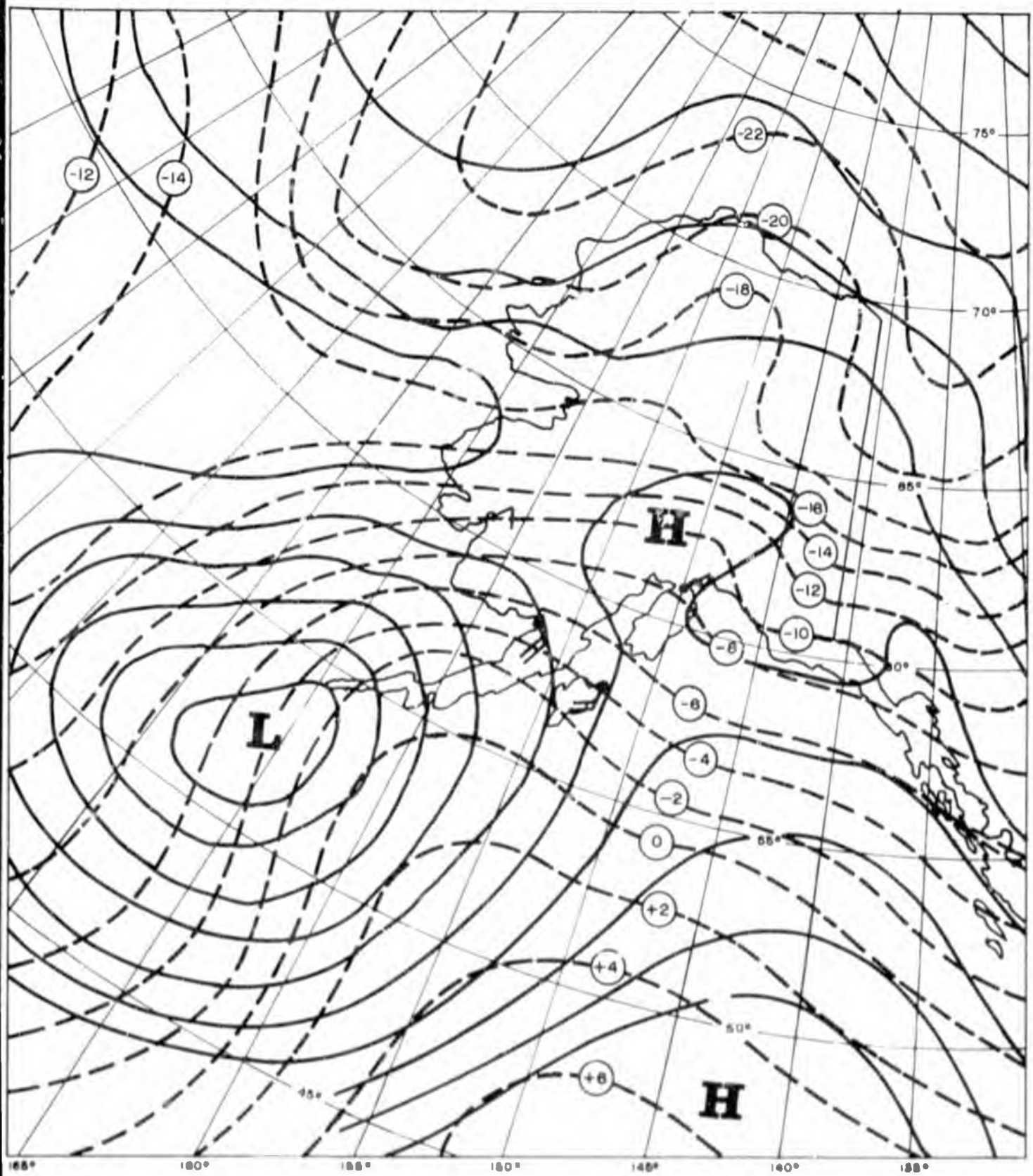

AVERAGE ANNUAL PRECIPITATION
Greater than 240 inches
160" - 240"
80" - 160"
40" - 80"
20" - 40"
Less than 20"

FIGURE 2-1



TYPE 1

FIGURE 2-2



TYPE 2

FIGURE 2-3

Collection of a Data Base

There are probably numerous records related to avalanche problems on the highway; considerable data was collected from 1958 to 1963, however, somehow misplaced or lost over the years. All of these records need to be acquired and assimilated into existing data. Future climate studies should take place to aid in forecasting. Specifically, this would include water content survey in all avalanche release zones this coming March (1980) to establish a set of parameters to judge storm accumulation in starting zones using the base level observations. Snowpack and water content observations can be gathered at various levels in the area to aid in establishing an idea of the relative difference in precipitation caused by local orographics. Combining this information with 850mb air flow patterns would be helpful for the development of an overall view of the orographical effects in the entire Chugach Range.

Chapter III

AVALANCHE FORECASTING FOR THE SEWARD HIGHWAY

Successful avalanche hazard forecasting in any area requires a good background in avalanche meteorology. Changes in the weather provide the most accurate warning as to when and where avalanches are likely to occur. With current technology, it is possible to directly observe subtle changes in the snowpack that signal the onset of failure and avalanche release. Avalanche workers are not required to have a knowledge of weather forecasting, however, they must be able to communicate with meteorologists at the National Weather Service. Avalanche workers are supplied with a forecast, and in return, supply the meteorologists with data to improve forecasts. This exchange works best when avalanche workers and meteorologists are familiar with one another's work.

Storm Watch and Analysis

It is a known fact that the vast majority of avalanches release during or shortly after storm periods. In this text, the term "storm period" is used in its broadest sense to include periods of snowfall, snow transport, or both. Each storm is a unique combination of meteorological variables. The combinations are almost infinite. Meteorological data cannot be gathered at every avalanche path of interest, therefore, for practical reasons, wind, precipitation, temperature, etc., are measured at strategic locations.

There are two broad categories in storm trends -- the standard trends, and inverted trends. In the standard trends, initial storm temperatures are relatively high and temperature falls as the storm progresses. In the inverted trend, the initial temperatures are relatively cold and temperature rises as the storm progresses. There are times when, for instance, a northwesterly flow will hover over the Anchorage area and predominate through to the Turnagain Pass area producing a cold cap over that region. Precipitation, in the form of snow, is possible during this time. This is a storm in the standard trend. It is common in the Seward area for a heavy low front to move in with a southeasterly air flow. The end result is a storm in the inverted trend. These two situations would produce a different set of circumstances for the forecaster's consideration, both in areas of snow build-up and in the stability factor of the snow itself. This points out the need for good meteorological avalanche data from two or three strategic sites along the Seward Highway.

Stability Evaluation

Stability evaluations are based on six different categories of information. These include quantitative meteorological measurements, such as study plot precipitation and ridge crest winds, as well as such qualitative observations as explosive tests, test skiing, and visual observations of avalanche path loading. Several categories require close liaison between the control team and the person who makes the evaluation. At most of the sites, stability evaluation for a slope must be based on knowledge of recent avalanche activity on the nearby slopes.

The location of the Mt Alyeska ski area is certainly a boon to the Seward Highway Safety Program. This is where a close working relationship between the Alyeska Avalanche Technician, the

Forest Service Snow Ranger there, and the Seward Highway lead forecaster will be of great and mutual benefit. Stability evaluation and control work are generally performed either by the same team or by teams working in close cooperation. Often stability evaluation and control work are so interlinked that the boundary is not clear. This interlinking is a unique feature of avalanche technology in contrast to the forecasting and control of wildfires, earthquakes, and other natural hazards. Generally, working systems of mountain rangers around the world follow similar lines. An experienced forecaster issues broad directives about the likelihood of instability and, in most cases, supervises the control work. These systems rely almost entirely on human judgment.

Snow Cover Distribution, Current and Past Avalanches

For the most part, these are simple, visual observations, however, they form the basis for the most reliable stability evaluations. Snow cover distribution is determined by direct, visual observation of whether an avalanche path is filled with snow primed for release. To begin with, significant avalanches cannot occur on a path until terrain irregularity such as boulders and brush is covered with snow, and then additional snow is deposited on this smooth foundation. For most paths, this requires about 2-1/2 to 3 feet of snow in the starting zone and track. The exceptions are paths on permanent snow fields, smooth rocks, dirt, grass, etc. where avalanches may run with as little as 6 inches coverage in the starting zone. Normally, the beginning of an avalanche season on a particular slope can be anticipated from visual observations of snow cover amount and distribution and conditions in the starting zone and track. Most of the 68 slide paths along the Seward Highway have good visual observations from the highway.

It is also helpful to statistically correlate the earliest significant avalanche on a given path. Mr. Jack Morrow has compiled a report from his diary which gives valuable information on avalanche occurrence along the Seward Highway from 1968 to 1978. This information is contained in Appendix II. No other specific material is available for this time period for the entire length of the Seward Highway. After the beginning of the avalanche season direct observation continues to provide the most reliable information on snow build-up in the starting zones. Periodic visits by use of helicopter into areas above Bird Hill slide paths should begin on a regular basis since it would allow the forecaster to dig study pits near the actual areas of release. The proposed remote weather site on Bird Hill is an excellent location to be used as a study plot. That location is quite large, flat and the snow depth there would be fairly uniform.

Observation of Slopes with Common Aspects

Loading is sensitive to wind direction so avalanches tend to occur on slopes that have a common aspect. For example, after a storm it may be noted that avalanches or avalanche activity is most intense on south-facing slopes as would be the case on Bird Hill slide paths 1 through 6. South-facing slopes that did not avalanche during the storm should be suspected of instability. In fact, the slide paths beyond Bird Point 7-20 would also be suspect.

Observation of Slopes with Common Elevations

In an area that has a wide range of starting elevations, it may be observed that avalanche activity is confined to a particular elevation zone. For example, the higher zones may be relatively inactive, but serious instability may exist at lower eleva-

tions. This phenomenon is usually caused by wind or temperature patterns and could be particularly true on Bird Hill. When avalanche control activities are underway this fact should be kept in mind.

Forecasting Relationship between Frequent and Infrequent Paths

Based on historical data, avalanche paths can be classified according to frequency of occurrence. It is an accepted practice in a control program to defer the stability evaluation of infrequently running paths until the stability conditions of more frequently running paths are known. If frequently running paths are moderately unstable, instability can be expected on other paths. Conversely, if frequently running paths are stable, it is usually possible to evaluate the stability of infrequently running paths.

Thaw Warnings

As spring approaches, free water will accumulate within the snowpack. Many small, wet avalanches will appear in loose snow or wet slab to give ample warning that wet avalanches of increasing size can be expected. Explosives are often not an effective tool when attempting to trigger this type of avalanche. A useful remedy is to close off the area of concern during the warmest part of the day.

Snowpack Structure

During storms the forecaster keeps track of storm parameters. Between storms the forecaster has time to investigate the conditions of the deeper snowpack. This could be accomplished at the remote weather site on Bird Hill. Diagnosis of snowpack structure involves searching for weak layers; some kinds of weak layers that are definitely correlated with instability are those that contain TG grains, loose cold snow, surface hoar, graupel, radiation crystals, weak recrystalized grains, or wet snow.

Local Meteorological Data

Field observations of snow build-up on or near avalanche release zones are not often feasible because of weather. When conditions are especially critical, it is rarely possible to tour release zones of high elevation paths that threaten highways. Therefore, it is necessary to rely heavily on meteorology study plots, precipitation measurements and ridge top wind measurements. The requirement for catastrophic snow failure is rapid loading to a critical level Thus, the basic problem in making stability evaluations from meteorological measurements is to infer from the study plot and ridge top wind data whether the rate of loading and total load are approaching critical levels in the avalanche paths in question. The simplest way to use the numerical data furnished by instruments is to identify for each path or group of paths the following critical conditions: (1) wind directions that load the paths in question, (2) wind speed requirement for leeslope loading, (3) critical precipitation intensity, (4) critical total water equivalent. Each storm is monitored and analyzed. The slopes in question are evaluated as unstable when the four critical conditions mentioned above are satisfied simultaneously. The critical level of the four conditions for each path or group of paths is derived from at least three to five years of records of meteorological measurements and avalanche conditions. New data is used continually to improve awareness of critical conditions. The success of this method depends on careful record keeping of meteorological and avalanche observations. For avalanche problems in general, the importance of good records cannot be overemphasized.

Meteorological measurements are useful for evaluating wet snow instability. The important variables to monitor, at least qualitatively, are rainfall, radiation and air temperature. Heavy rain causes wet snow instability by adding weight, decreasing cohesion in the surface layer and lubricating a potential sliding surface. The amount of rain required for instability depends on

the temperature of the top layers of the snowpack. If these layers are near zero centigrade before the rain, relatively little rain can cause avalanches. Cold snowpacks have a high capacity for absorbing rain. Wet snow instability grows more intense from mid-afternoon on, shortly after solar radiation reaches its peak. The melting process accelerates because wet snow absorbs far more solar radiation than dry snow, therefore the onset of wet snow instability may seem to occur rapidly. Usually wet snow instability is confined to the most recently deposited layers, to a depth of about three feet. Prolonged thawing occasionally triggers deeper or even full depth slabs. These deep, wet slabs may release any time during a prolonged thaw. As mentioned earlier, explosives seem to have little effect in activating wet avalanches; they release when ready.

Air temperature trends are known to correlate with slab stability. Rising air temperature during a storm is considered an unstable trend because heavy snow is being deposited on lighter snow. This trend would be true more often than not along the Seward Highway. Falling air temperature is considered a stable trend. This was mentioned earlier in this report as standard storm trends and inverted trends, an important factor for the forecaster to be aware of along the Seward Highway slide paths.

National Weather Service Data

The National Weather Service may assist the forecaster by providing data on wind, temperature, and humidity at the upper levels. Short-term forecasts are provided to guide immediate control decisions and extended forecasts for operational planning. Balloon wind data supplements local measurements for estimating the avalanche path loading in a large region. When local wind instruments are rendered inoperative by rime, lightning, or some other cause, balloon wind measurements must be used as a backup. Weather service personnel should, without a great deal of effort, be

able to supply the raw balloon data to the avalanche forecaster. However interpreting the data and issuing forecasts for specific avalanche areas requires some effort and time on the part of the Weather Service and a reciprocal effort by the avalanche forecaster. It is easy to understand that interpretations and forecasts of small scale or local weather are inaccurate.

Forecasting mountain weather is especially complex. Nevertheless, with existing physical models, reporting networks and experience, weather forecasters usually do an effective job of predicting air temperatures, wind speeds and directions and the likelihood of precipitation. Forecasters still have trouble, however, determining the amount of precipitation for mountainous areas. Good communication between the field and the forecast center, especially during storm periods, help forecasters to adjust the precipitation forecasts and, in the long run to improve their forecasting skills. This communication is established first by working through appropriate channels; the avalanche forecaster must determine which weather center is in position to issue special forecasts and exchange information directly.

A pre-season meeting is then set up between the avalanche forecaster and the meteorologist in charge of the designated station. This could involve two stations in different locations when both have input determined valuable to the control effort. A plan for exchanging information should be developed. There will no doubt be need for renewal and improvement each year. Routine communication should involve telephone, radio, or teletype. A direct telephone link to the forecast center would seem most logical and limit operational problems. Unlisted telephone numbers which insure prompt service may be obtained, if agreed to by the meteorologist.

It may help for Weather Service personnel to visit the avalanche forecaster's areas of concern and the avalanche forecaster may benefit from inspection of the weather center. Generally, the communication plan should provide for a morning exchange of routine

information with updates during emergencies. Each morning, at an established time after the balloon data is available, the avalanche forecaster should phone the Weather Service. The purpose of this call will be to furnish the Weather Service with local weather information following a format set up in a pre-season meeting.

The following types of local information may be useful to the forecaster: present state of weather, present precipitation rate, cloud cover, present temperature, dew point, local wind speed and directions, observed freezing levels, maximum and minimum temperatures during the last twenty-four hours, precipitation rate during the last twenty-four hours, evidence of front passage or other special weather phenomena. Other information that could be communicated by the Weather Service to the public includes, highway conditions, avalanche warnings, possible highway closures for control work and the times work will take place.

In return, the Weather Service may supply the following information to the avalanche forecaster: maximum and minimum forecast temperatures for the next twenty-four hours, expected amount of precipitation in the next twenty-four hours and expected times of precipitation surges, trends in ridge top wind speed and direction, freezing levels, cloud cover, and extended forecast of general weather for the next two days, three days, and seven days. How well the weather forecaster can pinpoint precipitation surges or lulls may depend on his experience and knowledge of local effects. Weather stations often have personnel with special interest in mountain weather, avalanches, skiing, etc. The avalanche forecaster should learn who these people are and work with them during critical periods.

Since weather patterns can differ at times between the Alyeska area and Seward, it would be wise to set up a system or a network of observers. People living in or near areas of concern could provide support by reporting storm progress, taking snow samples for water content and density, monitoring the temperature, cruising the highway in their area, and checking for any kind of

instability of the snowpack. Information would then be transmitted to the S.H.A. Forecast Office. Some of these persons could be on a part-time basis-some would be volunteers. As the area of known avalanche activity is vast and the responsibility for forecasting and control so critical, it is recommended there be a lead forecaster and two assistant forecasters. It would be necessary that they live in the area of concern.

Control by Explosives

The strategy of artificially releasing avalanches above highways is intended to produce small avalanches that clear out the track and either stop short of the road or deposit only small loads on the road bed. Ideally, the avalanche should stop just short of the road. Experience demonstrates that it is much more efficient to plow off many small deposits than one very large deposit. Also, the release of many small avalanches in the winter prevents large avalanches from running in the spring thaw. This type of control program is in effect in Little Cottonwood Canyon, Utah, and has proven very effective over the years. In highway control, the release of many small avalanches has a strategic advantage over waiting for one large avalanche.

Hazard forecasters, called upon to blast with artillery, hand charges, etc. must be released from liability before control begins. This may require a civil ordinance delegating authority to perform control on specific slopes for general public welfare, in full understanding of risks and uncertainty of results, since the slide paths could effect something other than the highway itself, such as power lines, railroads or personal property.

Inaccessible avalanche paths over highways are routinely controlled by artillery or helicopter. Of these two principal techniques, artillery is apt to be the more expensive since artillery ammunition combined with the purchase and maintenance of weapons

entails a greater expense than hand-thrown charges and the helicopter time. It should be noted that helicopters are limited to favorable weather conditions. Since visibility constraints should not be imposed if control is to be most effective, helicopters are best used in combination with artillery, rather than as a sole technique. The avalauncher is a weapon being widely used now by ski areas throughout the west. This particular weapon has been tested to some extent in Little Cottonwood Canyon, Utah. For the most part, it did not have sufficient accuracy or range. The maximum range is 1400 yards and most shot points in Little Cottonwood Canyon run over 2000 yards. This is also true for most all ranges on shot points along the Seward Highway.

Because range is a problem, most highway control is performed with artillery weapons. Whenever possible, weapons should be fired from fixed mounts that permit accurate indirect aiming during poor visibility. Firing positions should be chosen to minimize avalanche hazard to firing crews. Recoilless rifles and howitzers, 75mm to 105mm, are suitable. Fixed mount locations for the Seward Highway, type of weapons and number of weapons are discussed in another section of this report.

Chapter IV

DESCRIPTION OF ROUTINE FORECASTING AND CONTROL OPERATIONS

Since the Seward Highway crosses 68 slide paths in its distance between Anchorage and Seward, a good cooperative effort among various agencies must be established to provide adequate public safety.

Several agencies will most likely be involved in the operation of a control program. At the time of this writing, a formalized structure of responsibilities and authority have not been established. The following is an attempt to define the roles and responsibilities of various agencies that will most likely be involved. This could change once formal agreements are placed in affect, but it does constitute a general scope of combined responsibilities. Should one of the agencies mentioned below decide against involving themselves with the control program then the outlined work will have to be done by another agency.

Outline of Public and Private Entities Involved in Avalanche Safety on the Seward Highway:

A. U.S. Forest Service; Division of State and Private Forestry
B. Alaska State Department of Transportation and Public Facilities
C. U.S. Weather Service
D. Alaska State Troopers
E. Alaska State Parks; Chugach State Park
F. Private Entities
    1. Alyeska Resort
    2. Summit Lake Lodge
    3. Bird House or Scottish Inn

Summary of Roles, Responsibilities and Authority of Agencies

A. U.S. Forest Service; Division of State and Private Forestry

Responsibility for avalanche forecasting and control has been assumed by the U.S. Forest Service in several areas of the country. This agency has the greatest expertise in dealing with avalanche problems of any public agency.

1. Maintain weather and snowpack records, make daily weather and snowpack observations, consult daily with U.S. Weather Service in Anchorage, and prepare avalanche forecasts on a site specific basis for the Seward Highway.
2. Recommend road closures for DOT/PF based on hazard forecasts; advise DOT/PF of weather, snow, and avalanche conditions.
3. Supervise and implement avalanche control activities including use of artillery and helicopter borne explosives on starting zone targets above the highway.
4. Via the S.H.A. Forecast Office, keep other agencies and the general public informed with regard to weather and avalanche conditions, timetables of impending road closures and openings, and give status of on-going avalanche work.
5. At the request of the Alaska State Troopers, or in their absence, provide leadership and technical assistance in avalanche searches and rescues.
6. Provide training and supervision necessary for the safety of all personnel involved in avalanche control operations.
7. Procure artillery ordinance from the U.S. Army and supervise its transportation, storage, and use.

B. Alaska Department of Transportation/Public Facilities

The DOT/PF has ultimate responsibility for highway safety, and consequently has final authority to decide road closures and openings necessitated by avalanche hazard.

Specific responsibilities are:

1. Remove snow and avalanche debris from Seward Highway as service priorities permit.
2. Notify other cooperating agencies and the general public of planned road closures or openings; through recorded telephone messages or electronic message boards, keep the general public informed of road conditions and avalanche control activities.
3. Maintain avalanche signing system, avalanche closure gates, and other public warning devices.
4. Participate with the U.S. Forest Service and other agencies to cover the direct cost of avalanche protection on the Seward Highway.

C. U.S. Weather Service

Through its Anchorage office weather forecasts are issued for much of Southcentral Alaska. Due to the extensive area covered by the highway, a reliable exchange of weather information will benefit all agencies and the general public.

1. Issue weather forecasts on a locality specific basis to the S.W.A. Forecast Office.
2. Provide technical assistance for the construction and maintenance of remote weather recording installations.
3. Provide interfacing necessary to establish high-speed data exchange and other related cooperative weather information exchange and recording.

D. Alaska State Troopers

All rescue activities, including avalanche, are under the Troopers jurisdiction.

1. Direct all avalanche rescue in cooperation with U.S. F.S., Division of State and Private Forestry; S.H.A. Forecast Office.
2. Provide communications facilities as needed.
3. Provide hel copter on a cost basis for snow studies work.
4. Respond to emergency situations as requested by the S.H.A. Forecast Office.

E. Chugach State Park

1. Provide permits necessary for forecasting and control activities arks land.
2. Relay avalanche and weather data to S.H.A. Forecast Office.
3. Maintain weather recording facility in Bird Creek.

F. Private Entities

1. Alyeska Resort
   a. Voluntarily relay avalanche and weather data to S.H.A. Forecast Office.
2. Summit Lake Lodge
   a. Voluntarily maintain weather recording facility.
   b. Voluntarily close avalanche gates at Summit Lake in emergency situations.
3. Bird House or Scottish Inn
   a. Voluntarily close avalanche gate at Bird Flat in emergency situations.

The success of an avalanche program on the Seward Highway depends on (1) flexibility of response to changing conditions, (2) cooperation among responsible public and private agencies. The following description of events is entirely hypothetical with regard to times and locations of personnel and equipment.

Night storms. The lead forecaster for the Division of State and Private Forestry, stationed at the S.H.A. Forecast Office, has been on a storm watch during most of the night. The amount of precipitation he has noted since the start of the storm at 10 p.m. is the indicator of the rate of hazard formation and the density an indicator of the nature of snow buildup. He has also been checking the ambient air temperature and wind speed and direction, with this information coming from a remote site on Bird Hill and Andy Simons Mountain above Kenai Lake. The anemometer readings are indicators of specific locations of hazard formation.

At 4 a.m. the hazard forecaster will start his calls; possibly his first call will be to the National Weather Service for another check on the direction of the storm. After he has gathered information from his own observations, he may also have received some calls from the part-time observers and volunteers located toward Seward.

He has, by this time, made his evaluation; control is necessary. It would mean control by indirect (blind) fire onto indicator shot points or specific locations of hazard formation. The hazard forecaster's next call, then, would be to the Department of Transportation. The time would be 4:30 a.m., asking for a road closure at 6 a.m. so control work can start at that time at gun position No. 1 firing indicator shot points 102, 107, 116, and gun position No. 2, shot point 204, 206, 212, and 218. Gun position No. 4 might shoot points 404 and 408 if a high hazard exists. The Department of Transportation, after receiving this information

from the hazard forecaster, calls the State Troopers, informing them of the road closure. They could possibly ask for assistance in sweeping the highway, making sure no automobiles or pedestrians are in the area and actually close the gates.

Concurrent with the above, the lead forecaster will have to make decisions regarding control activities for the highway south of Girdwood based on field observations from the weather reporting network. Arrangements will need to be made to implement the closures and control work necessary. At this point, the Department of Transportation relays a message to the public through the Weather Service regarding road closure. Gun crews and maintenance crews are dispatched for implementation of control activities and in preparation for clearing of avalanche debris.

After firing the indicator shot points from gun positions #1 and #2, the hazard forecaster makes a quick visual assessment and decides immediately if more control is needed. If hazards show up as extreme, little decision is needed. Full control is implemented. In this case, road closure will have to be extended. If hazard is not extreme the highway will be opened to traffic by 08:30. In this case, more control work could be carried on from 10:00 a.m. to noon, when traffic volume is not increasing. If big avalanches occur in the area of control work, the maintenance crews are there to clear and open the road as soon as possible.

If a moderate hazard exists control work may be deferred until 10 a.m. This allows Girdwood-Anchorage commuters into work and Alyeska skiers to the ski area. There is a drop-off in traffic volume from 10 a.m. to noon, as noted in Appendix I. This is a good time to do major control work as there is continual daylight. DOT/PF does not remove avalanche debris at night. Exact details of control activity timing will have to be worked out as the program becomes operational but this gives some general guidelines for control of night storms.

Day storms. Storms that build a hazard during the day will require a somewhat different tactic. If it is anticipated that a hazardous level will be reached in the late afternoon or evening control activities will have to be timed to allow for clean-up of avalanche debris before dark. This would mean road closure would occur at 1:30 and graduate to a later time as daylight allows during the latter part of February, March, and April. Control activities could commence at 2:00 firing from all gun positions simultaneously to be done with control at 2:20, allowing 40 minutes for avalanche debris removal. If debris is not removed by dark the road will remain closed all night. If it is decided to forego control activities during day storms, a road closure will have to be put into effect sometime during the night. It should be obvious there are many problems with these procedures that can only be worked out after the control program becomes operational.

The lead forecaster and his assistants would collect and record weather, snow cover and avalanche data, analyze all technical data and prepare forecasts of avalanche hazards, order closures for the highway, determine when and where to use artillery or helicopter bombing, conduct avalanche control activities and do research for improving forecasts.

Public Information and Warning. An important part of avalanche hazard control is public information and education, convincing the public that zoning ordinances, ski run closures or highway restrictions are in their best interest. The avalanche worker has much on his side. Avalanches are spectacular and can be portrayed in exciting and convincing presentations via television, radio, newspapers, ski magazines, films, lectures and pamphlets. Besides the general public, some groups that may benefit from avalanche information and education include ski clubs, public utilities crews, state highway crews, ski area operators, snowmobile clubs, rescue organizations, sheriff's departments, state

and federal agencies, ski schools, mountaineering clubs, local planning commissions and mining corporations. The more avalanche education for all of the public, the easier it is for the DOT/PF to close the highway for periods of control. The information program should underscore the common sense of avalanche safety.

Chapter V

AVALANCHE RESCUE

In order for a rescue to be successful, the utmost speed must be used in running the operation. Statistically, a victim's chance of being recovered alive falls to less than 50% after one-half hour. In all probability the fact that the victim of a highway avalanche is in their vehicle increases the likelihood of a live rescue and consequent time values, but the half-hour figure does reflect the necessity for speed.

As there is not a large staff of professional rescue people available to the Seward Highway control program, any rescue operations will probably involve a large variety of volunteers, DOT/PF personnel, avalanche control crews, U.S. Forest Service, and State Troopers. The latter has full responsibility for all rescue operations within the state, including avalanche. Cooperative training efforts betweeen the State Troopers, DOT/PF personnel, and the control crews could result in a reasonably efficient response to call-out. Much effort must be put forth to establish communications links, lines of authority, and layout of equipment and manpower for rescue operations in order to have the speed necessary to perform a live rescue.

In the set-up of rescue operations, the ability to utilize personnel immediately adjacent to the affected area is important. Because of the large distances involved, responses will have to come from Girdwood for the Portage-Bird series of avalanche paths, and from Moose Pass for the 19-mile-Summit Lake series. Transportation times involved from any other location, with the exception of Summit Lake itself, will preclude the probability of a live rescue. A net of potential rescuers could be established in each location to accomplish a minimal response time by utilizing the Girdwood Mountain Rescue Group, U.S. Forest Service personnel stationed in Moose Pass, and supplementing these with local volunteers.

Protection of rescue personnel is of the highest priority. It is unacceptable to place severe risks on the large number of people associated with a rescue team. For this reason the lead forecaster should be the person that guides rescue activities, as he is the most qualified to make the critical decisions involved. This is contrary to the mandate of the State Troopers requiring them to run all rescue operations, but cooperative ties can and should be worked out to allow this practice to take place under the direct or indirect supervision of designated troopers. There is a limited number of troopers acquainted with directing an avalanche rescue, therefore, in an effort to eliminate miscommunications, designated troopers should be involved. Local troopers could become trained to perform this function from Girdwood or Moose Pass in conjunction with the base rescue operations in Anchorage.

Guidelines need to be established as to the degree of hazard to which rescue operations can be committed. Each situation will be different and demand individual attention, but a few generalities can be made. Control work may be necessary in order to commit personnel; always a difficult proposition because of the likelihood of worsening the situation of the victims. Avalanche paths with multiple release zones should be dealt with very cautiously as there is a good chance that only part of these areas will have had activity, with the rest of the release zone being very prone to avalanching. Many accidents have occurred during rescues due to this situation. Regeneration of snow deposits in the release zone presents a hazard to long-term rescue. In a case where it seems certain that a vehicle is caught with a high hazard of more avalanches, it could be deemed justifiable to commit a small group of professionals to a rapid search, provided backup manpower is immediately available. This type of decision is extremely difficult to make without a solid background in avalanche forecasting, control, and rescue.

Continual training will be necessary to establish the efficiency of movement necessary for a speedy response. Call-outs should take place several times a year to keep a polished edge on the rescue operation.

Equipment must be purchased and stored at Moose Pass and Girdwood to expedite a call-out. A cache could also be established at Summit Lake to facilitate any problems there, but this would not have to be as extensive as the Level 1 caches at the other two locations. Periodic checks should be made to insure the readiness of this equipment.

Night rescue operations present unique difficulties and hazards. It would be difficult to commit personnel to such a rescue without substantial evidence of vehicle entrapment. Nevertheless, it will be necessary to make arrangements for emergency lighting facilities should the circumstance arise.

Speed and safety are the most important concepts in an avalanche rescue. Training of personnel, cooperative ties among agencies, and use of the most qualified people in decision making can accomplish duality of purpose.

Following is a listing of the positions in the chain of command of a rescue and a description of the responsibilities of each position. A list of necessary equipment follows.

There should be instructions for each phase of the rescue contained in either manila envelopes or binders at various locations. In communications stations these instructions could be centrally located so they could be readily accessible to highway crews and other people involved.

These instructions are:

1. Immediate Action: The first person to learn of an avalanche will probably notify either a government agency in the vicinity or a public facility. Basically, the person receiving this notice should: hold the witness to accompany the search party and sound the general alarm which will notify qualified rescue leaders on a priority basis.

2. Person Receiving General Alarm: The first qualified rescue leader reached by the general alarm proceeds to the nearest communications station and becomes dispatcher unless relieved by a superior in the plan's structure. Contained in this person's instructions is a list of procedures used for the immediate dispatch of columns of rescuers to the scene and a series of follow-up actions.

3. First Column Leader: Instructions for the person appointed by the rescue leader to lead the search column must be available in each avalanche rescue cache, including guidelines for screening volunteers, selecting a safe route to the accident site, and procedures used in searching for the victim. Several methods could be used according to the resources available, including dog search, use of a metal detector, course probing, or use of an electronic locator.

4. Accident Site Commander: Instructions for the person designated by the rescue leader to assume command at the accident site. This may or may not be the hasty search or first colum leader. Organizational guidelines should include organizing probelines, reporting progress to the rescue leader, removing exhausted workers, obtaining medical and transportation assistance, obtaining backup assistance, and terminating rescue operations.

5. Column Leaders: Instructions for persons appointed by the rescue leader to lead groups of rescuers to the accident. These are similar to the first column leader's instructions, but do not include some of the preliminary work that is to be accomplished by the first people at the scene.

Immediate action envelopes should be distributed and explained in all areas where an avalanche is likely to be reported. General alarm packets should only be issued to designated rescue leaders. The other three sets of instructions should be located at the avalanche rescue caches. Following is the recommended cache locations:

1. Girdwood Maintenance Station, DOT/PF - Mile 91 - Level 1 cache

2. Summit Lake Lodge - Mile 46 - Level 2 cache

3. Moose Pass - U.S.F.S. Station - Level 1

Following is a recommended Level 1 cache. Level 2 would be half as much equipment for the most part.

	Quantity
Trapper Nelson pack frame	2
Collapsible probes	20
Small snow shovels	6
Headlamps	30
Flares	100
Markers (wands with flags)	200
Wool blankets	4
Warning horn	1
Large first aid kit	1
6 volt hand lamp	6
Portable radios (walkie-talkies)	3
1-piece probes	100
Shovels, large scoop	30
Loud hailer	1
Horn refill	1
Metal detector	1
Tobbogan	1
150' rope	3
Lighting unit on trailer	1
Snowshoes	10
Electronic locater	24
Stretchers	2

(from B.C. Highways, 1979)

Chapter VI

AVALANCHE MAPPING

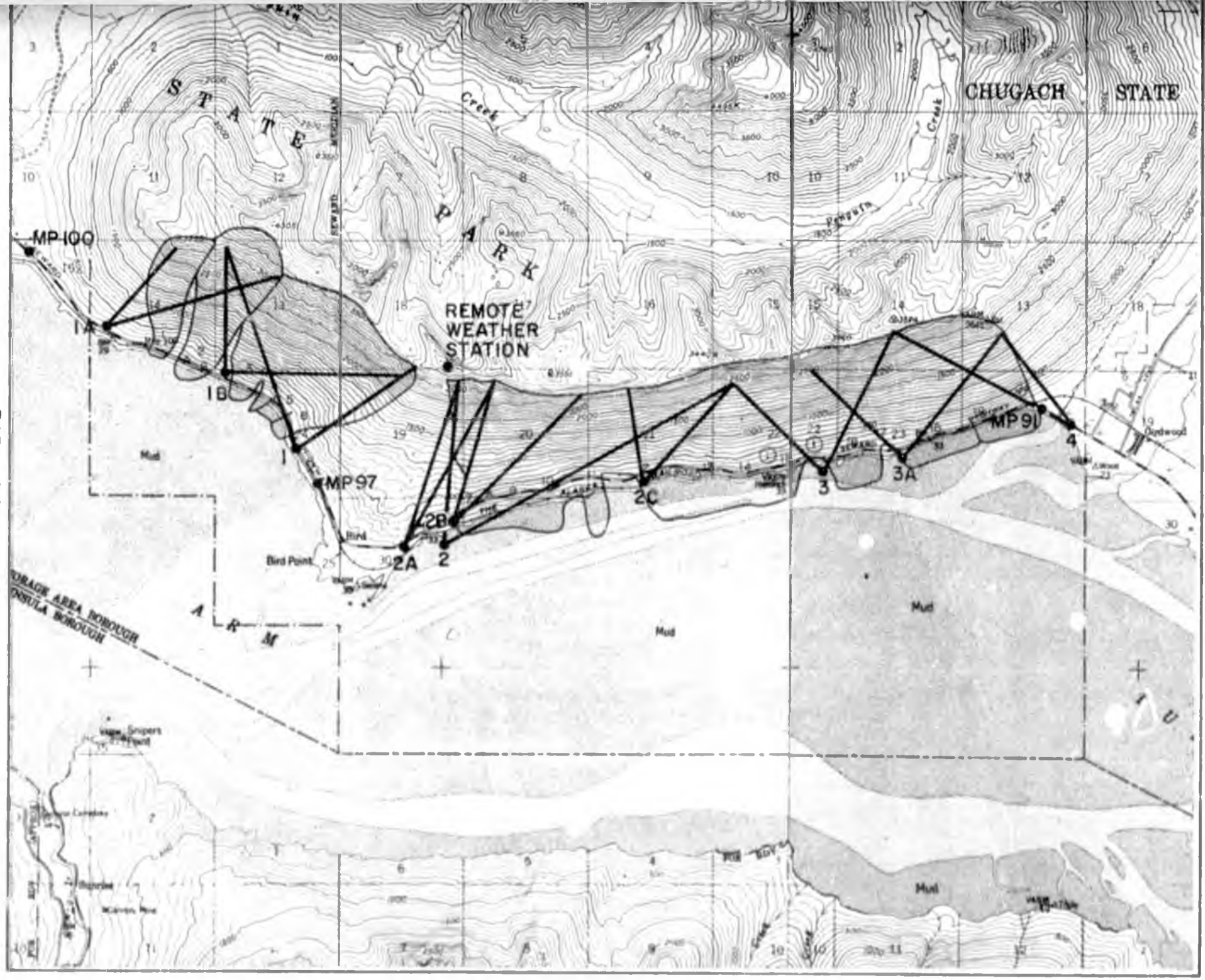
A record of identified avalanche paths is necessary to design and implement the control system. For this purpose aerial photography was used to identify avalanche paths in order to define the starting and runout zones. Incorporated into these photographs is a description of target points to be used in the control program, gun positions, and location of other facilities necessary for the control program.

For a concise view of the topography and relation of one path to another, a record of the avalanche paths was produced on 1:63;300 scale U.S.G.S. topographical maps. These contain a record of the avalanche path perimeters in red, gun positions, maximum line-of-fire, mileage marks, and remote weather stations in black. Avalanche paths designated with a number but no perimeter marks either run close to the highway or there is evidence of vegetation damage.

V - visual fire target points
MP - milepost
GT - mobile gun truck position

List of Figures		Slide Path #
6-1	Bird Hill topographical map	
6-2	Bird Flat	1-6
6-3	Bird Point	3-6, 7-8
6-4	Bird Hill	7-14
6-5	Bird Hill	13-17
6-6	Bird Hill	16-20
6-7	Side view of Bird Hill	

6-8 Kern-Peterson topographical map
6-9 Kern 21-22
6-10 Between Kern Creek and Peterson Creek 23
6-11 Peterson 24-27
6-12 Turnagain Pass-Silvertip topographical map
6-13 N. Side Turnagain Pass 40-42
6-14 S. Side Turnagain Pass 43-46
6-15 S. Side Turnagain Pass 47
6-16 Summit Lake topographical map
6-17 S. of Summit Lake 54-56
6-18 Summit Lake 70-73
6-19 Seward-Sterling Y topographical map
6-20 Seward-Sterling Y N. Side 74
6-21 Seward-Sterling Y S. Side 75-77
6-22 Kenai Lake topographical map
6-23 Kenai Lake 90-92
6-24 Kenai Lake 93-94
6-25 Snow River 95-97



BIRD HILL

FIGURE 6-1

103A
102
101
104
105
107A
106A
109
108A
110
111
112
113
114
115
116
111A
109A
106
108
101A
112A
112B
116C
116A
116D
114A
115A
115A
116B
1A
1B
2A
2
3
4
5
6

FIGURE 6-2

109
110
111
108A
112
113
114
115
106A
111A
116C
118A
114A
116A
118B
118D
202A
204
205
206
208
201
202
203
202B
203A
207
207A
206A
207B
204A
201A
203B
5
6
7
8
2B
2
2A
75MM
Howitzer Site
106MM
Howitzer
Site

FIGURE 6-3

REMOTE WEATHER STATION
201
201A
202
202A
202B
202C
203
203A
203B
204
204A
205
205A
206
207
207A
207B
208
208A
208B
208C
209
210
211
211A
212
212A
213
213A
214
214A
215
215A
216
216A
216B
217
217A
218
218A
218B
218C
219
201
2C
7
8
9
10
11
12
13
14

FIGURE 6-4

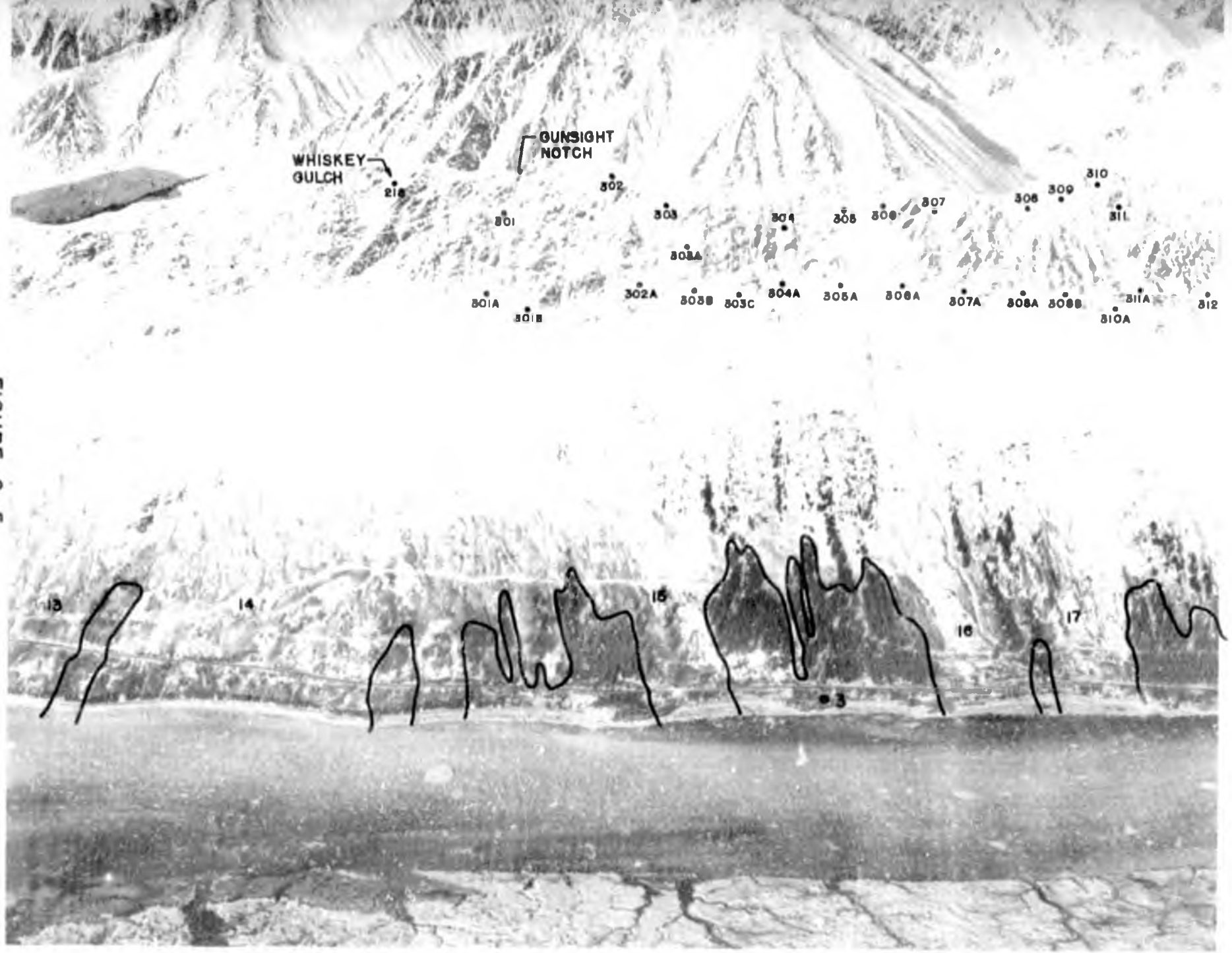

WHISKEY GULCH
GUNSIGHT NOTCH
218
302
301
303
304
305
306
307
310
309
311
303A
301A
301B
302A
303B
303C
304A
305A
306A
307A
308A
308B
311A
310A
312
13
14
15
16
17
3

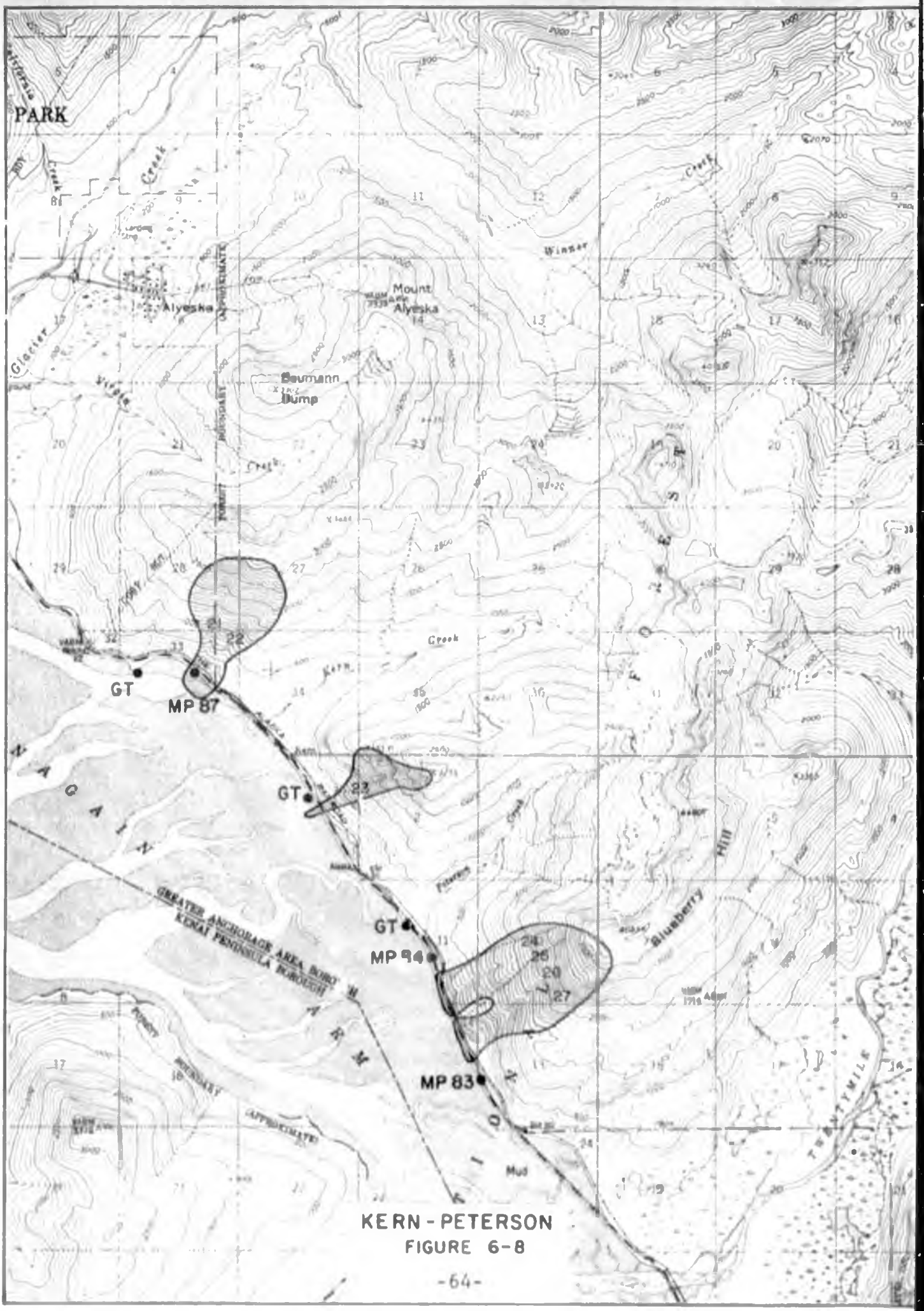
FIGURE 6-5

401
401A
401B
401C
402
402A
403
403A
403B
404
404A
405
405A
405B
406
407
407A
407B
408
408A
408B
409
311
312
313
20
19
18B
18A
3A
17
16

FIGURE 6-6

FIGURE 6-7

FIGURE 6-7



KERN - PETERSON
FIGURE 6-8

FIGURE 6-9

FIGURE 6-10

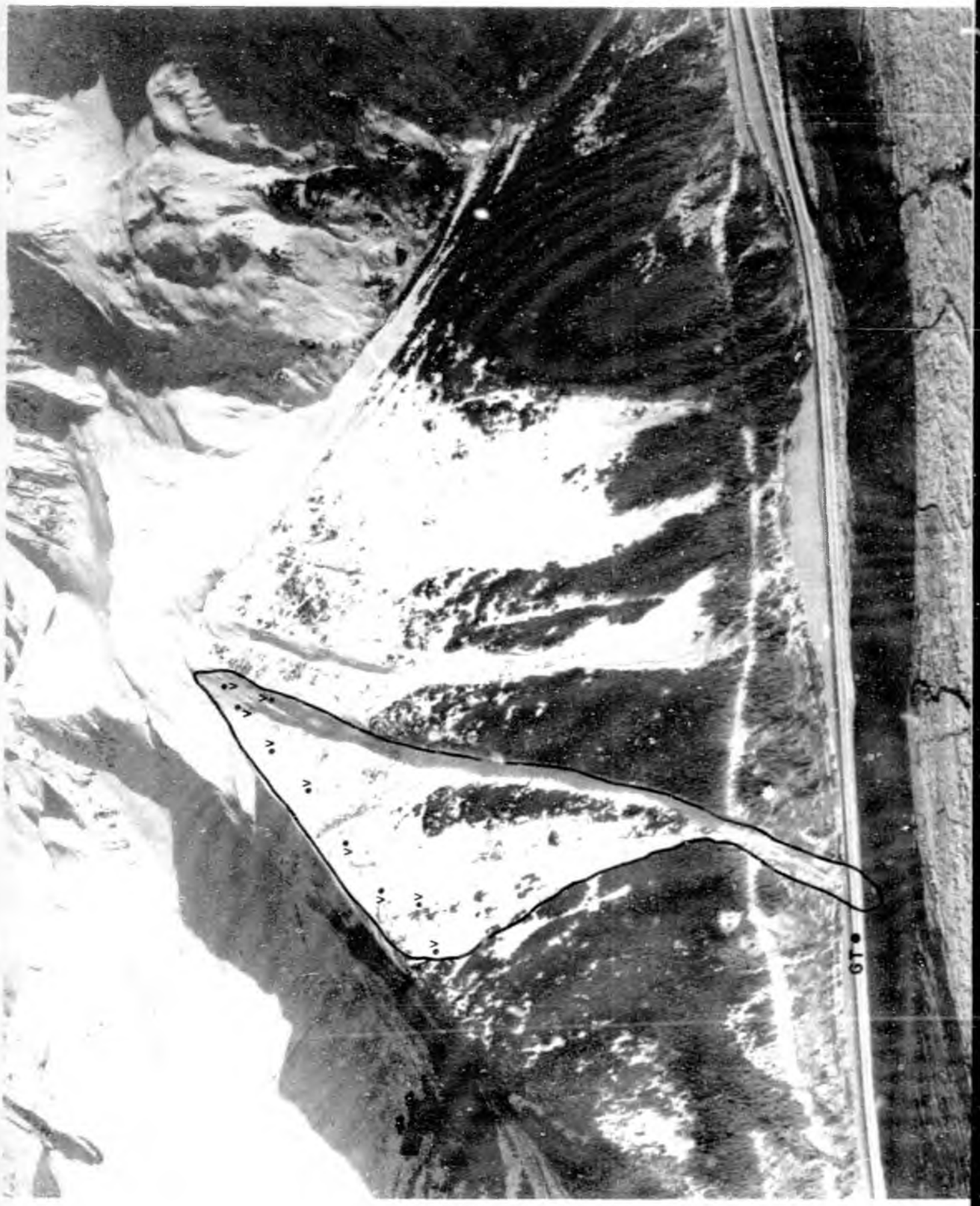
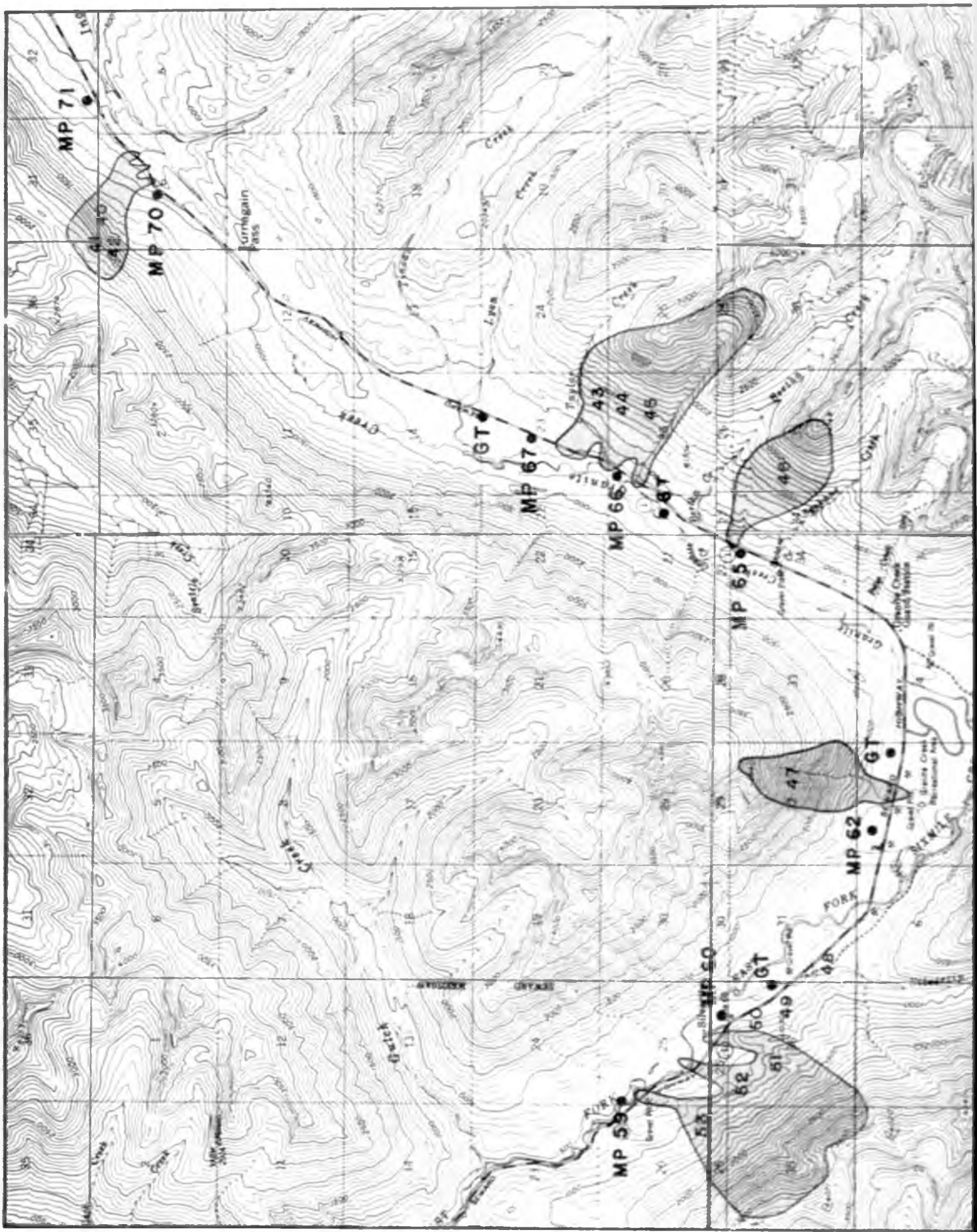


FIGURE 6-10

FIGURE 6-11



TURNAGAIN PASS – SILVERTIP

FIGURE 6-12

FIGURE 6-13

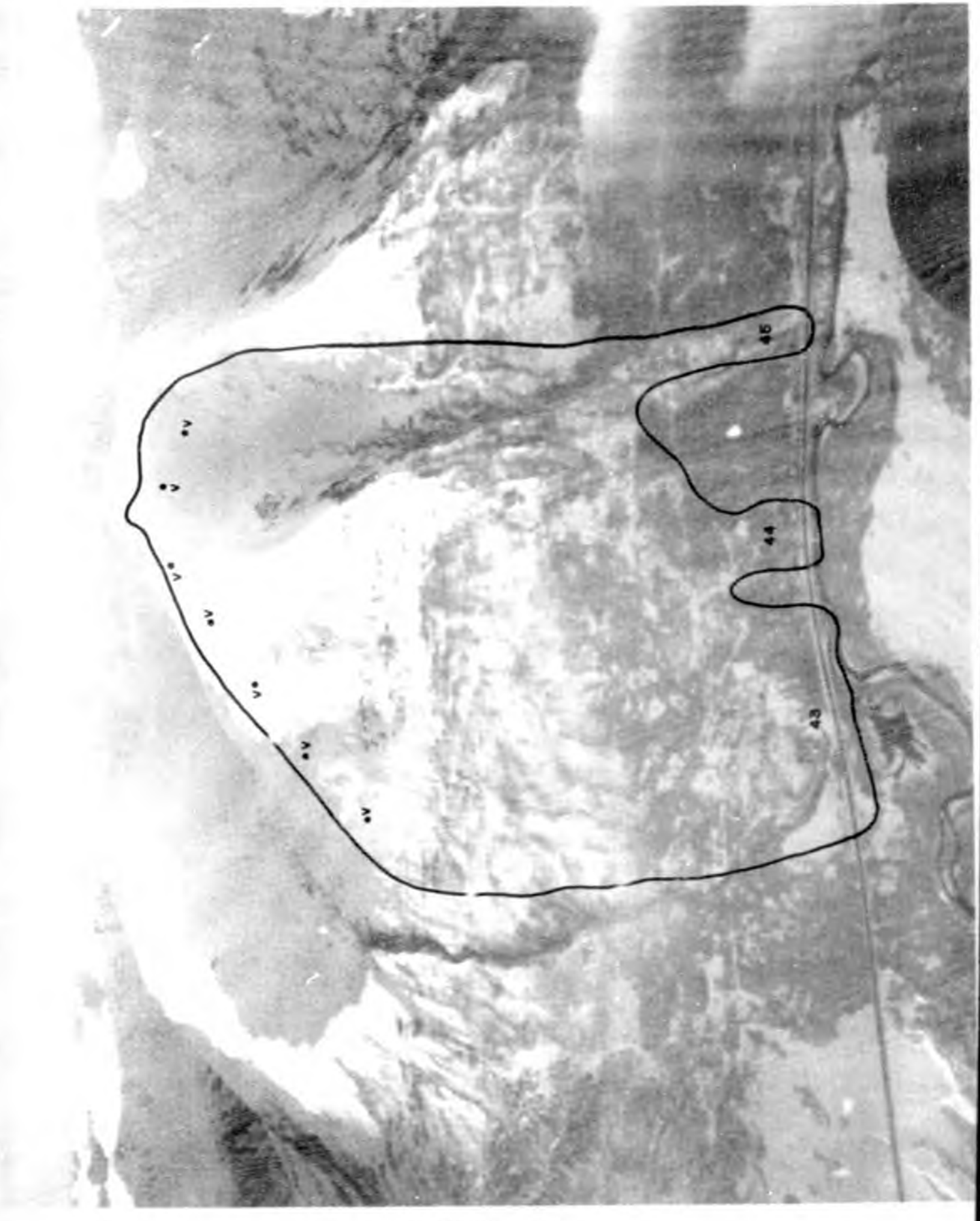
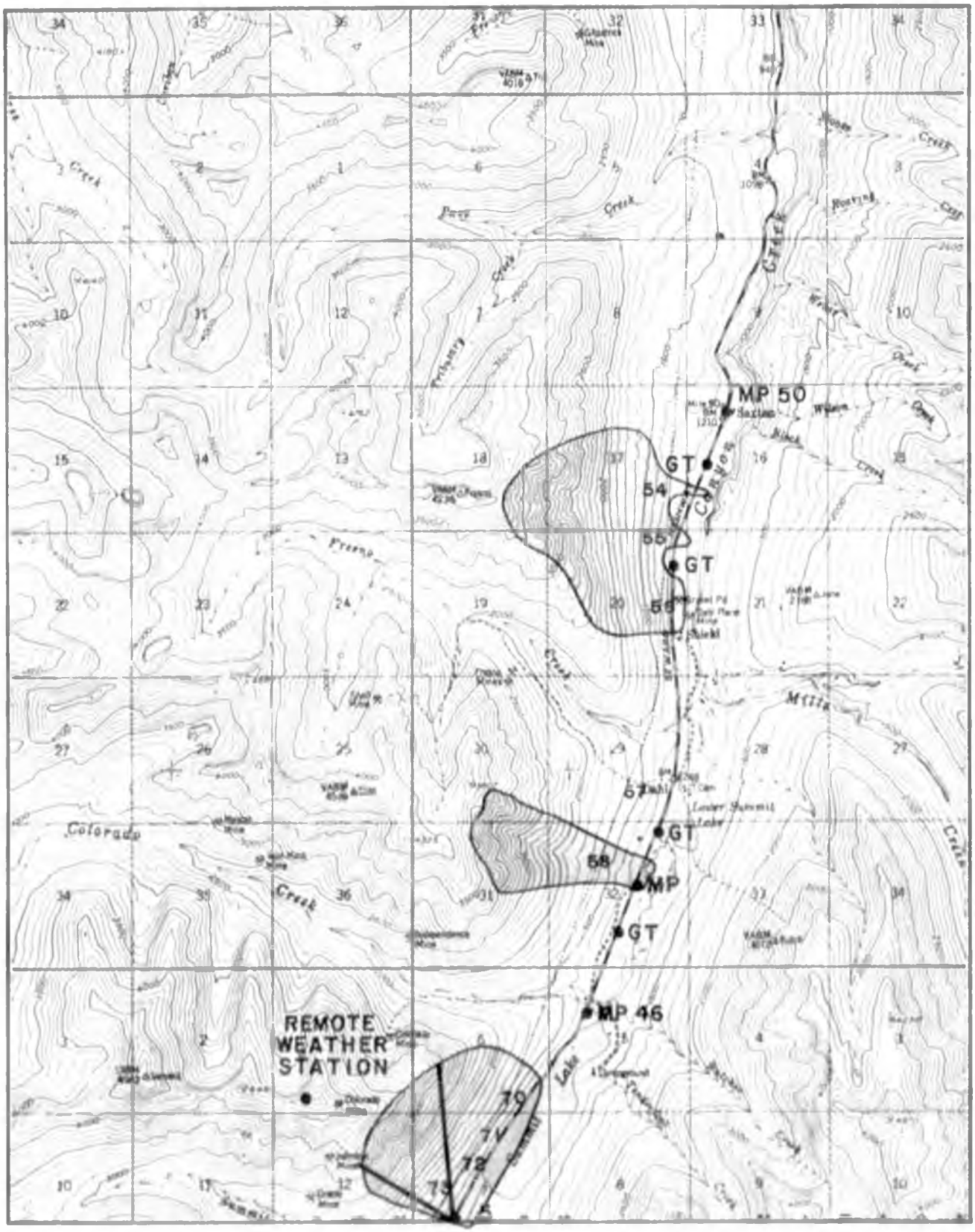


FIGURE 6-14

FIGURE 6-15



SUMMIT LAKE

FIGURE 6-16

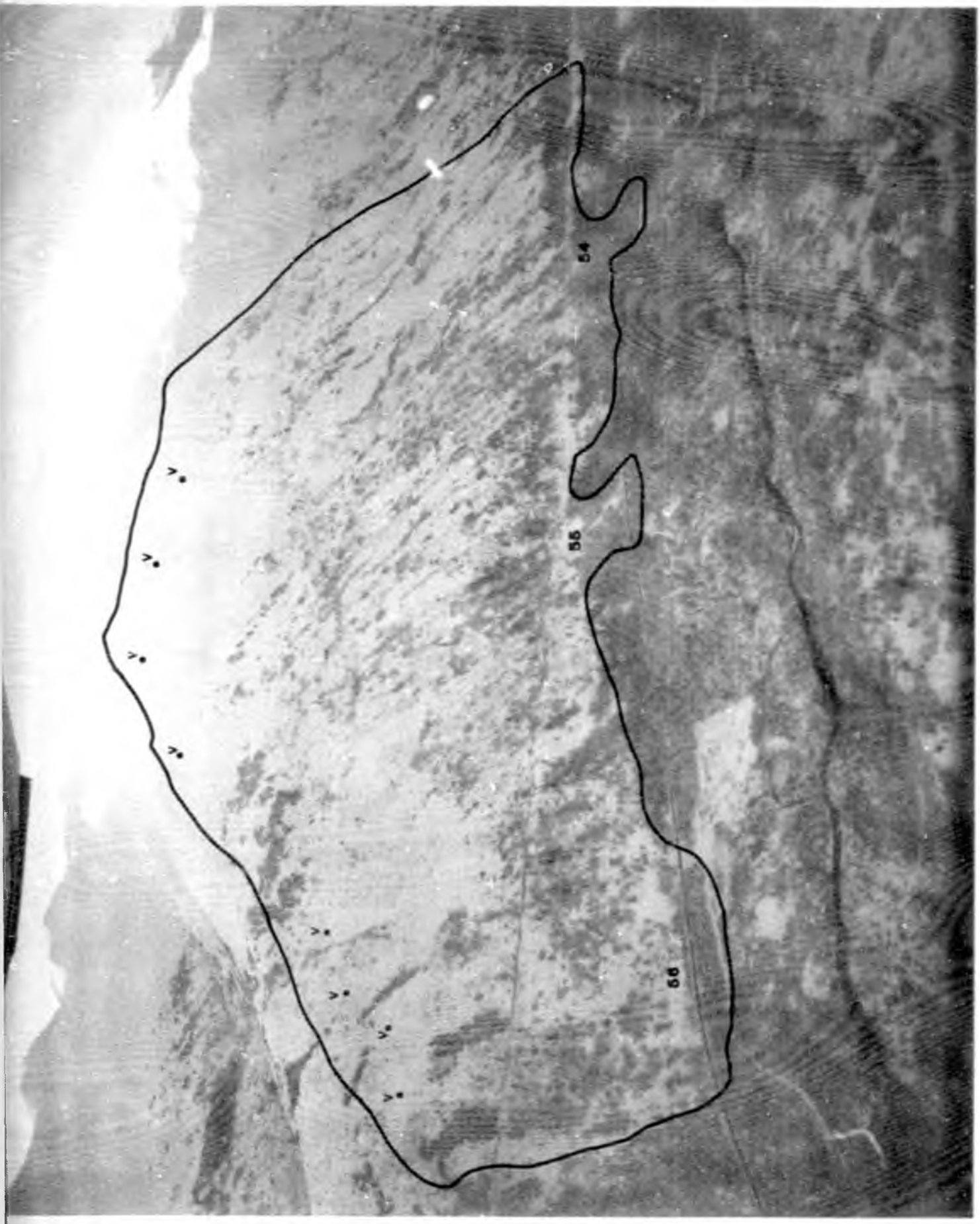


FIGURE 6-17

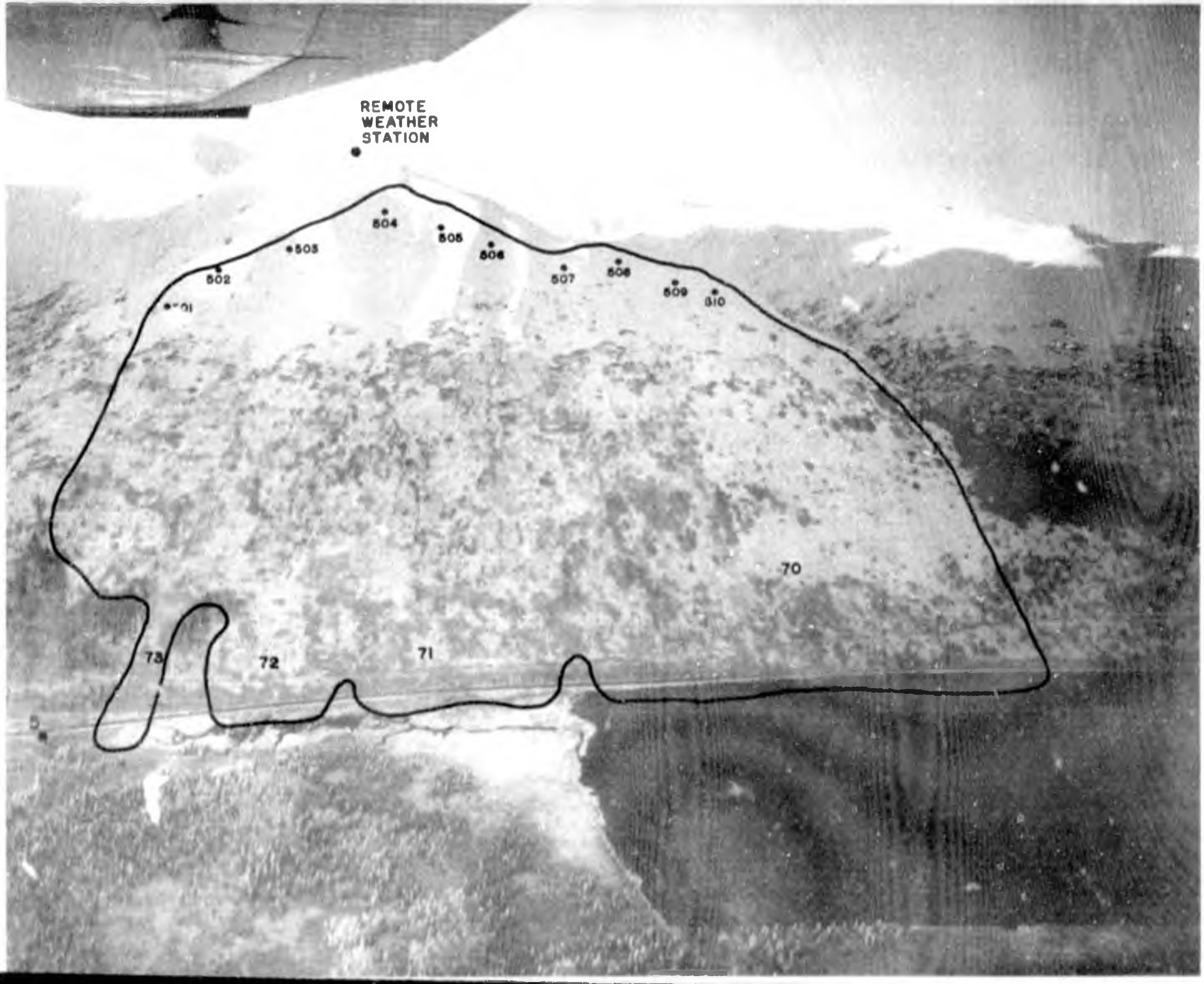
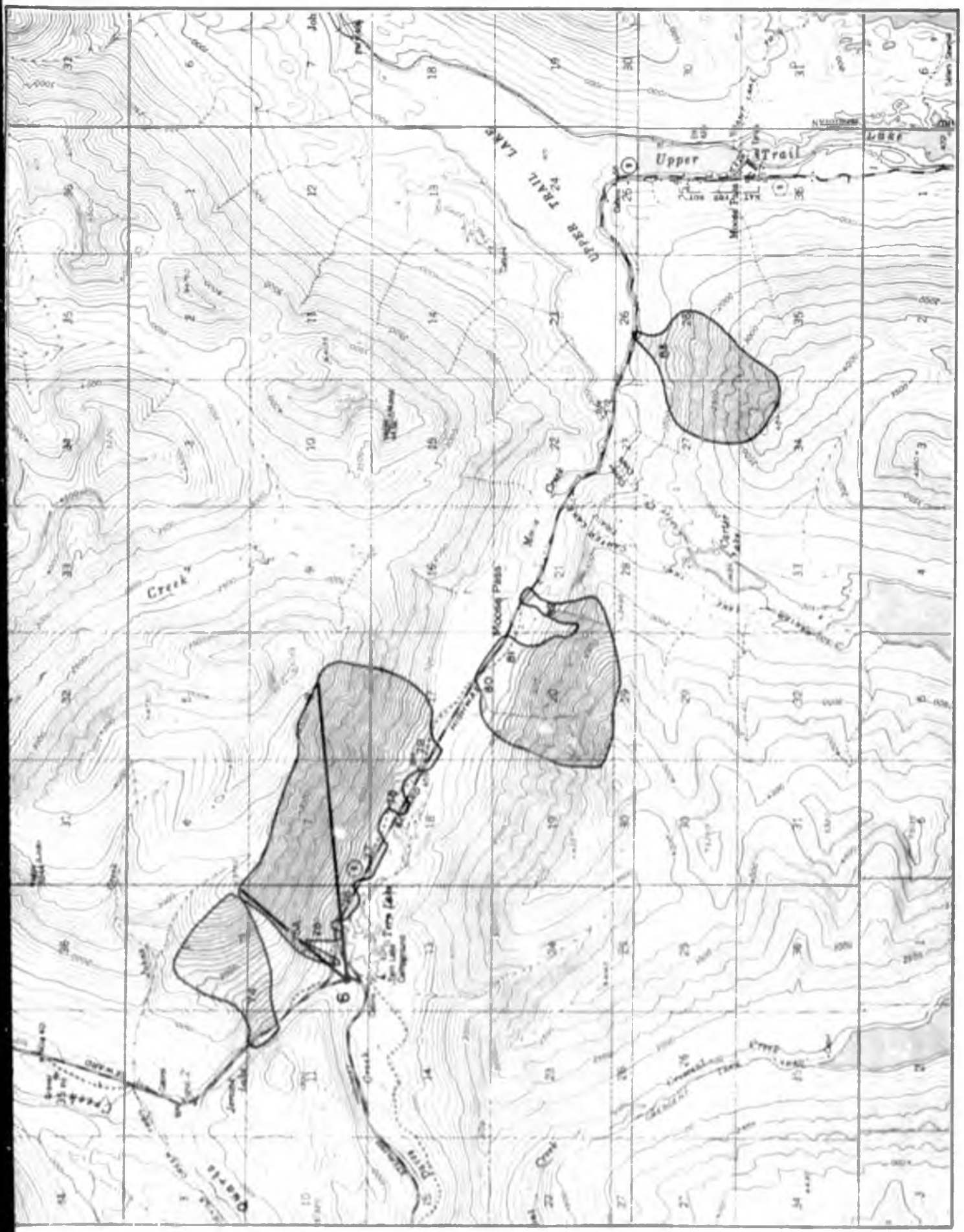

REMOTE
WEATHER
STATION
501
502
503
504
505
506
507
508
509
510
70
71
72
73

FIGURE 6-18

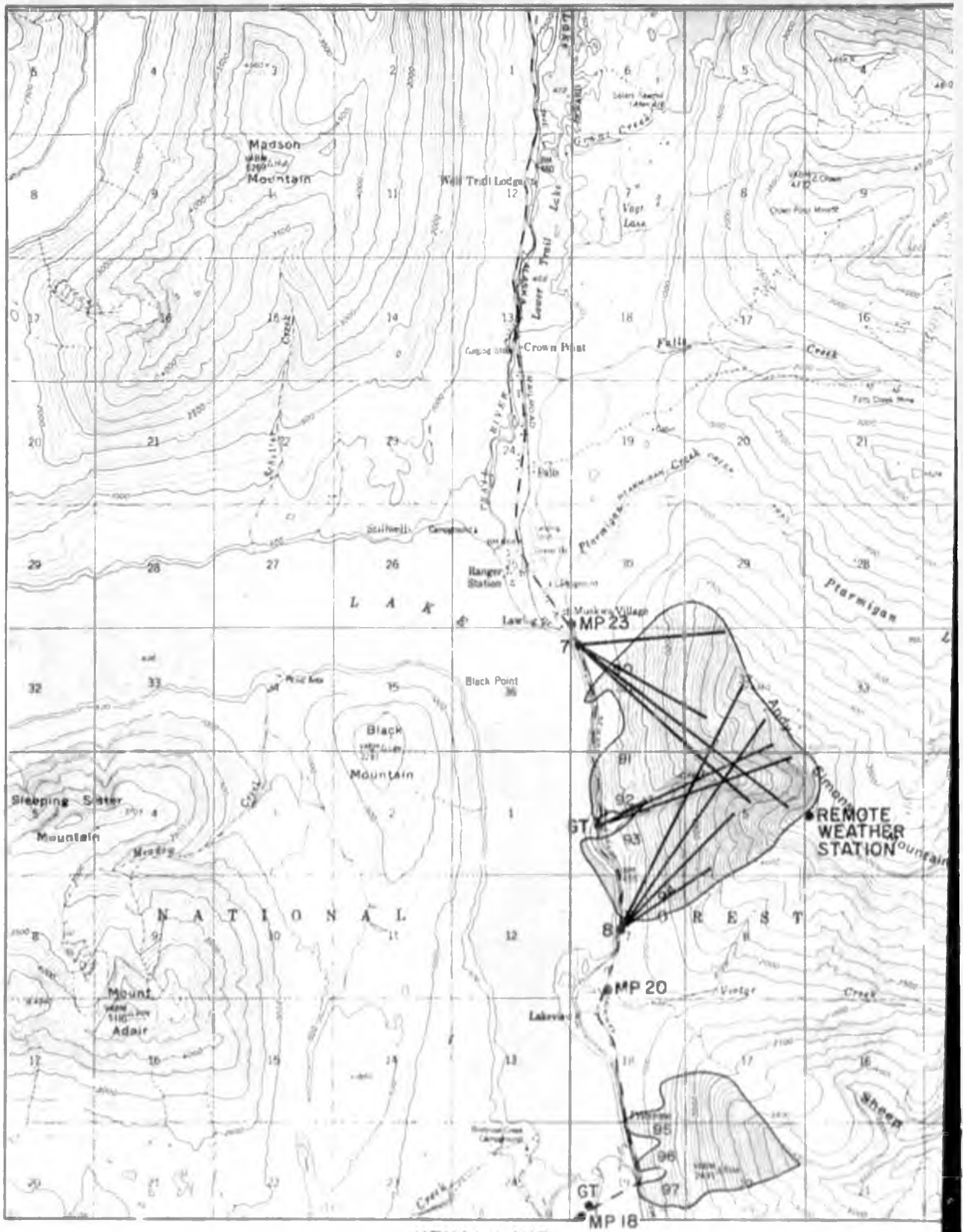


SEWARD-STERLING
FIGURE 6-19

FIGURE 6-20

601
602
603
604
605
606
607
608
609
610
611
612
613
614
75A
75
76
77

FIGURE 6-21



KENAI LAKE
FIGURE 6-22

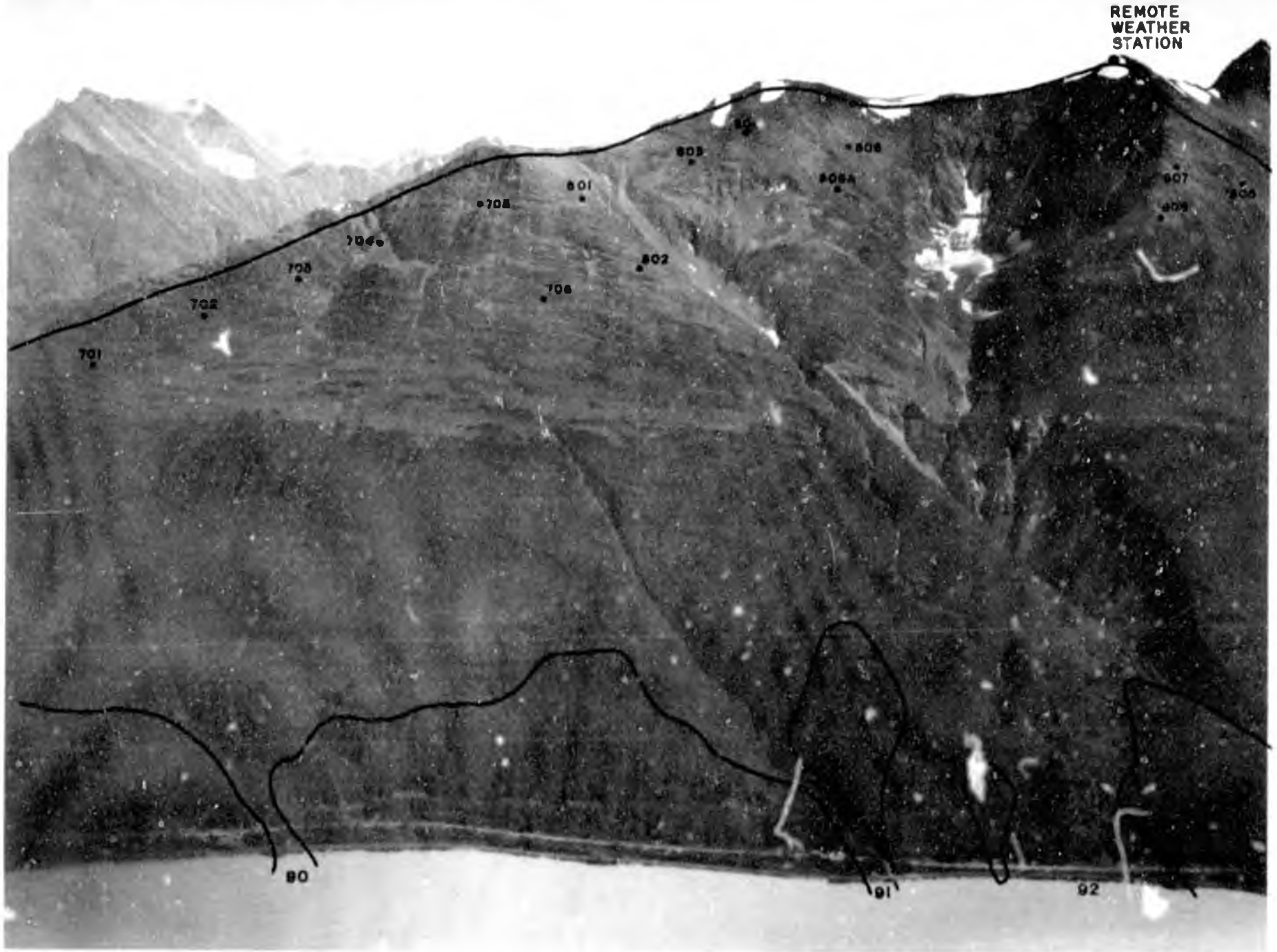

REMOTE
WEATHER
STATION
701
702
703
704
705
706
801
802
803
804
805
806
807
808
809
90
91
92

FIGURE 6-23

FIGURE 6-24

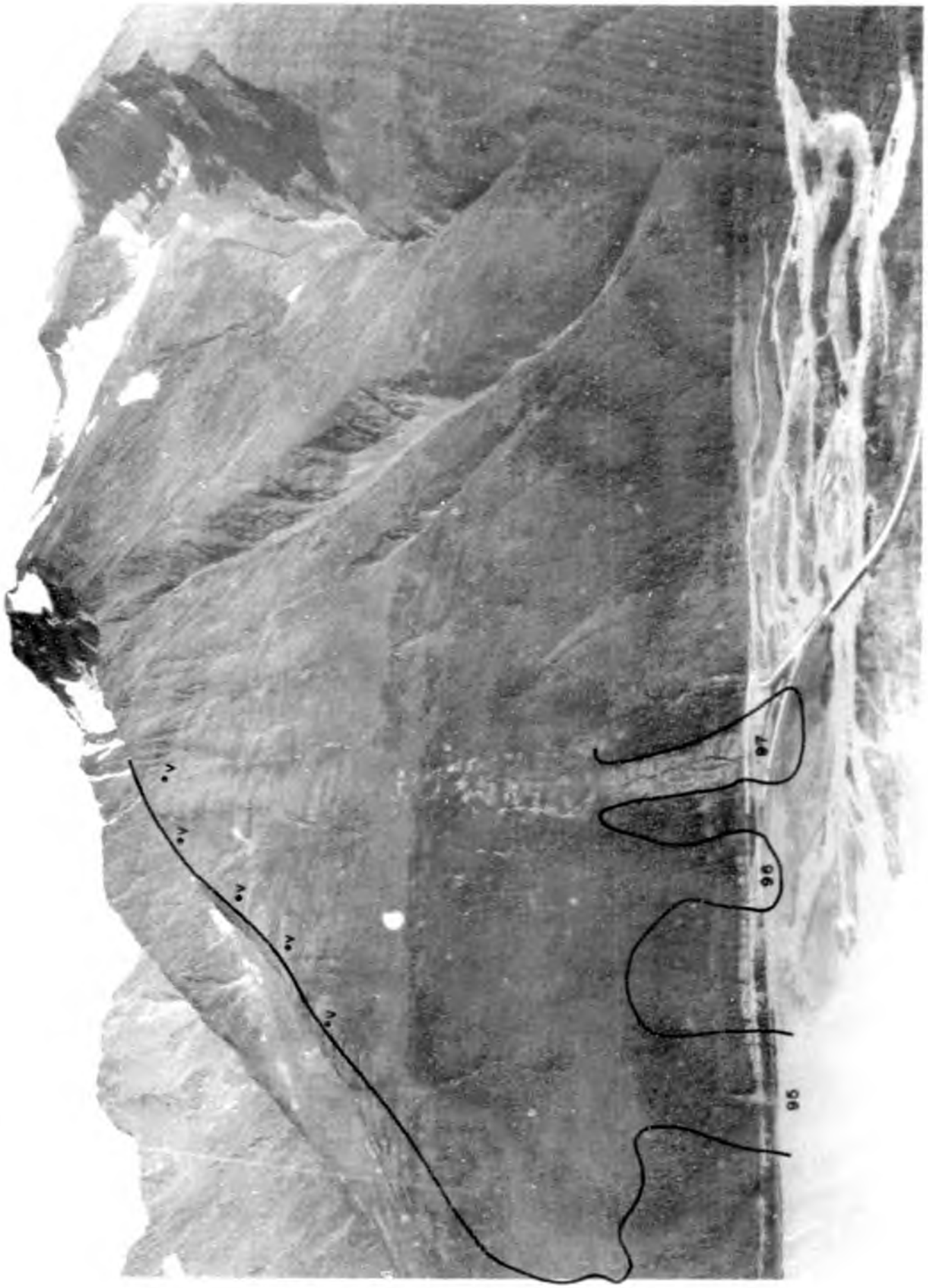


FIGURE 6-25

Chapter VII

SIGNING SYSTEM

During the course of this project a trip was taken to British Columbia, Canada to review the signing system in use in several different highway locations. There are numerous highways that are threatened by avalanches in B.C. Funding is available for artillery control only on certain critical passes, largely due to the high cost of acquiring weaponry in Canada. Because of this they have established signing as their first priority in dealing with avalanche problems.

The situation in Alaska somewhat parallels the Canadian one. There are several highways with low traffic volumes which are not practical to control. The Seward Highway is not one of these. Hazard to the public can be reduced considerably by reducing the amount of time spent in avalanche run-out zones. The use of signs is an attempt to alert the public to the fact that they should not stop in certain areas. Should a natural avalanche block the passage of vehicles it is possible that someone will remember the warning sign and leave the hazardous area. With any luck, they may also have the common sense to warn other traffic. This will help reduce the likelihood of a number of cars being buried as a result of stopping in a run-out zone.

In setting up a signing system there should be considerable attention paid to the placement of the closure gates and large electronic message boards in order to have efficient closures and the least possible inconvenience to the public.

Type 1	"Avalanche Area - Do Not Stop"
Type 2	"Avalanche Area next ___ miles - Do Not Stop"
Type 3	"End of Avalanche Area"
Type 4	Closure gates, two types
Type 5	Electronic Message Board
Type 6	Electronic Closure Sign

Type 1 and Type 3 signs must be installed on all potential avalanche paths.

Type 2 signs should be used at locations specified in the inventory.

Type 4 gates should be installed at miles 18,24,30, on two directions of the Sterling-Seward "Y", miles 46,46.5,80,90,90.6, and 99.5

Type 5 signs would be on a priority because of the high cost. First priority would be at Potter Flats and Girdwood to cover Bird Hill. As more money becomes available, DOT/PF might consider establishing these on the outskirts of Kenai and Seward.

Type 6 signs will probably be the lowest priority but could be used at Bird adjacent to the Scottish Inn and at the Sterling-Seward "Y".

Figure 7-1 Avalanche Area Warning Signs
Figure 7-2 Electronic Message Board

FIGURE 7-1

FIGURE 7-2

Type (Northbound)	Type (Southbound)	Milepost
2	3	17.8)
3	2	22.8)(5 Miles)
1	3	31.6
3	1	31.8
1	3	33.8
3	1	34.6
2	3	35.0)
3	2	38.5)(3-1/2 Miles)
2	3	43.9)
3	2	45.9)(2 Miles)
1	3	46.9
3	1	47.1
2	3	48.4)
3	2	49.4)(1 Mile)
2	3	59.0)
3	2	60.0)(1 Mile)
1	3	62.4
3	1	62.6
2	3	65.9)
3	2	66.9)(1 Mile)
1	3	71.1
3	1	71.7
1	3	83.2
3	1	84.0
1	3	85.4
3	1	85.7
1	3	86.6
3	1	87.1
2	3	90.6)
3	2	95.6)(5 Miles)
2	3	97.0)
3	2	99.0)(2 Miles)
1	3	104.9
3	1	105.1

Chapter VIII

ARTILLERY CONTROL

Control of avalanches by systematic firing of military and commercial artillery has become a standard practice in the United States and Canada. As early as 1945 this method was used by the Swiss, mostly with the employment of mortars.

In 1946 Monty Atwater, the snow ranger in Little Cottonwood Canyon, Utah, learned of the use of artillery in Europe, and decided to pursue its use here in the United States. He was able to reach an agreement with the U.S. Army to fire on the slopes overhanging the highway and town of Alta. Immediately following severe storms he would call upon the Army to assist in shelling potential avalanche areas. Realizing that this was somewhat inefficient, the next year he arranged to have the gun left up the canyon, leaving only the gun crew to be called out for the drive and subsequent shooting. By the third year Atwater was doing the firing. Thus was born Forest Service involvement in artillery avalanche control. (Cottonwood Canyons Highway Safety Plan, 1979).

Since that time the Forest Service has focused on artillery use for public safety by means of a cooperative agreement with the U.S. Army for procurement of artillery supplies. This has made these supplies available to permittees of the Forest Service for controlling avalanches, primarily in ski areas, but also in some locations on highways. In some areas the use of military artillery has become a prerequisite for the safe movement of large numbers of people.

Federal law presently dictates that military weapons be fired by federal employees or state employees who have a cooperative agreement with the U.S. Army. Several states, including Alaska, have pursued agreements on their own to procure equipment for highway control programs. State employees are then allowed to fire weapons after intensive training.

According to the latest information artillery control is now being used in 18 ski areas and 6 state highway departments in the U.S. to provide for safe travel in mountainous terrain. Approximately 13,300 rounds are fired per year nationwide. This is causing some depletion of surplus reserves; and, in some cases, parts have had to be remanufactured in order to use existing hardware (Anderson, 1975).

In 1975, as a result of an investigation into usage and supply by the National Ski Areas Association, Congress made $300,000 available to the Forest Service for purchase of ammunition, guns, and parts through a revolving account. This prepurchase procedure tied up a considerable number of rounds and all remaining surplus weaponry deemed suitable for avalanche control. It was found at the time that breeches and vent rings for 75mm and 105mm recoilless rifles were in short supply or non-existent. Money was appropriated from the revolving account for remanufacture of vent rings and breeches to match the supply of barrels and ammunition. Users of this supply are expected to pay the fund actual costs of procurement, thereby insuring a continuing flow of money for the purchase of equipment. This system could go on for years so long as supplies are available (Anderson, 1975).

It is possible that there will be other weapons systems made available in the future. Improved communications between the U.S. Army's Rock Island procurement division, the U.S. Forest Service, and interested state agencies would result in a more comprehensive view of the artillery hardware available for avalanche control. Of particular interest to this study would be the possibility of obtaining a 105mm Howitzer for Gun Position No. 2.

Artillery control has proven itself to be the most reliable and cost-effective method of controlling remote slopes. In spite of this, there are some drawbacks to artillery use. Safety is of

primary interest. A single fatal accident would, in all probability, result in the abatement of all artillery avalanche control.

Recoilless rifles are based upon the principle of half the blast propelling the projectile out the front and half the blast being vented out the back to balance the forces. There is a large area adjacent to the rear of the gun that could cause a fatality should a round go off while a person is exposed. Two close calls with rounds that overshot their targets and landed near populated areas have occurred in Wyoming and Utah. Hearing losses occur regularly to gunners. Handling ammunition has a long-term possibility of accident exposure. Care must be taken and proper procedures set and practiced to avoid a serious accident.

There is not a commercial substitute for military artillery that can reliably fire long distances in high winds without visibility. A compressed air cannon called the avalancher has been developed but is severely restricted in range and adversely affected by winds because of its slow, lobbing trajectory. Helicopter bombing is limited to clear weather with little wind - a rare occurrence in coastal Alaska. Military artillery continues to be the only delivery system of explosives to remote locations that combines speed, safety, and cost-effectiveness.

Weapons Available and Characteristics

Weapons	Maximum Range	Useful Life (#rounds)
75mm Recoilless	2,700 yards	500/breech 2,000/barrel
105mm Recoilless	3,500 yards	500/breech 2,000/barrel
75mm Howitzer	5,000 yards	20,000
105mm Howitzer	8,000 yards	20,000

The above are maximums used in existing control programs and might disagree with official estimates of maximum range.

EXPLOSIVES FOR AVALANCHE CONTROL

Inventory of Weapons and Ammunition for Avalanche Control

Weapon Type	Weapons in Storage	x Tube Life =	Potential Rounds	÷ Vent Assembly Life =	Vent Assembly Needs	/ Vent Assemblies in Storage x	Vent Assembly Life =	Adjusted Potential Rounds	/ Rounds in Storage HE	HEP	Total
75 mm Howitzer	5	20,000	100,000	N/A	N/A	N/A	N/A	100,000	20,800	----- =	20,800
75 mm Recoilless Rifle	31	2,000	62,000	500	124	61	500	30,500	27,500	55,000 =	82,500
105 mm Recoilless Rifel	18	2,000	36,000	500	72	28	500	14,000	30,500	35,000 =	65,500

Corrected figure of useable rounds based on available weapons, available vent assemblies, tube life and available ammunition.

75mm Howitzer - 20,800
75mm Recoilless Rifle - 30,500
105mm Recoilless Rifle - 14,000

Unserviceable Weapons
75mm Howitzer - 8
75mm Recoilless Rifle - 251
105mm Recoilless Rifle - 249

Plans call for re-vamping of unserviceable weapons to replace weapons that become inoperative due to expiration of tube life or malfunction after inventories on this chart are exhausted.

Figures - U.S. Army and U.S.F.S. 10/79

There are considerable differences in several letters obtained concerning quantities of ammunition. It is entirely possible that there is considerably more ammunition than indicated in the 1979 report. This is an area where further communications with the Army will help to obtain accurate reports. In recent communications with various people it seems there is a good possibility that the amount of 75mm Howitzer ammunition has been understated. A 1975 report showed considerably fewer 75 howitzer rounds than the 1979 report. There seems to be an absence of records reflecting the availability of 105mm Howitzers and ammunition.

Gunners' Qualifications and Training

Standards for the training and certification of gunners vary somewhat according to geographical location. It is not clear whether the U.S. Army requires a particular course of training.

There is an excellent publication by Region 6 of the U.S. Forest Service that can be used as a basis for training which is included in the related letters section of this report, an unpublished collection of information.

There are some guidelines that can be generalized as standards. All gunners should receive a formal training course (20 to 40 hours) every two years and refresher courses should occur every year (8 hours). There is a natural progression of involvement beginning with occasional exposure to artillery, then assuming the role of assistant gunner and eventually becoming a gunner. Normally this process takes two years or more, however, if this progression is intensified by virtue of considerable expenditure of ammunition, this familiarization period could be made shorter.

Of primary importance in the use of artillery is the application of common sense and caution. These weapons can be extremely dangerous if used in a casual manner. Diligence, adherence to strict procedure, and alertness in every firing mission should preclude the possibility of an accident.

Storage, Handling, and Transport

All of these operations must be done in adherence to federal and military rules and regulations. It is beyond the scope of this plan to outline all of these, as manuals are available, but several aspects of these procedures should be noted.

Storage requirements presently dictate that all recoilless rifle rounds be stored in separate compartments with a minimum of 4-1/2 inches of sand separating each round. In addition, the walls of the storage facility must be 12-inch reinforced concrete or cinder block poured with concrete, the roof 12-inch reinforced concrete, and the door 1/2-inch steel plate with a 2-inch hardwood backing. Doors must be double locked with safety shields to prohibit the locks from being cut off with a hack saw.

All handling and transportation should take place at a distance from public areas with vehicles in good repair and equipped with explosives warning signs. Care should be taken in handling and transport to avoid sudden stops or jarring of the ammunition.

Response Time

During critical periods of the winter avalanche conditions can develop in a very short period of time, particularly with the advent of wind increase. Most active control programs can respond to changing conditions with control work in an hour or less. At present, conditions here may not allow for such rapid response, but efforts should be made to reach this guideline in the future. There should be no problem with establishing a maximum two-hour response time for this coming season. Forecasting ahead of the hazard will be necessary considering this time requirement. A method of alerting the gun crews to standby status will help reduce response time. This might require some extra funds but will greatly increase the efficiency of the operation. Another consideration in terms of response time is the fact that instability can rectify itself almost as quickly as it occurs, therefore, timing of artillery control is very important to achieve the best results possible.

Continuity

Every effort should be made to utilize the same gun crews year after year. Many hours will be spent by each crew in initially identifying all of the target points from each gun position and becoming familiar enough with the terrain so that confusion over targets is eliminated. Thorough training in artillery pro-

cedure also takes considerable time. The combination of these factors makes continuity of the gun crew an important prerequisite to a smoothly functioning control program.

Helicopter Bombing

This method of avalanche control has been successfully used in many areas of the country. Since 1975 it has been used occasionally by the DOT/PF to control avalanches on the Seward Highway. It has been proven to be an accurate and cost-effective method, but there are certain limitations. Clear and calm weather is an important prerequisite. This means that helicopter bombing can be done only a few times each year. The use of a large helicopter can extend these weather limitations somewhat. There are considerable target points on the highway. Because the price of helicopter time is much greater than extra explosives, it could be considered more effective to carry a large number of bombs on each individual run. The helicopter bombing done during the avalanche cycle of March, 1979, could have used in excess of 100 charges had they been on board at that time. The number of charges necessary is another justification for using a large ship such as the Bell 212.

Safety of the crews is a difficult proposition when using two such potentially dangerous elements as helicopters and explosives. The use of a twin turbine Bell 212 will somewhat reduce the hazard presented by the helicopter. Adherence to strict procedures in handling the explosives while airborne will reduce the possibility of an accident from the powder. Nevertheless, there is always the possibility that the ship could go down with explosives on board, therefore the powder must always be contained in a wood box, enabling jettisoning the load should a mechanical problem develop.

The design of the avalanche control system is such that there is no necessity for helicopter bombing. This technique can be valuable at times, but must be used with much discretion.

Gun Positions

An inventory of gun positions is given below. Positions for visual fire are not given as they can remain flexible. Some of the gun positions listed were established in years past, and some were installed this year (fall, 1979) to provide a reasonable degree of control coverage until the full program comes on line. Related com ments are provided.

* is an existing mount

\# is the recommended mounts for this control design

Gun Position	Target Points	Total no. of Targets	Type Weapon	Type Mount	Milepost	Comments
*1A	103-108	9	105RR	Fixed	99.2	Avalanche safe, protection shots to allow gun crew to 1B and 1.
1B	101-116		105RR	Mobile	98.15	Low probability of inundation.
#1	102-116	32	105RR	Fixed	97.1	Avalanche safe.
*2A	All P west of 201		105RR	Mobile	95.7	Protection shots for 2B.
*2B	201-208		105RR	Fixed	95.3	High probability of inundation.
*2C	209-219		105RR	Fixed	94.3	Low probability of inundation.

Chart (continued)

Gun Position	Target Points	Total no. of Targets	Type Weapon	Type Mount	Milepost	Comments
#2	201-219	50	75/105 Howitz.	Turntable	Bird Point	Avalanche safe if located properly. Could combine S.H.A. Forecast Office.
#3	301-313	26	105RR	Fixed	92.74	Low probability of inundation Earthworks defense required.
*3A	305-313,401-404		105RR	Fixed	92.05	Low probability of inundation High probability of skipped round into Girdwood.
#*4	401-409	21	105RR	Fixed	90.7	Avalanche safe, eliminates skipped round potential.
#5	501-510	10	105RR	Fixed	44	Avalanche safe.
#6	601-614	14	105RR	Fixed	37	Avalanche safe.
#*	701-708	8	105RR	Fixed	22.6	Avalanche safe, long range to shots 707 and 708.
#*8	801-811	14	105RR	Fixed	20.5	Avalanche safe.

Figure 8-1	105 mm recoilless rifle
Figure 8-2	75 mm Howitzer on turn-table mount
Figure 8-3	Ammunition storage for 75 Howitzer
Figure 8-4	Mt. Alyeska ammunition storage facility
Figure 8-5	Detail of ammunition storage facility
Figure 8-6	105 RR fixed gun mount
Figure 8-7	Snowshed at Rogers Pass with 105 mm turntable mount in foreground

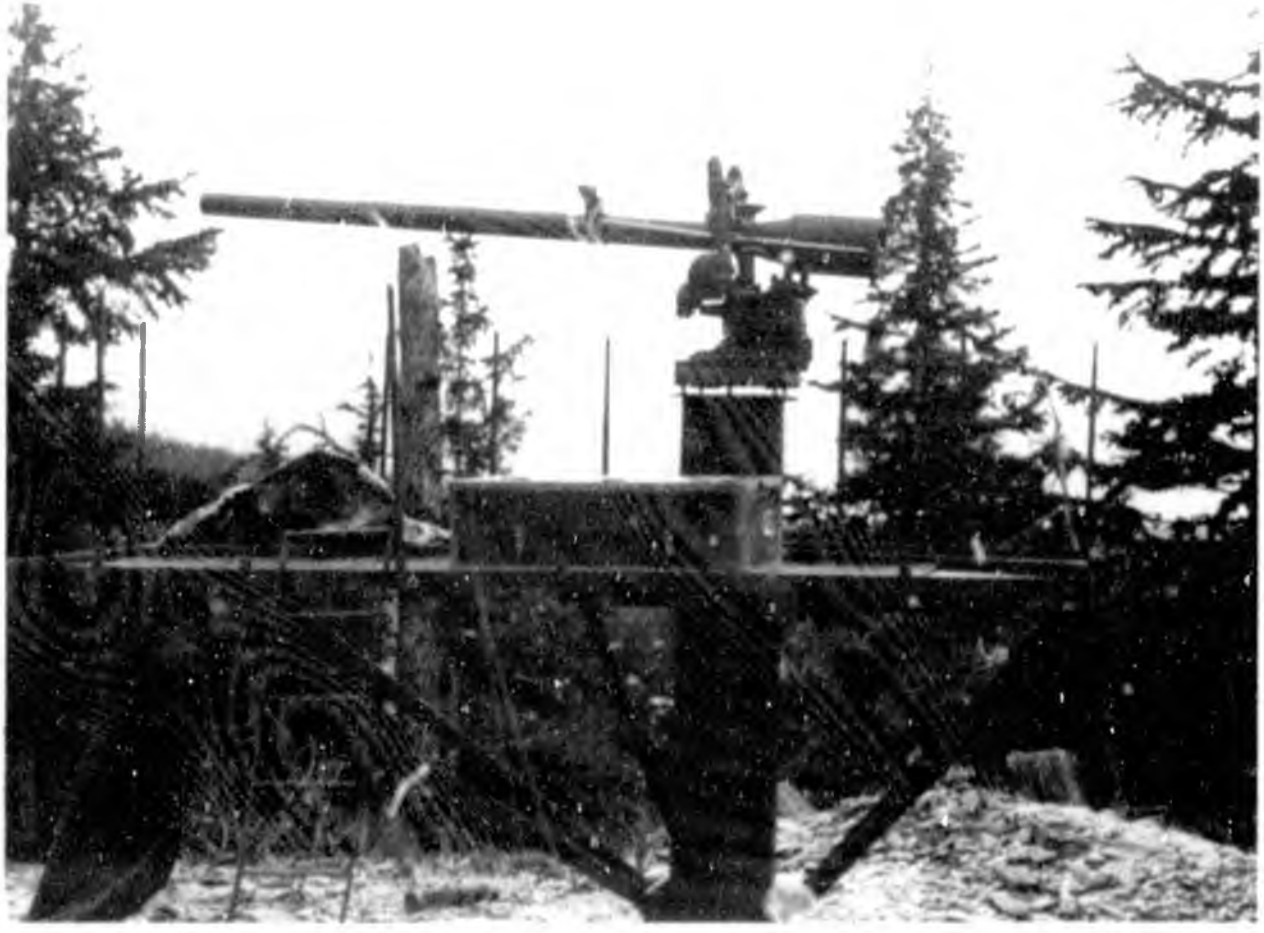


FIGURE 8-1

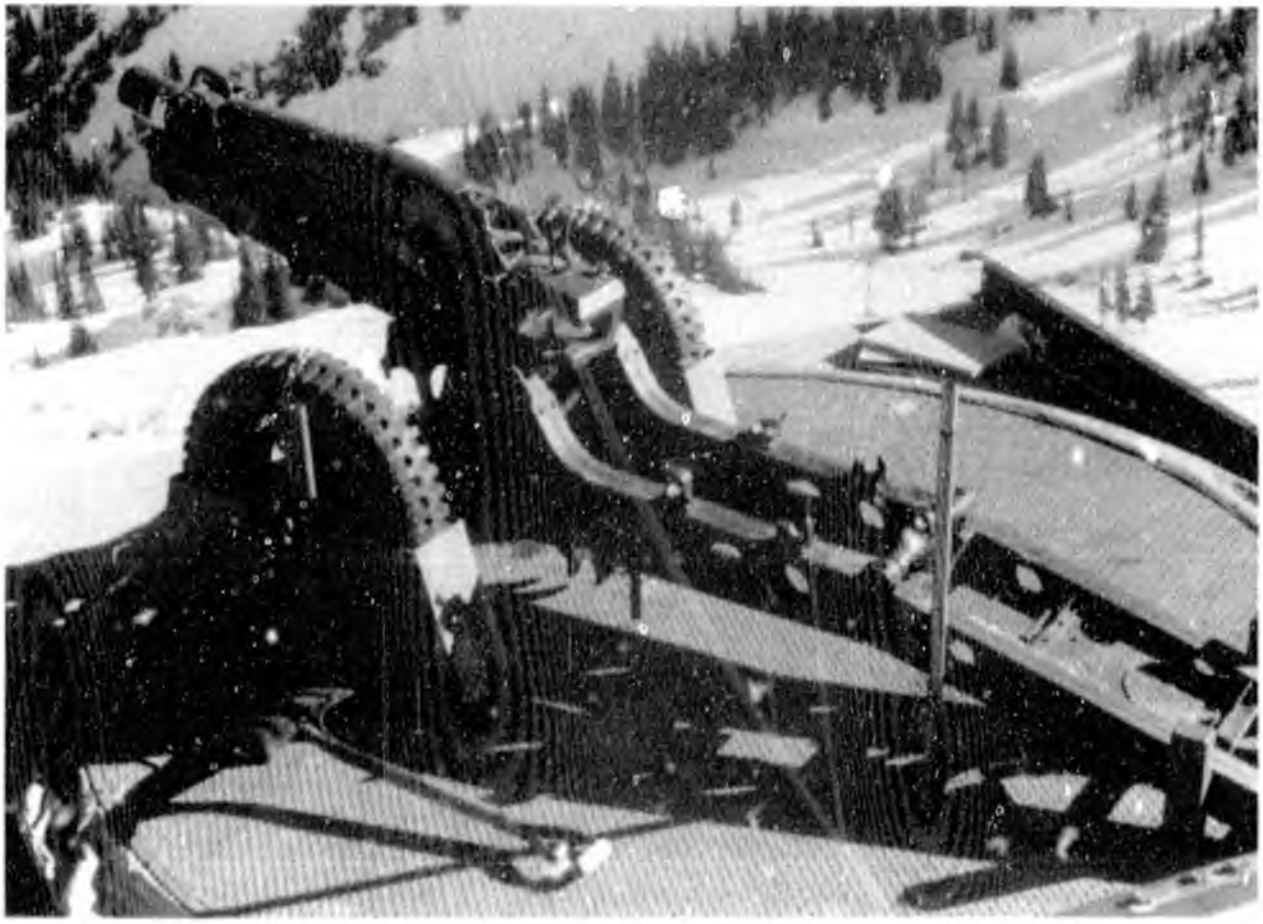


FIGURE 8-2

FIGURE 8-3

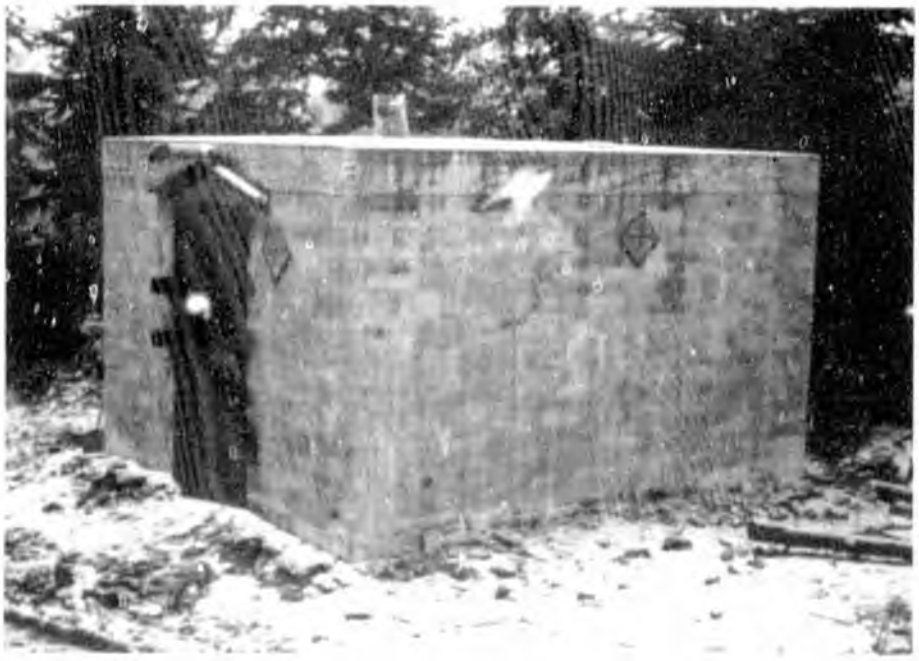


FIGURE 8-4

FIGURE 8-5

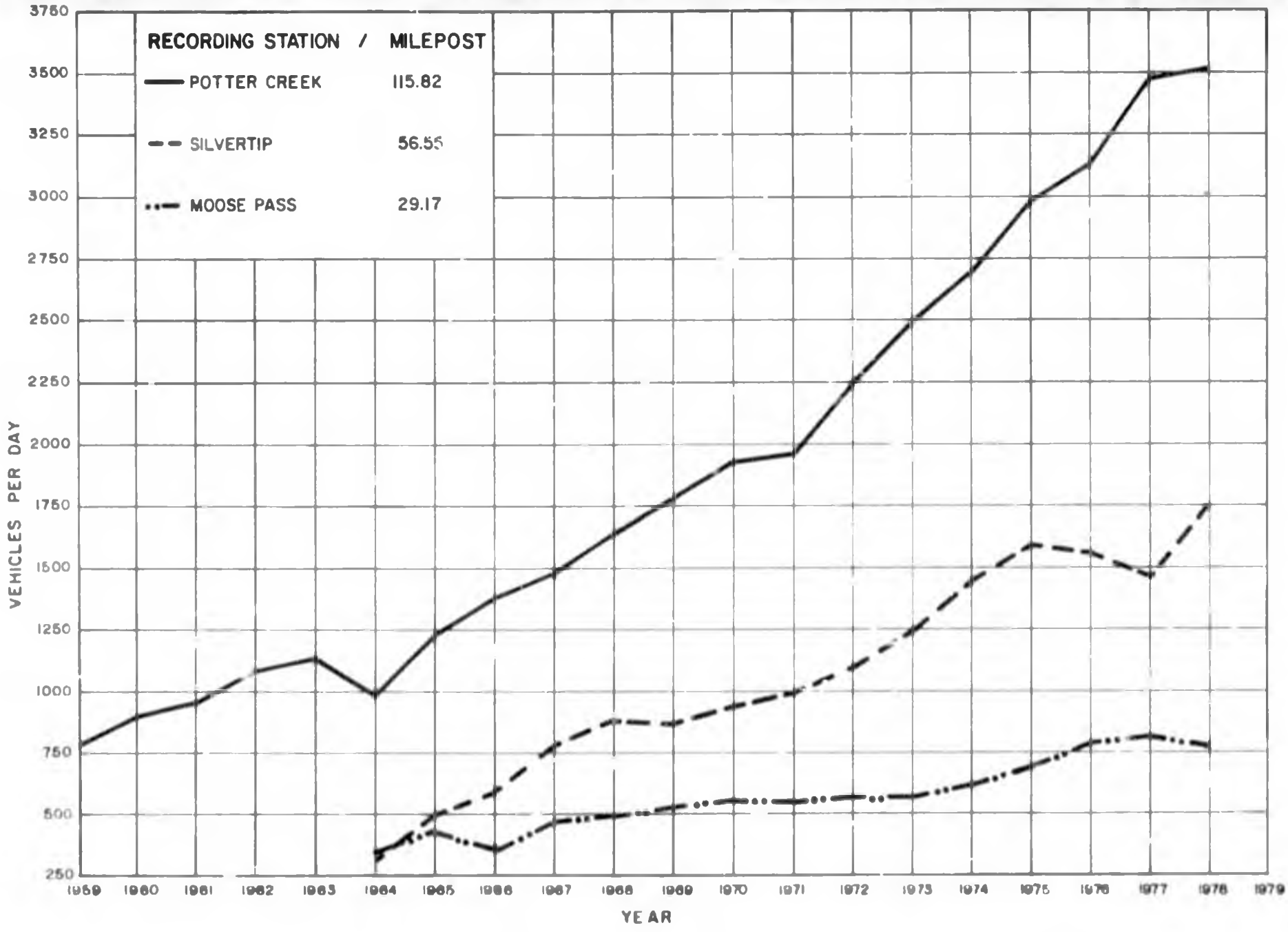
FIGURE 8-6

FIGURE 8-7

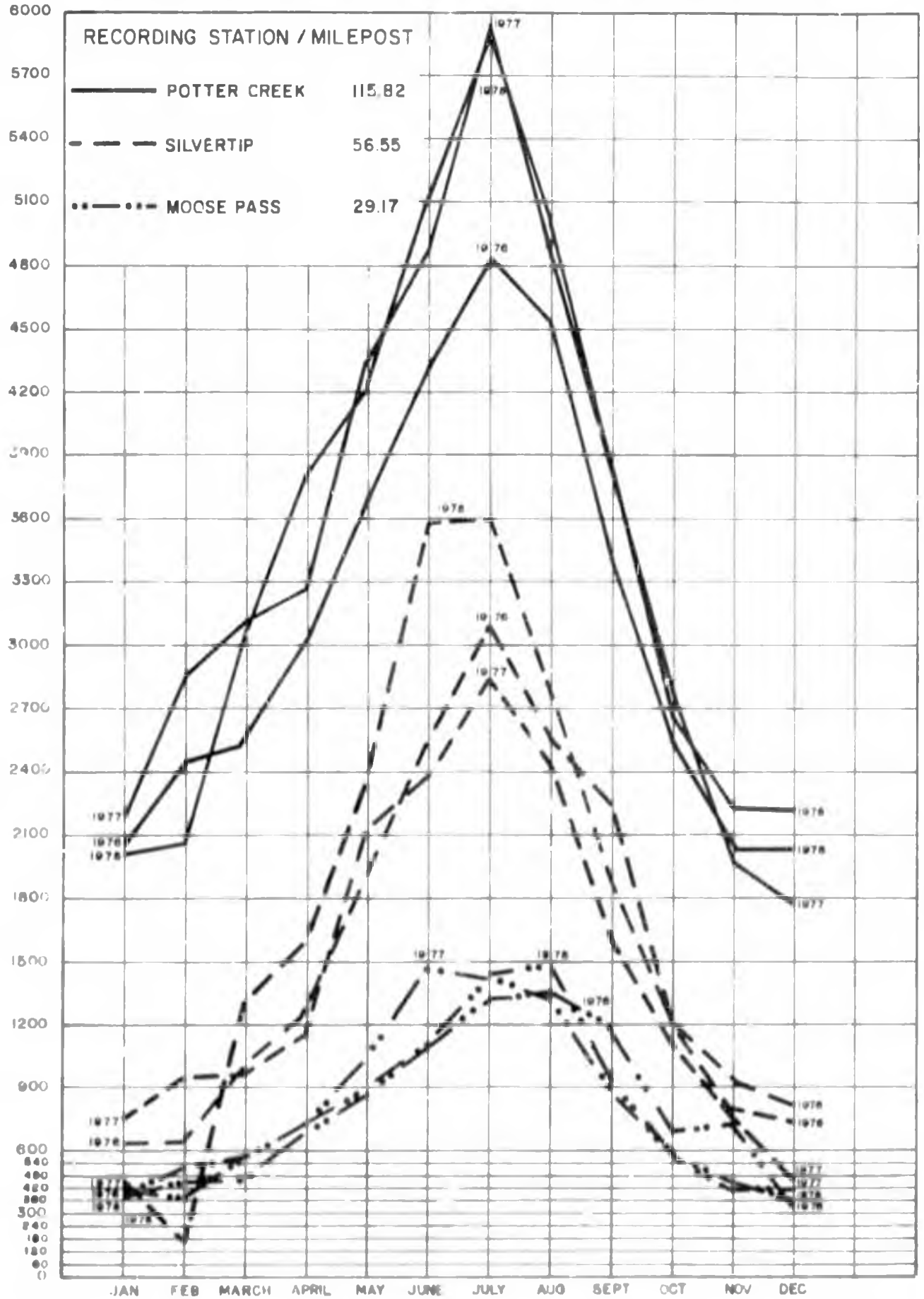
APPENDICES

Appendix I	Traffic Counts	AI-1 to AI-4
Appendix II	Historical Avalanche Activity on the Seward Highway	AII-1 to AII-3
Appendix III	Supplemental Weather Information	
	Storm Graphing	AIII-1 to AIII-5
	Differential Precipitation 850 mb Airflow Patterns	AIII-6 to AIII-12
Appendix IV	Avalanche Path Inventory	AIV-1 to AIV-2

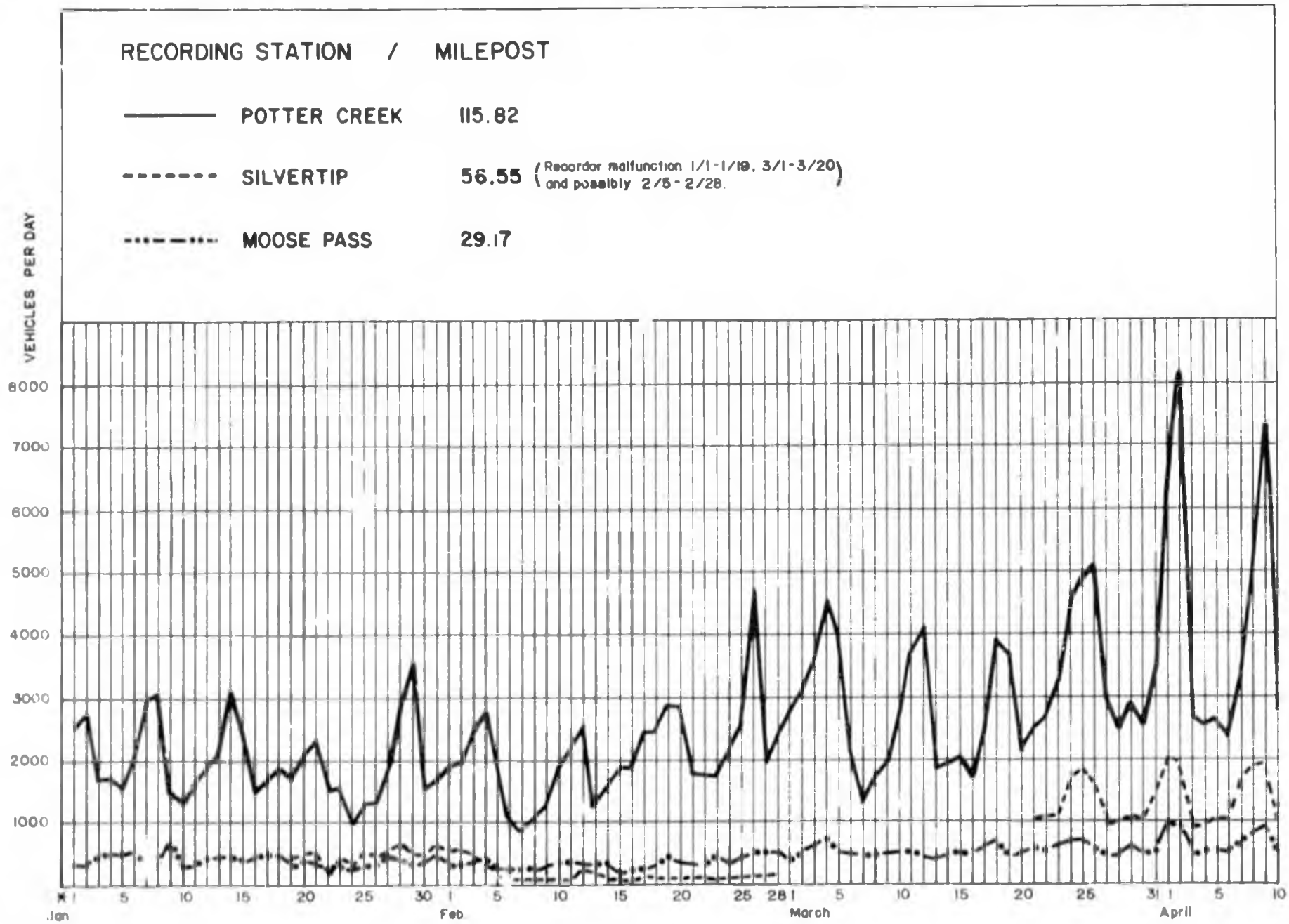
AVERAGE ANNUAL DAILY TRAFFIC

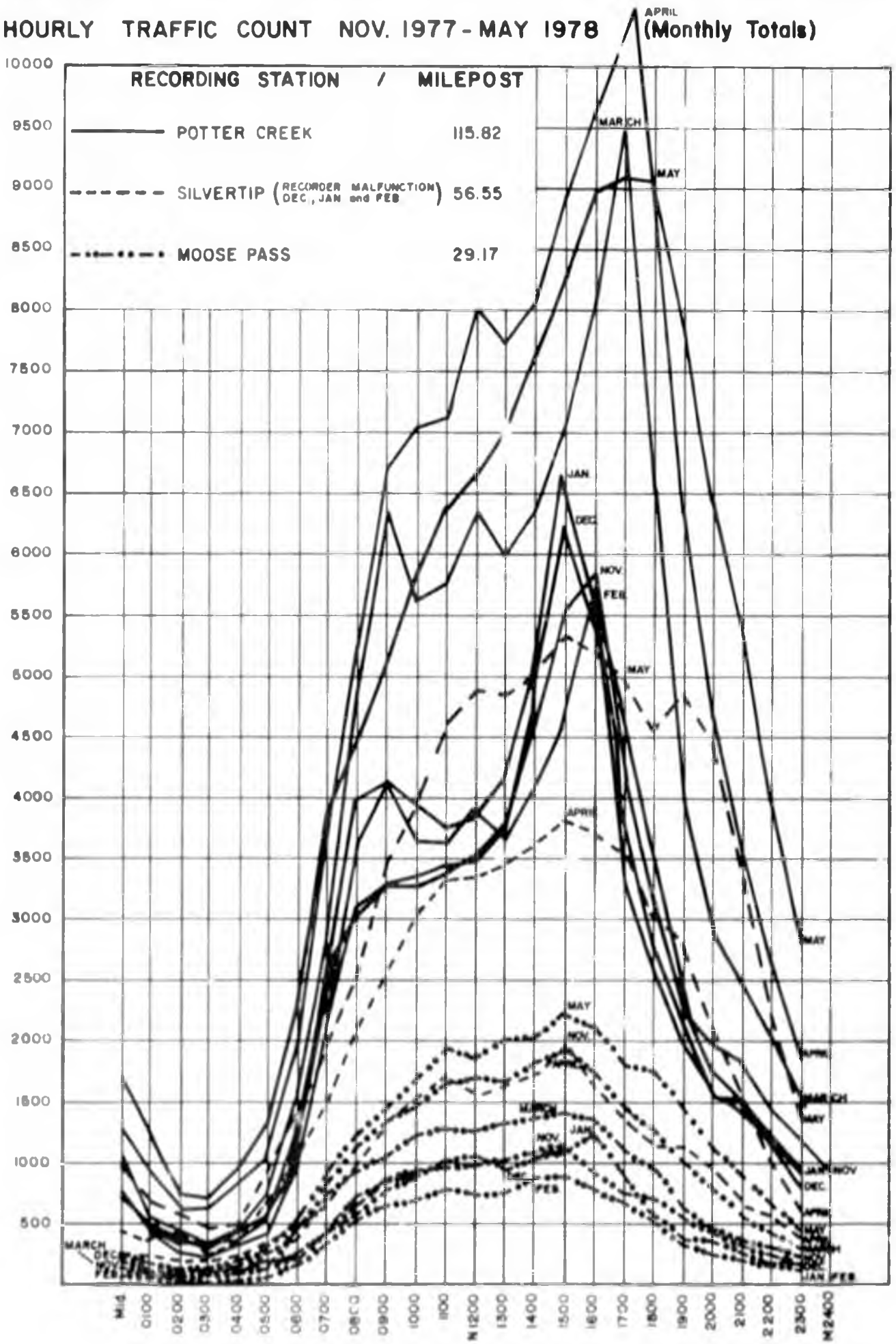


MONTHLY AVERAGE DAILY TRAFFIC 1976-1977-1978



DAILY TRAFFIC VOLUMES JAN. 1, 1978 - APRIL 9, 1978




HOURLY TRAFFIC COUNT NOV. 1977 - MAY 1978 (Monthly Totals)
RECORDING STATION / MILEPOST
POTTER CREEK 115.82
SILVERTIP (RECORDER MALFUNCTION DEC, JAN and FEB) 56.55
MOOSE PASS 29.17
10000
9500
9000
8500
8000
7500
7000
6500
6000
5500
5000
4500
4000
3500
3000
2500
2000
1500
1000
500
APRIL
MARCH
MAY
JAN
DEC
NOV
FEB
Mid
0100
0200
0300
0400
0500
0600
0700
0800
0900
1000
1100
N1200
1300
1400
1500
1600
1700
1800
1900
2000
2100
2200
2300
M2400

Appendix II

HISTORICAL AVALANCHE ACTIVITY ON THE SEWARD HIGHWAY

This record was largely compiled from DOT/PF records. There are several intermediate years between 1968 and 1979 for which no avalanche activity reached the higway so these years have been deleted from the survey.

Slide Path #	68/69	70/71	74/75	75/76	76/77	77/78	78/79	Avg/Yrs
1					2	1		1/4
2						2	4	1/2
3				1		2	2	5/12
4				1	1	1	1	1/3
5						1	4	5/12
6						1	1	1/6
7						1	2	1/4
8						1	1	1/6
9						1	1	1/6
10						2	4	1/2
11			1	1		2	3	7/12
12	1					2	3	1/2
13						2	2	1/3
14				1		4	3	1/1-1/2
15						2	1	1/4
16	1				1	2	2	1/2
17						2	2	1/3
18						3	2	5/12
19	1			1		2	2	1/2
20						1	2	1/4
22						1	1	1/6
23						1		1/12

Chart (Continued)

HISTORICAL AVALANCHE ACTIVITY ON THE SEWARD HIGHWAY

Slide Path #	68/69	70/71	74/75	75/76	76/77	77/78	78/79	Avg/Yrs
24		1				1	1	1/4
25		1				1		1/6
26	1	1	1			2		5/12
27		1			1	1		1/4
28	1							1/12
41			1					1/12
42			1					1/12
43			1					1/12
45	1							1/12
49						1		1/12
50						1		1/12
51			1			1		1/6
52			1			1		1/6
53						1		1/12
70							1	1/12
73							2	1/6
74			1					1/12
75						1	3	1/3
76							3	1/4
77							3	1/4
78							2	1/6
79							2	1/6
92						1		1/12

H STORICAL AVALANCHE ACTIVITY ON THE SEWARD HIGHWAY

Slide Path #	Years	Avg/Yrs
92	Nov. 11, 1976	1/12
93	May 11, 1974, 1978	1/6
94	1974, 1978	1/6

There has been a considerable number of avalanches reported the last two years, either as the result of unusually heavy winters or better reporting. While this section does give a good indication of the relative frequency of each path it was not used exclusively in establishing a frequency rating for these locations. It is possible that unreported or recorded avalanches did occur. The overall record spans too short a time to be used reliably in establishing frequency ratings. As a consequence the frequency ratings given in Appendix V are based loosely on historical information. Primary input was provided by field personnel that have been working with these avalanche paths for a number of years.

Appendix III

SUPPLEMENTAL WEATHER INFORMATION

The collection of weather data is essential to the formation of an avalanche hazard forecast. Recording all previous weather and avalanche occurrence data will take a considerable amount of time. This appendix is therefore limited to graphing two storm periods that induced large scale avalanching. Good records exist for these periods and were used to compile the graphed data.

For purposes of graphing the information was split into two geographical sections - north and south of Silvertip Maintenance Station. Seward weather observations were used for the section south and Mt. Alyeska for the northern section. Temperature graphs had to be adjusted to the wind graph for each location.

These graphs can be reproduced on a daily basis by the forecasting office for use as an aid to stability evaluations. Operationally, the graph works such that when the wind speed, increasing downward, crosses the minimum temperature line a favorable wind speed/temperature for instability exists. When the precipitation rate crosses into the wind speed it can be presumed that leeslope loading is reaching a critical level.

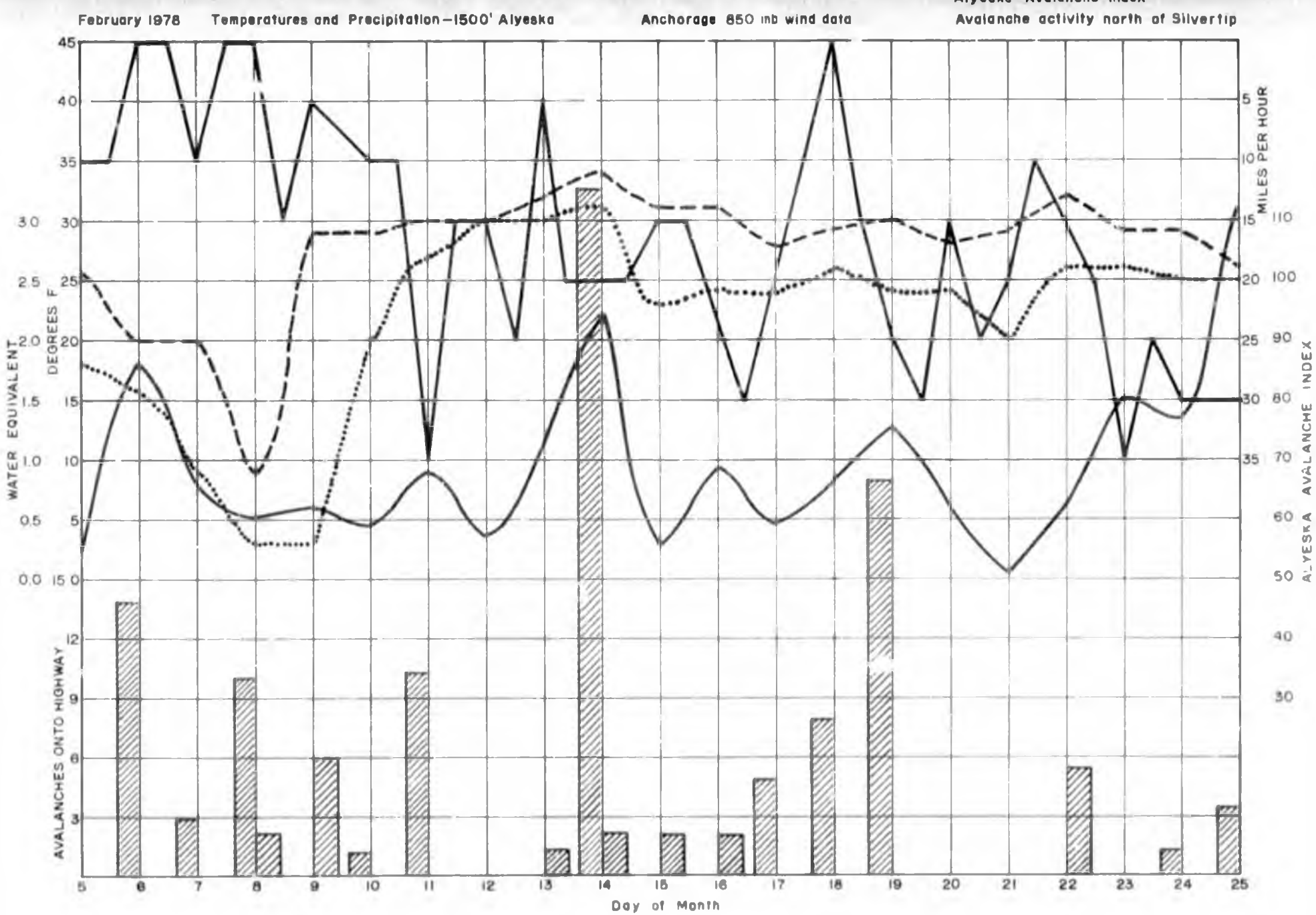
On the north section graphs it is interesting to compare avalanche activity at Alyeska to the Seward Highway. The difference is largely due to control being done during storms at Alyeska, and after storms on the highway.

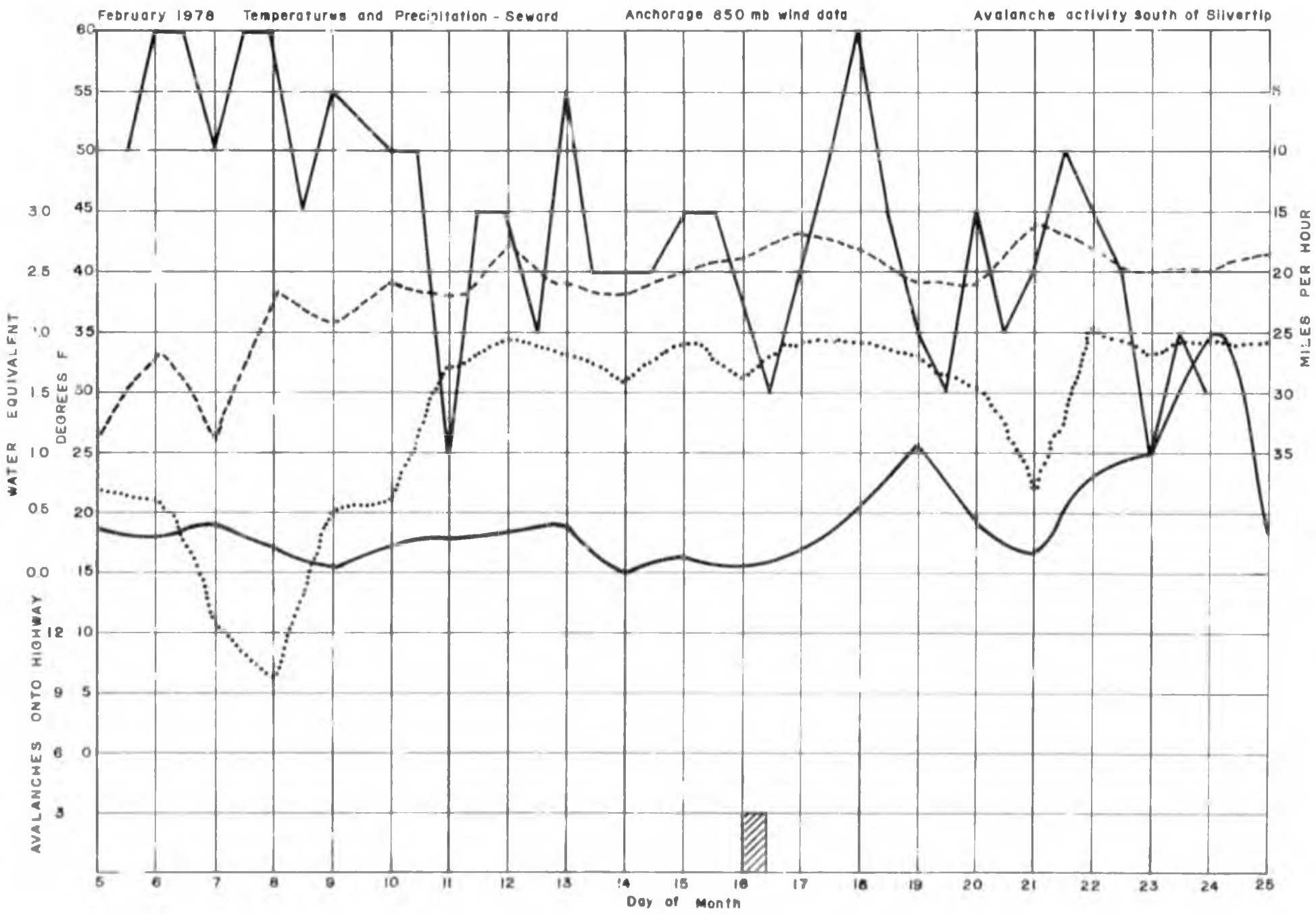
The Alyeska Avalanche Index (AAI) was derived by multiplying the number of avalanches times a magnitude scale. The magnitude scale was derived on the basis of Class #2 and #3 avalanche runouts being on the perimeter of the area, Class #4 avalanches running well into the area, and Class #5 going completely through the area. Because of the hazard level to people a proportionately higher scale had to be applied to Class #4 and #5. A value of 6 was applied to Class #4 and

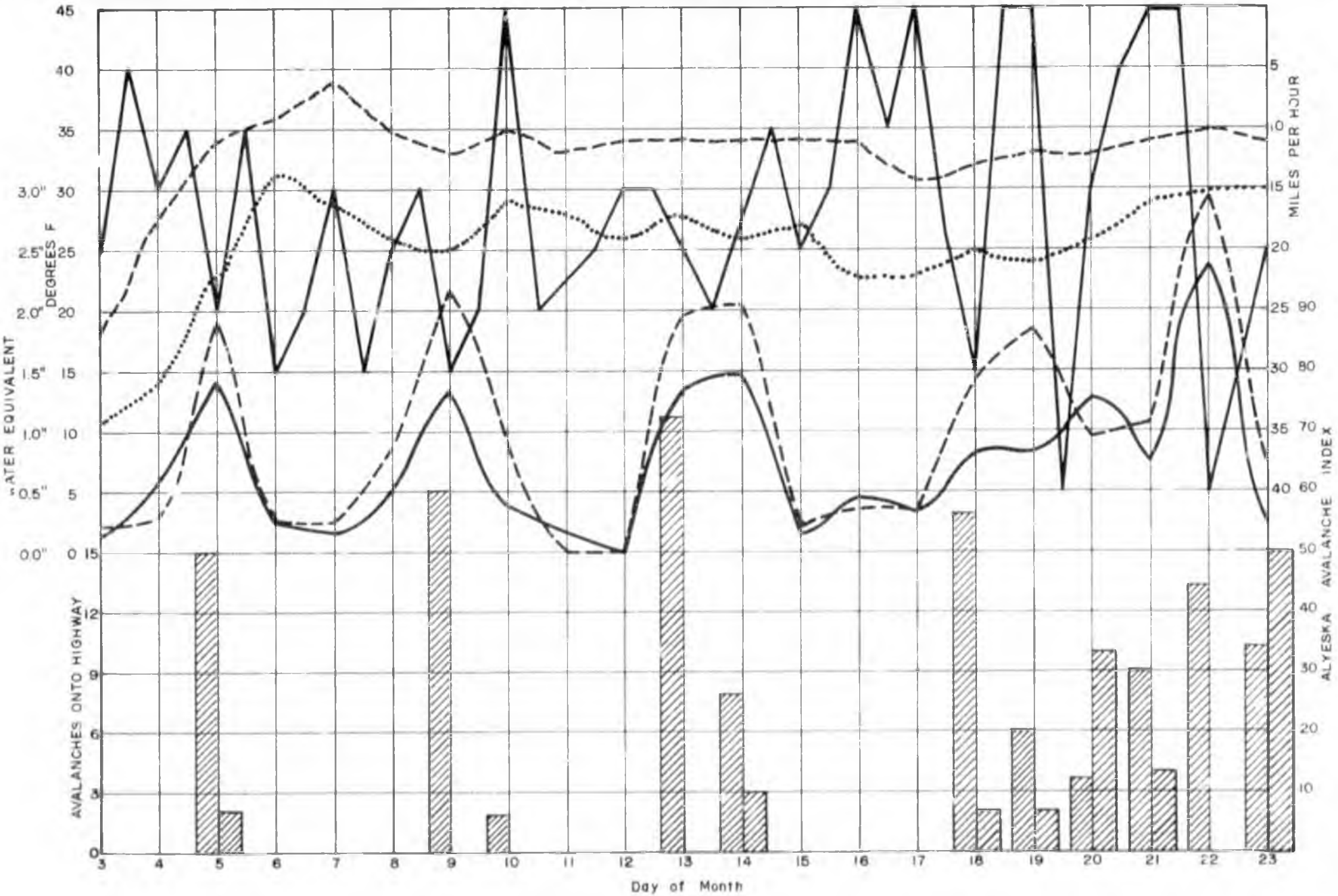
10 applied to Class #5. For a day that had 3 class #3, 1 Class #4, and 1 Class #5, the magnitude factor would be (3x3)+(1x6)+(1x10) = 25 ÷ 5 = 5 magnitude factor x 5 avalanches = 25 AAI.

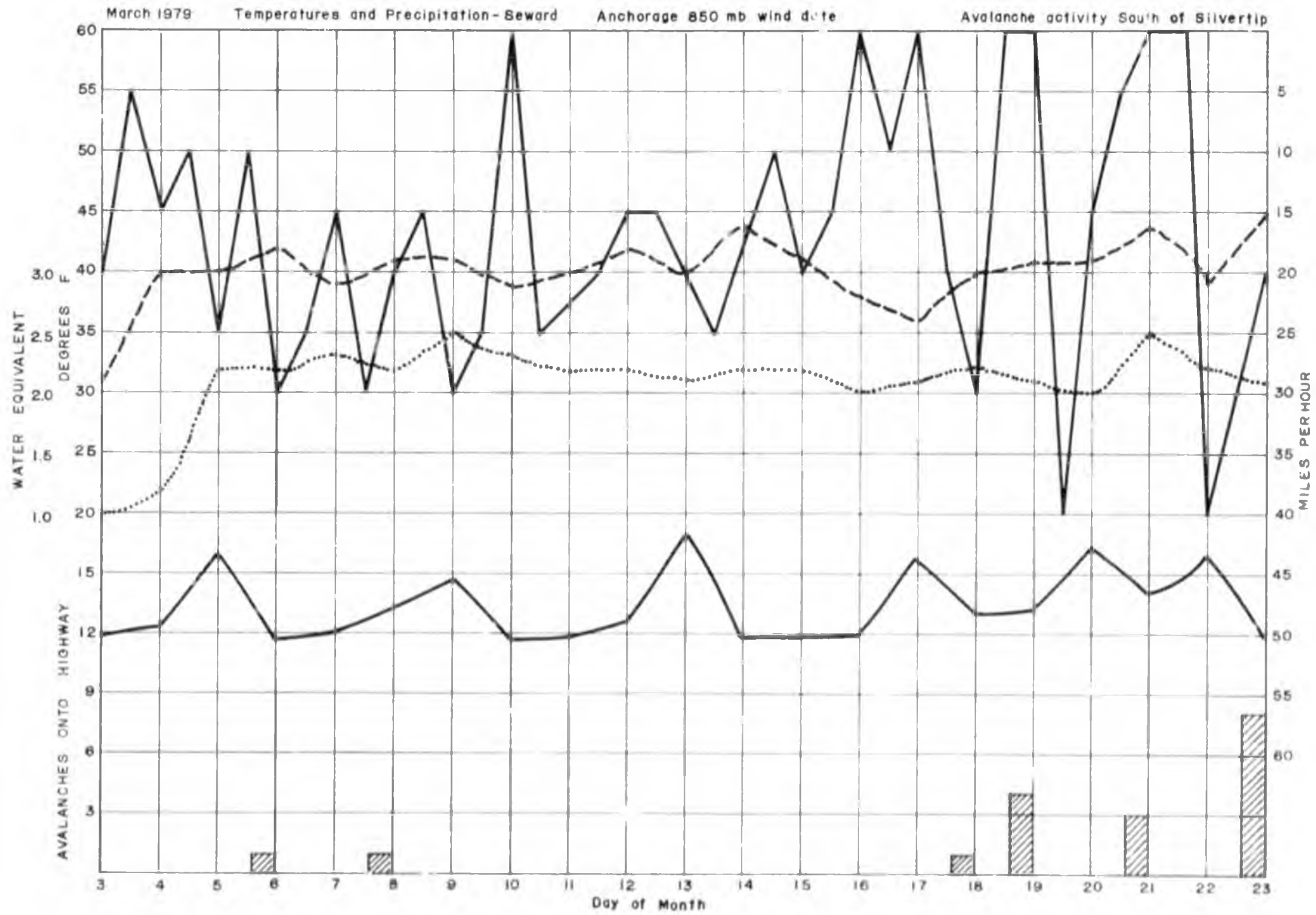
4 Class #3 and 1 Class #4 would produce a scale of (4x3)+(1x6) = 18 ÷ 5 = 3.6 magnitude factor x 5 avalanches = 18 AAI.

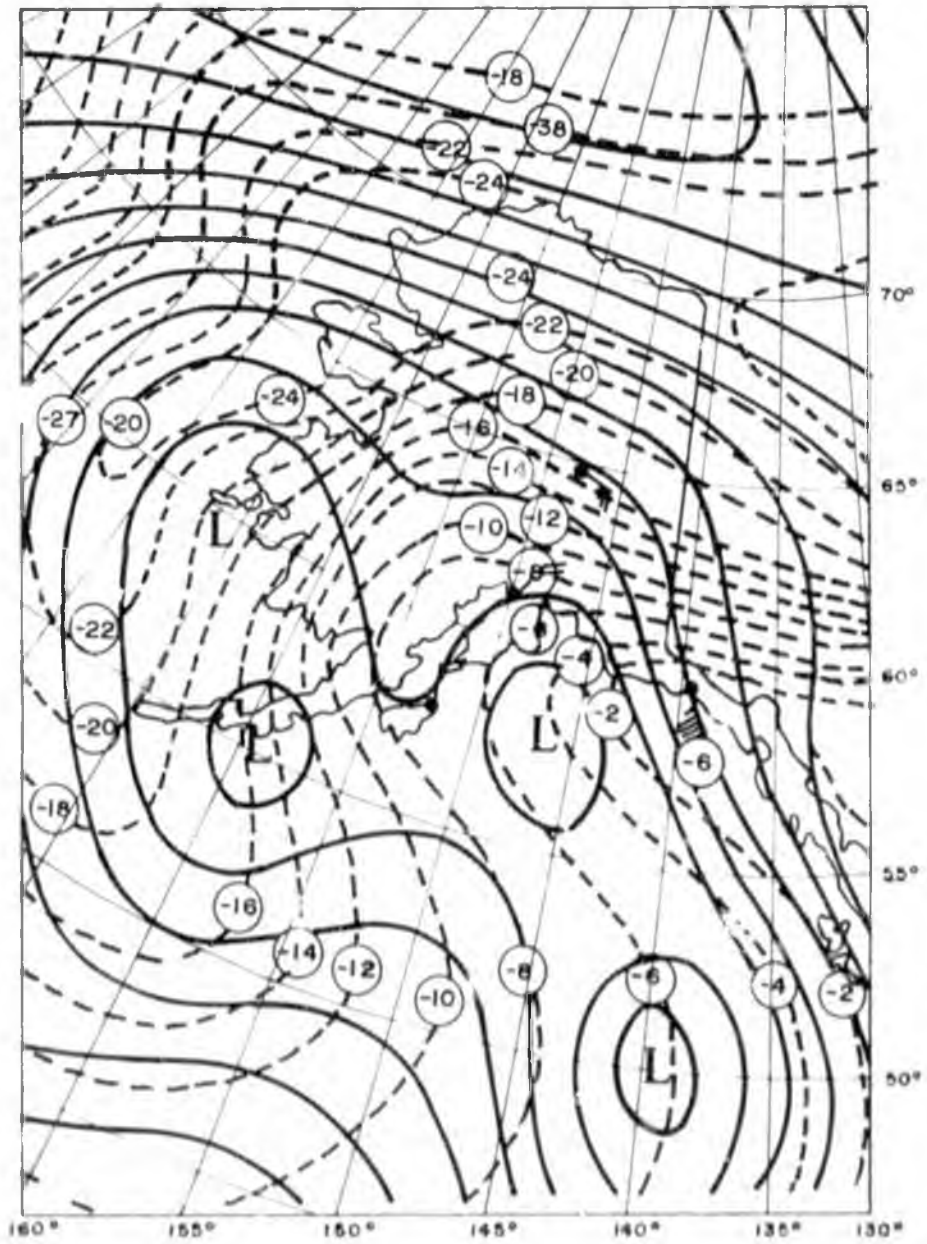
The final part of this appendix is a collection of 850 mb. wind flow patterns that produced differential precipitation between Seward and Alyeska. More work needs to be done on this phenomenon, however, it was possible during this report to isolate these cases to find if there was a similarity in flow patterns. Type 1 storms produced heavier precipitation in Girdwood, and Type 2 produced heavier precipitation in Seward. These are certainly limited examples but a cursory study does show a good correlation in pattern.


February 1978 Temperatures and Precipitation—1500' Alyeska
Anchorage 850 mb wind data
Alyeska Avalanche Index
Avalanche activity north of Silvertip
WATER EQUIVALENT
DEGREES F
MILES PER HOUR
ALYESKA AVALANCHE INDEX
AVALANCHES ONTO HIGHWAY
Day of Month

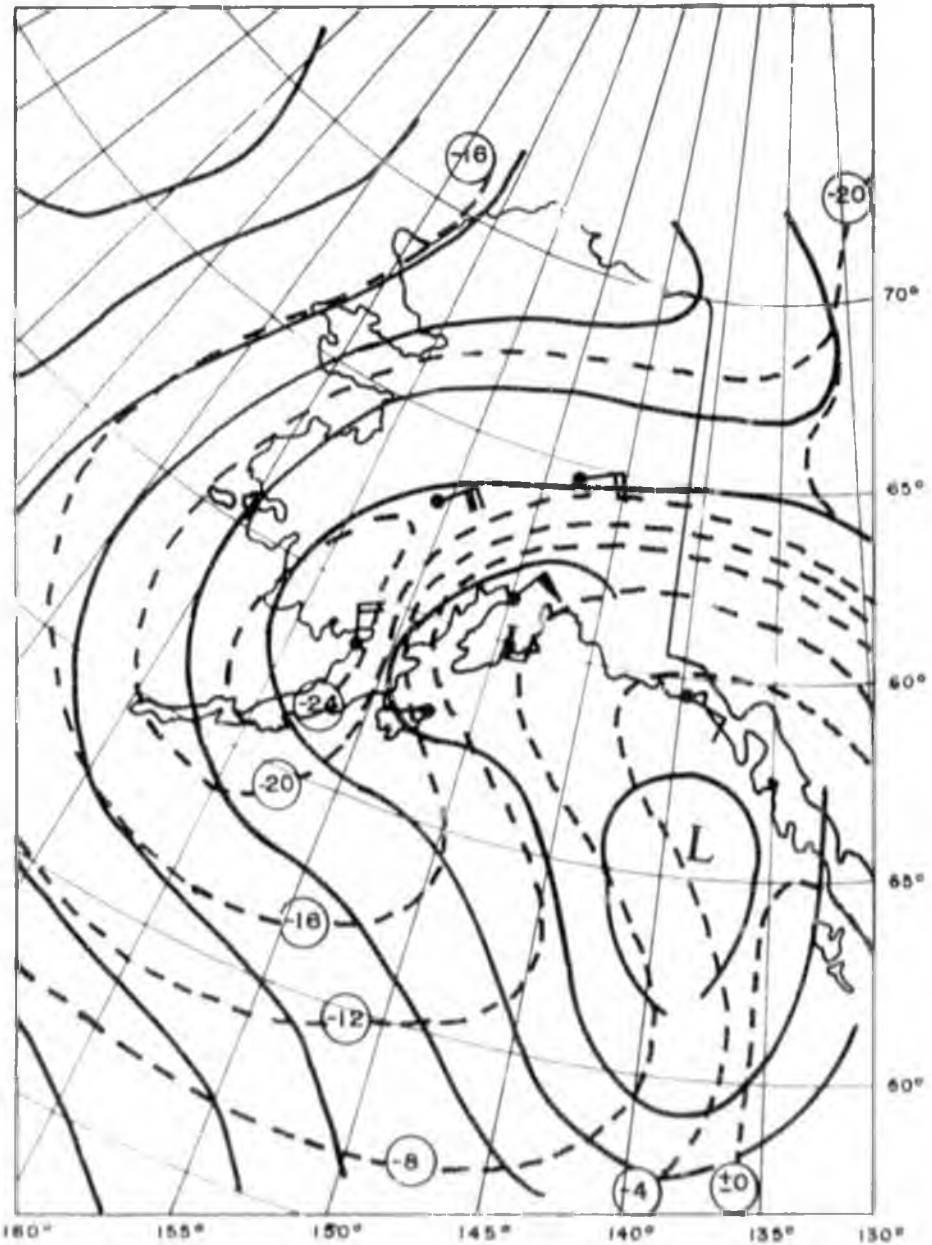

February 1978 Temperatures and Precipitation - Seward
Anchorage 850 mb wind data
Avalanche activity South of Silvertip
WATER EQUIVALENT
DEGREES F
AVALANCHES ONTO HIGHWAY
MILES PER HOUR
Day of Month


March 1979
Temperature-1500' Alyeska
Precipitation-1500' to 3000' Alyeska
Anchorage 850 mb wind data
Alyeska Avalanche Index
Avalanche activity north of Silvertip Maintenance Station
DEGREES F
WATER EQUIVALENT
MILES PER HOUR
AVALANCHES ONTO HIGHWAY
ALYESKA AVALANCHE INDEX
Day of Month


March 1979 Temperatures and Precipitation - Seward
Anchorage 850 mb wind data
Avalanche activity South of Silvertip
WATER EQUIVALENT
DEGREES F
MILES PER HOUR
AVALANCHES ONTO HIGHWAY
Day of Month



7 Mar 78 Type I



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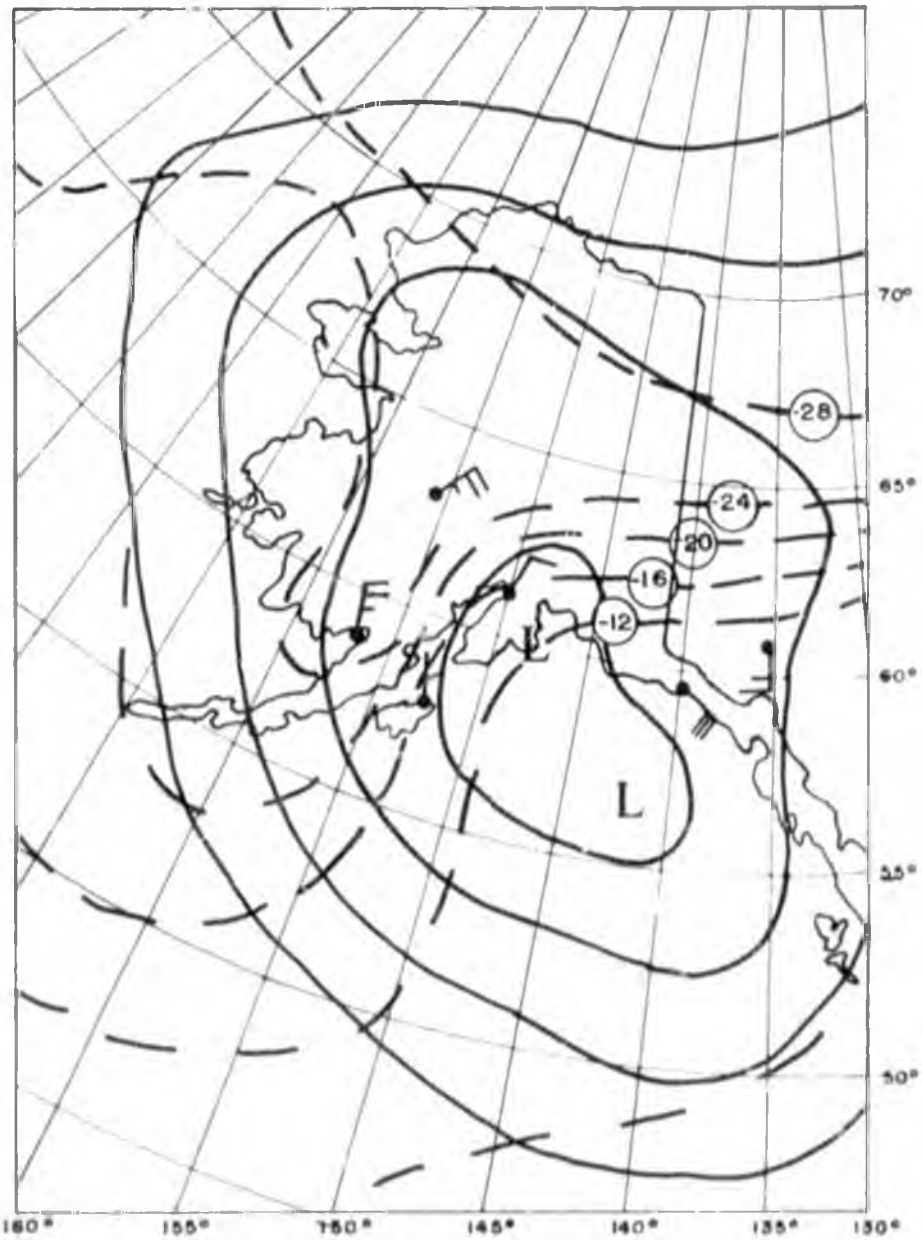

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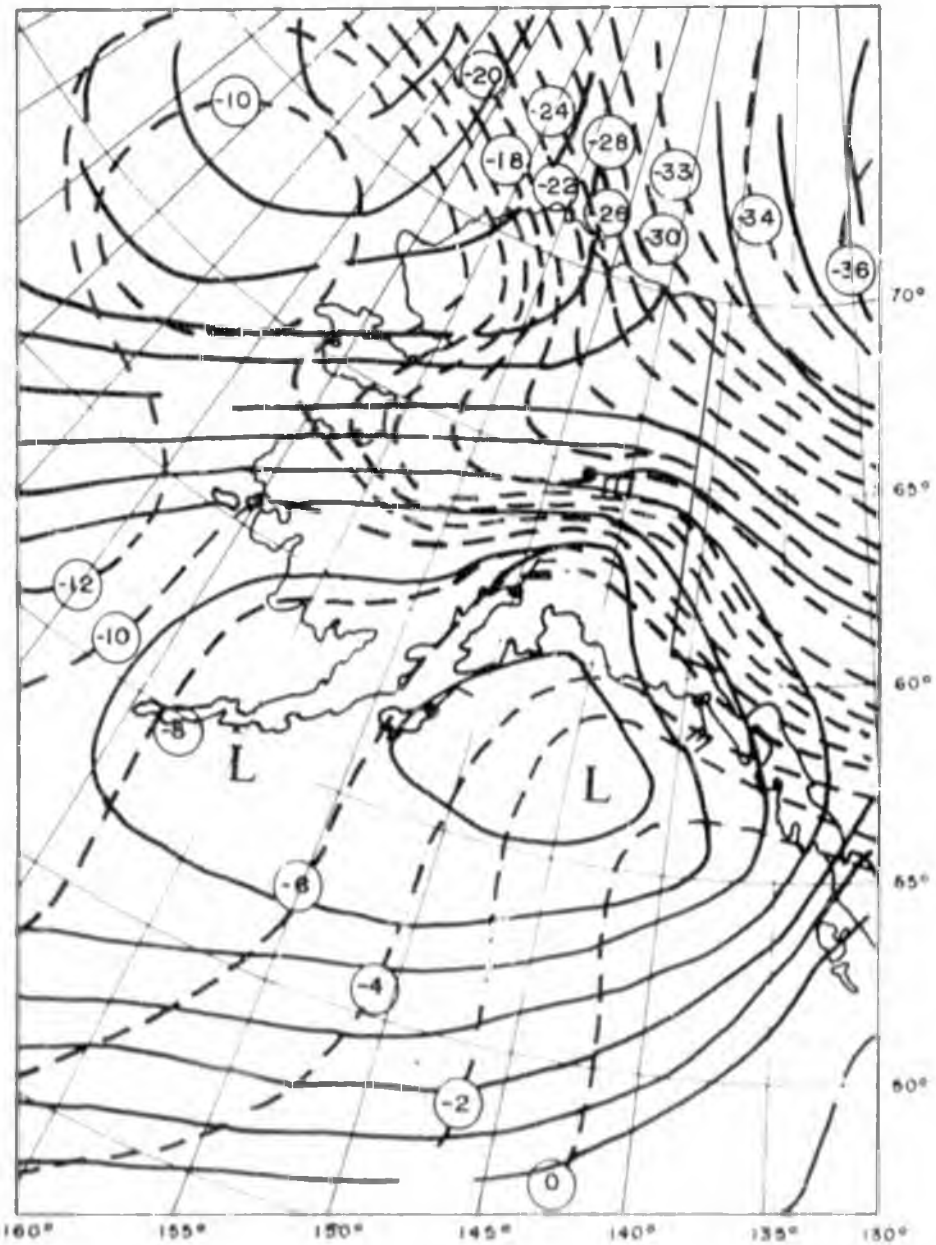

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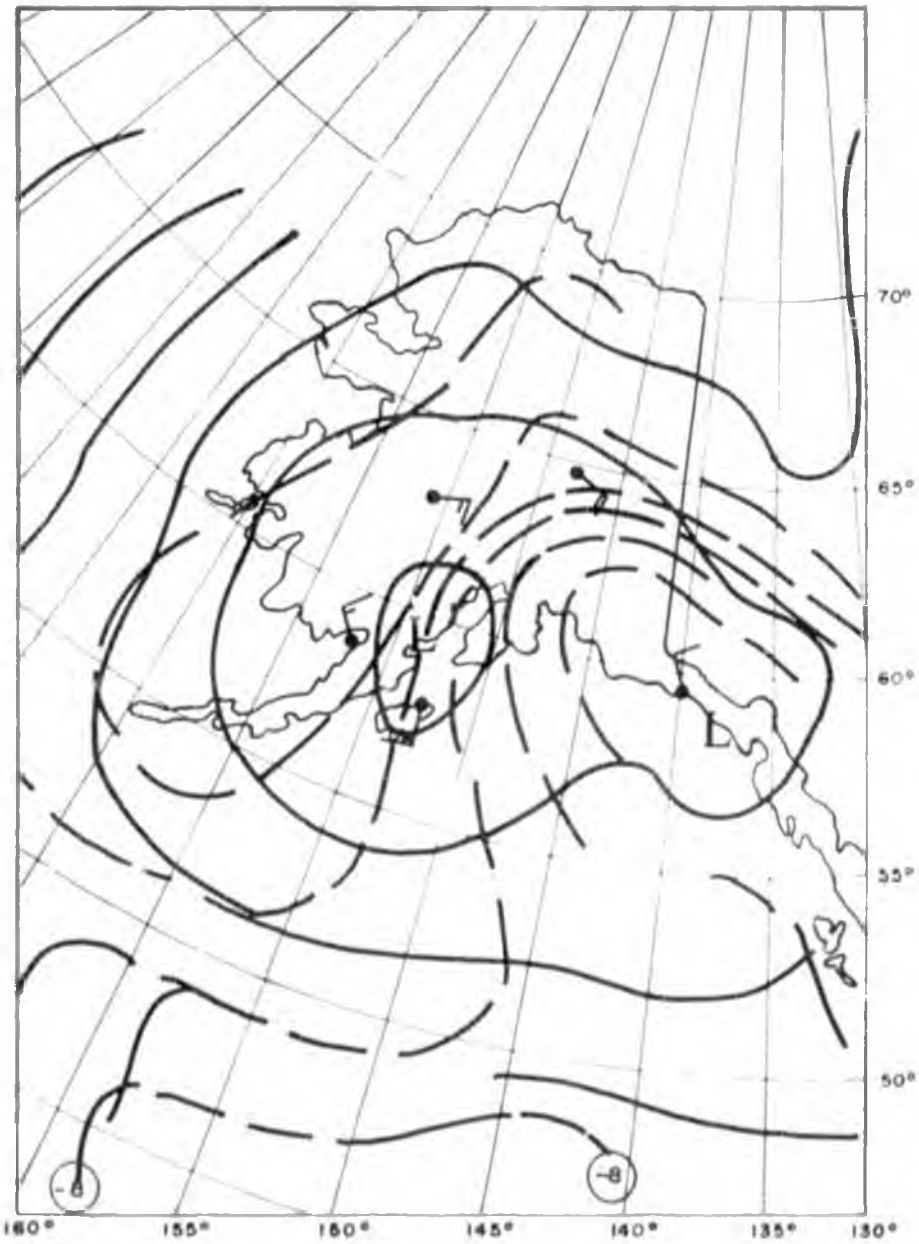
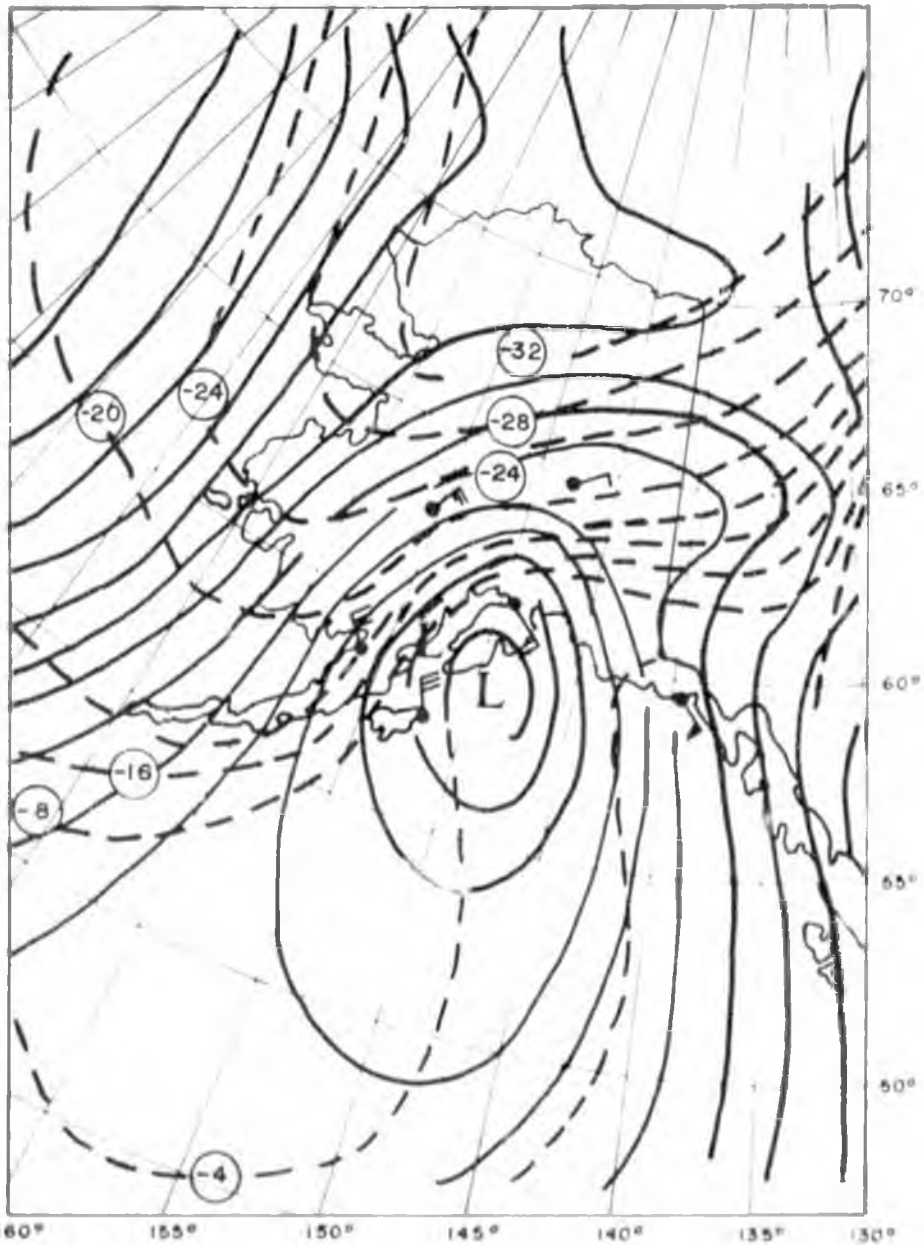


19 Mar 76 Type I



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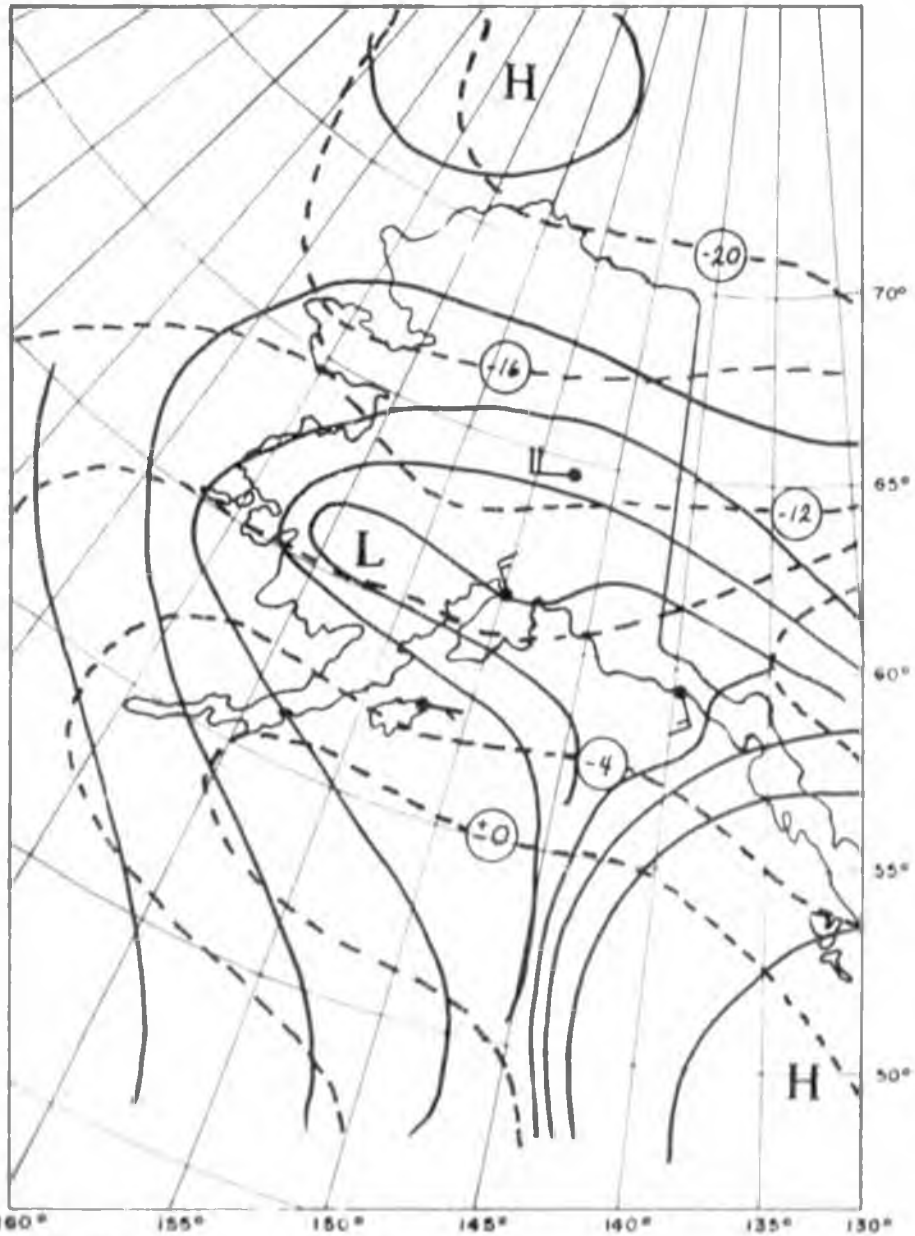

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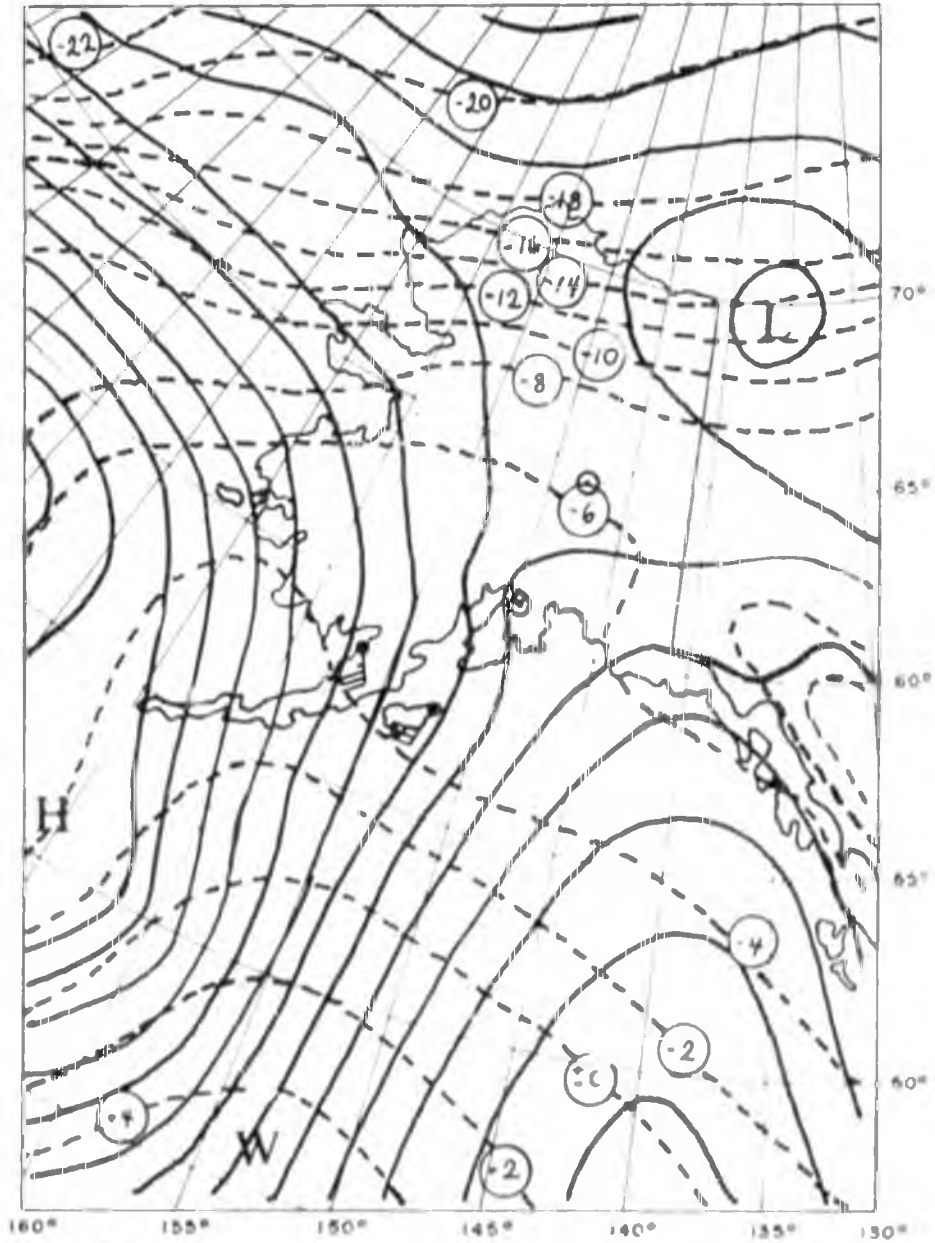

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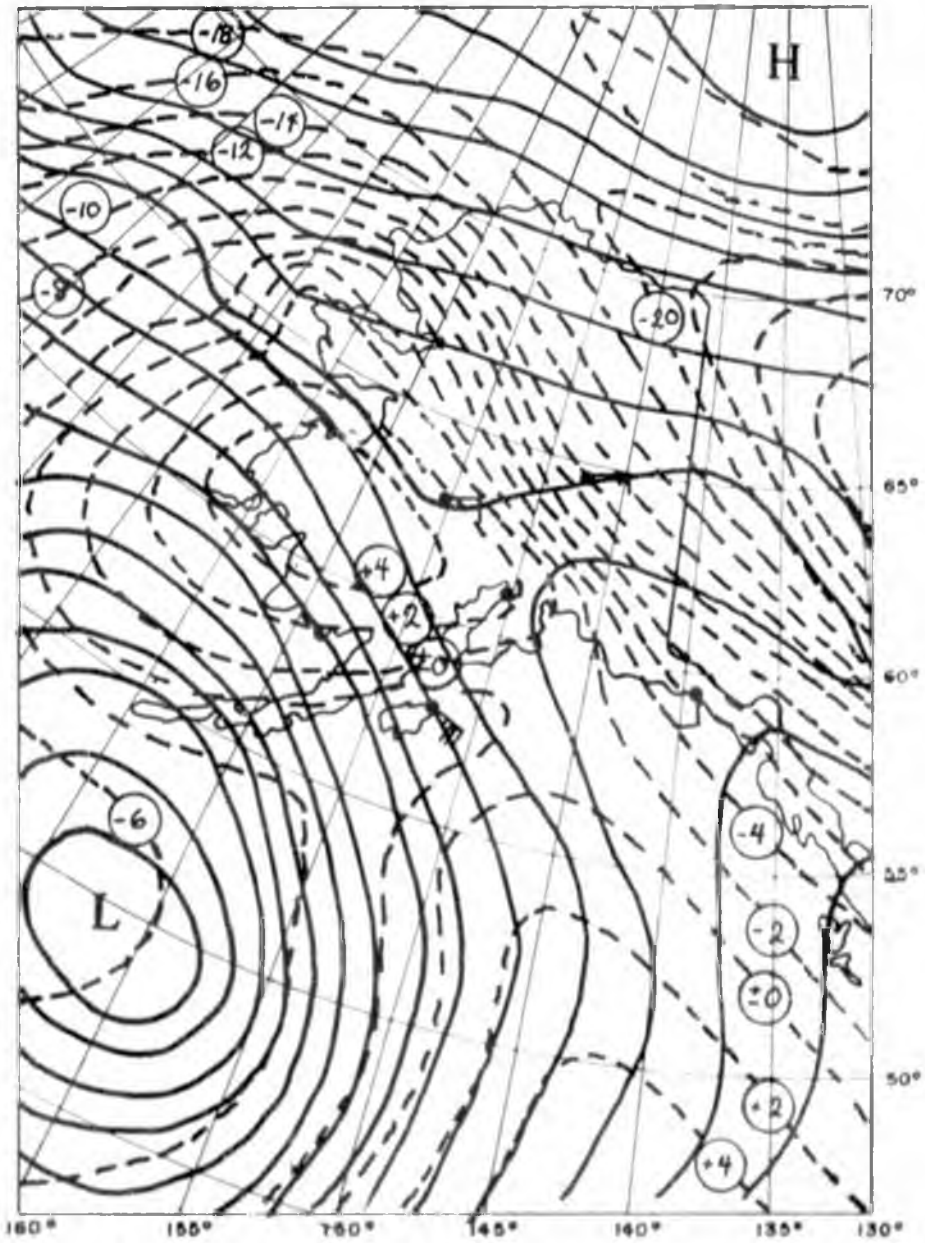

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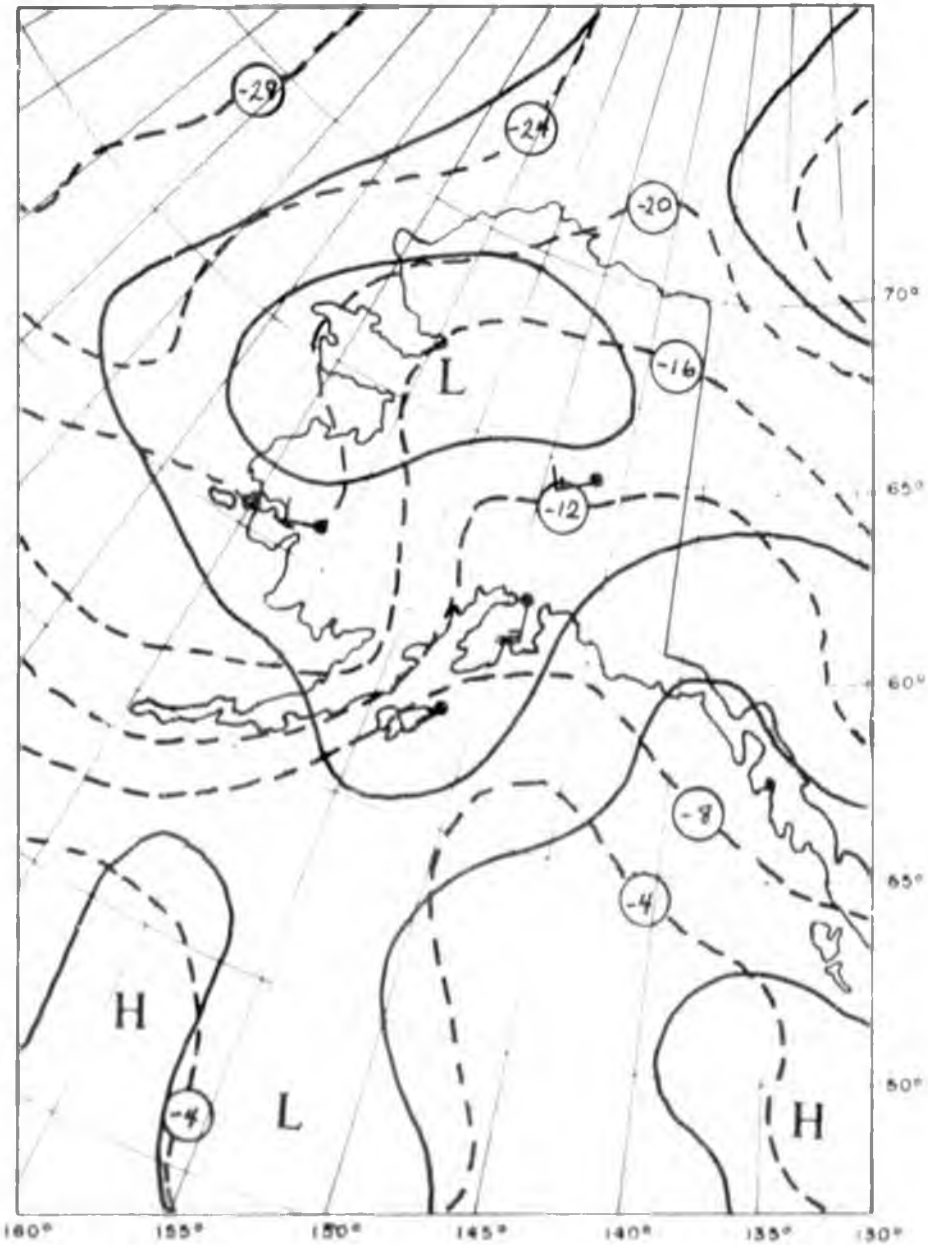

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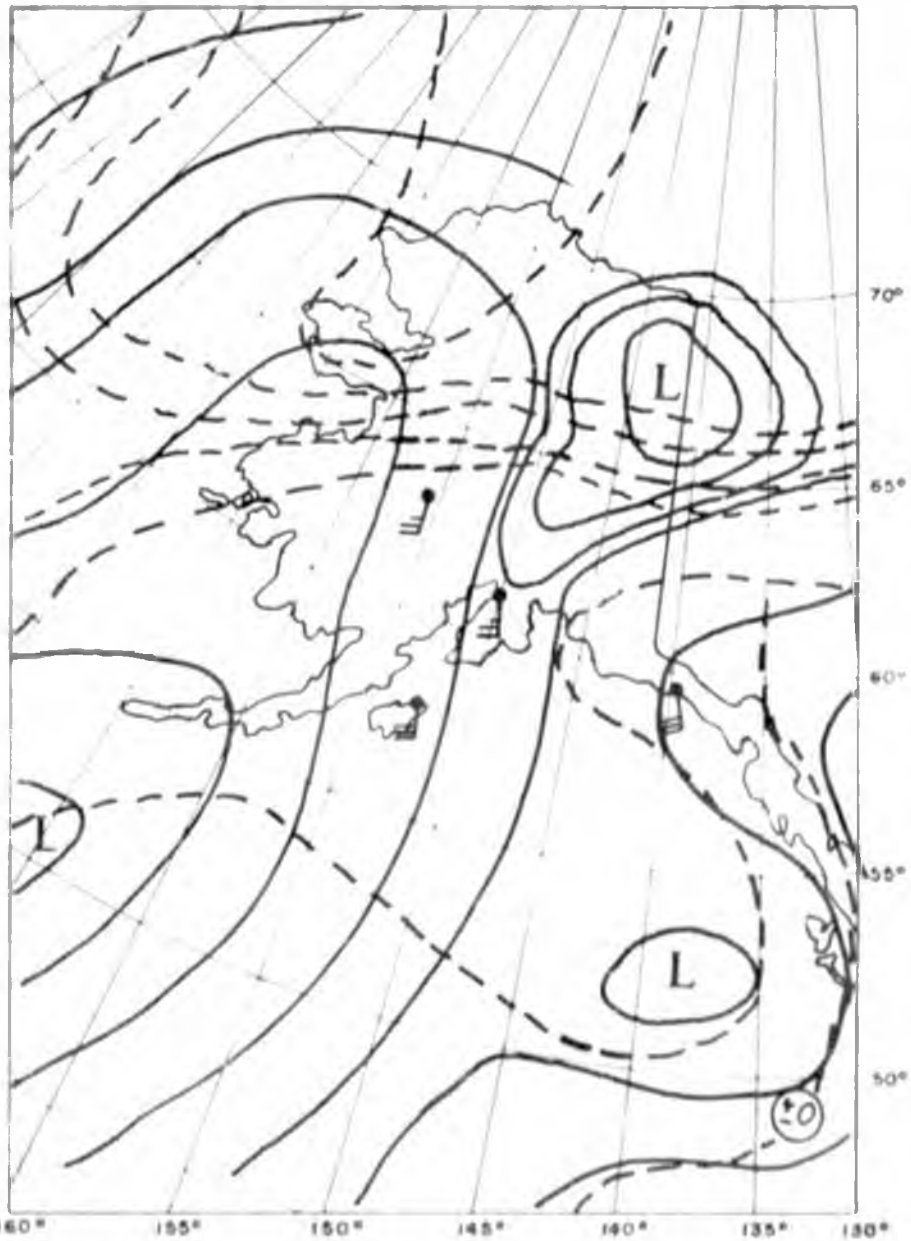

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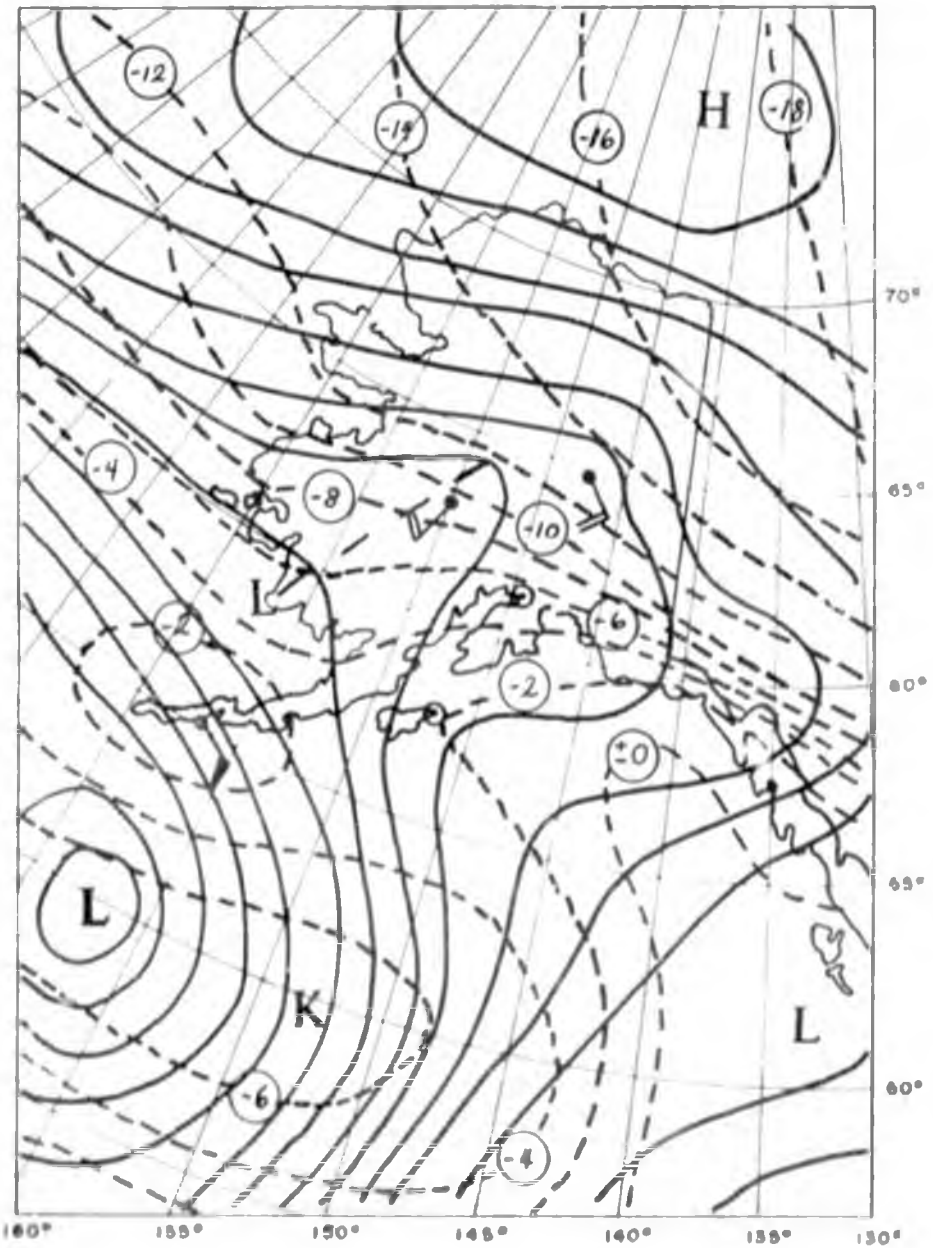

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Appendix IV

AVALANCHE PATH INVENTORY

Slide Path #	Width(ft)	Vertical(ft)	Frequency	Hazard Class	Milepost
1A	200	3800	Infreq.	High	104.9
1	520	3000	Infreq.	Low	98.8
2A	800	4300	Infreq.	Low	98.3-98.5
2B	720	4300	Freq.	High	98.2-98.3
3	850	3900	Freq.	High	97.9-98.1
4	480	4000	Freq.	Low	97.8-97.9
5	1050	4100	Infreq.	High	97.4-97.7
6	690	4100	Infreq.	Low	97.3-97.4
7	660	3800	Infreq.	High	95.1-95.2
8	600	3800	Infreq.	High	95.0-95.1
9	580	3500	Infreq.	High	94.9-95.0
10	575	3500	Infreq.	High	94.8-94.9
11	2000	3200	Freq.	High	94.3-94.8
12	2600	2900	Freq.	High	93.8-94.3
13	550	3400	Infreq.	High	93.6-93.8
14	800	3300	Freq.	High	93.4-93.6
15	825	3300	Infreq.	Low	92.8-93.0
15A	200	3300	Infreq.	Low	92.7
16	1080	3300	Infreq.	High	92.3-92.6
17	730	3500	Freq.	High	92.1-92.3
18A	860	3200	Infreq.	High	91.8-92.0
18B	1800	3200	Freq.	High	91.5-91.8
19	1580	3000	Freq.	High	91.3-91.5
20	1370	2700	Freq.	High	90.9-91.3
21	750	3300	Infreq.	Low	87.0-87.1
22	850	3200	Infreq.	Low	86.8-87.0
23	700	3200	Infreq.	Low	85.5-85.6
24	700	3800	Infreq.	Low	83.8-83.9
25	730	3800	Infreq.	Low	83.7-83.8
26	800	3800	Infreq.	Low	83.5-83.7
27	800	3800	Infreq.	Low	83.4-83.5
40	150	1600	Infreq.	Low	71.6
41	300	1600	Infreq.	Low	71.4
42	200	1600	Infreq.	Low	71.2
43	1700	2600	Infreq.	Low	66.5-66.8
44	400	2800	Infreq.	Low	66.2
45	200	2900	Infreq.	Low	65.9
46	200	2300	Infreq.	Low	65.2
47	200	3400	Infreq.	Low	62.5
51	300	3200	Infreq.	Low	59.7
52	250	3200	Infreq.	High	59.5
53	400	3200	Infreq.	High	59.1
54	350	2800	Infreq.	Low	49.3
55	560	2800	Infreq.	Low	49.1-49.2
56	1300	1600	Infreq.	Low	48.5-48.8
58	300	3500	Infreq.	Low	47
70	4040	2100	Freq.	High	44.7-45.5
71	1220	2400	Freq.	High	44.4-44.7
72	840	2500	Freq.	High	44.2-44.4

Chart (Continued)

AVALANCHE PATH INVENTORY

Slide Path #	Width(ft)	Vertical(ft)	Frequency	Hazard Class	Milepost
73	360	2700	Infreq.	Low	44.1-44.2
74	2300	2800	Infreq.	High	37.6-38.1
75A	300	2900	Infreq.	Low	37.4
75	550	2800	Freq.	Low	37.1-37.2
76	1300	2800	Infreq.	Low	36.8-37.1
77	1370	3400	Infreq.	Low	36.2-36.5
78	200	3400	Infreq.	Low	35.7
79	500	3400	Infreq.	Low	35.1-35.2
80	2600	3700	Infreq.	Low	34.0-34.5
82	200	4200	Infreq.	Low	31.7
83	200	4200	Infreq.	Low	30.6
90	200	3800	Infreq.	Low	22.4
91	1150	3800	Infreq.	High	22.0-22.2
92	1950	3800	Infreq.	High	21.6-21.9
93	770	4900	Freq.	High	20.9-21.1
94	1100	4400	Infreq.	High	20.7-20.9
95	570	4000	Infreq.	Low	18.5-18.7
96	470	4000	Infreq.	Low	18.3-18.4
97	700	4000	Infreq.	Low	18.1-18.3

In addition to these well recognized paths there are several areas that show evidence of damage to vegetation, probably as a result of large, infrequent avalanches. This study does not document all such areas, but several bear mention. These have been indicated in Chapter VI, Avalanche Mapping, with the use of a slide path marker, but not in this inventory.

LAWS

PASSED AT THE
SECOND REGULAR SESSION
OF THE

FORTY-NINTH GENERAL ASSEMBLY OF THE

STATE OF COLORADO

CONVENED AT DENVER
AT 10 O'CLOCK A.M.
WEDNESDAY, JANUARY 2, A.D. 1974
AND ADJOURNED SINE DIE ON
WEDNESDAY, MAY 22, 1974

Published by authority of
TED L. STRICKLAND
Acting President of the Senate
JOHN D. FUHR
Speaker of the House of Representatives

Legislation pertaining to "natural hazard areas" and snow avalanches

RDG 5/1/79

Bradford Printing Co.
Denver, Colorado
1974

CHAPTER 80

PLANNING COMMISSIONS — STATE AND COUNTY

AREAS AND ACTIVITIES OF STATE INTEREST

HOUSE BILL NO. 1041, BY REPRESENTATIVES Dittemore, Buechner, Herzberger, Miller, Petrie, Faker, Eckelberry, Friedman, Gustafson, Hamlin, Koster, O'Brian, Ross, Sack, Sonnenberg, and Tempest; also SENATORS Allshouse, Darby, Johnson, Plock, H. Brown, DeBerard, L. Fowler, Garnsey, Jackson, Klein, McCormick, Schieffelin, Stockton, and Strickland.

AN ACT

CONCERNING LAND USE, AND PROVIDING FOR IDENTIFICATION, DESIGNATION, AND ADMINISTRATION OF AREAS AND ACTIVITIES OF STATE INTEREST, AND ASSIGNING ADDITIONAL DUTIES TO THE COLORADO LAND USE COMMISSION AND THE DEPARTMENT OF LOCAL AFFAIRS, AND MAKING APPROPRIATIONS THEREFOR.

Be it enacted by the General Assembly of the State of Colorado:

Section 1. Chapter 106, Colorado Revised Statutes 1963, as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 7

Areas and Activities of State Interest

PART 1

GENERAL PROVISIONS

106-7-101. Legislative declaration. (1) In addition to the legislative declaration contained in section 106-4-1 (1), the general assembly further finds and declares that:

(a) The protection of the utility, value, and future of all lands within the state, including the public domain as well as privately owned land, is a matter of the public interest;

(b) Adequate information on land use and systematic methods of definition, classification, and utilization thereof are either lacking or not readily available to land use decision makers;

(c) It is the intent of the general assembly that land use, land use planning, and quality of development are matters in which the state has responsibility for the health, welfare, and safety of the people of the state and for the protection of the environment of the state.

(2) It is the purpose of this article that:

(a) The general assembly shall describe areas which may be of state interest

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

Includes "natural hazard areas" and controls re. occupancy of snow avalanche paths

RF 5/79

and activities which may be of state interest and establish criteria for the administration of such areas and activities;

(b) Local governments shall be encouraged to designate areas and activities of state interest and, after such designation, shall administer such areas and activities of state interest and promulgate guidelines for the administration thereof; and

(c) Appropriate state agencies shall assist local governments to identify, designate, and adopt guidelines for administration of matters of state interest.

106-7-102. General definitions. As used in this article, unless the context otherwise requires:

(1) "Development" means any construction or activity which changes the basic character or the use of the land on which the construction or activity occurs.

(2) "Local government" means a municipality or county.

(3) "Local permit authority" means the governing body of a local government with which an application for development in an area of state interest or for conduct of an activity of state interest must be filed or the designee thereof.

(4) "Matter of state interest" means an area of state interest or an activity of state interest or both.

(5) "Municipality" means a home rule or statutory city, town, or city and county or a territorial charter city.

(6) "Person" means any individual, partnership, corporation, association, company, or other public or corporate body, including the federal government, and includes any political subdivision, agency, instrumentality, or corporation of the state.

106-7-103. Definitions pertaining to natural hazards. As used in this article, unless the context otherwise requires:

(1) "Aspect" means the cardinal direction the land surface faces, characterized by north-facing slopes generally having heavier vegetation cover.

(2) "Avalanche" means a mass of snow or ice and other material which may become incorporated therein as such mass moves rapidly down a mountain slope.

(3) "Corrosive soil" means soil which contains soluble salts which may produce serious detrimental effects in concrete, metal, or other substances that are in contact with such soil.

(4) "Debris-fan floodplain" means a floodplain which is located at the mouth of a mountain valley tributary stream as such stream enters the valley floor.

(5) "Dry wash channel and dry wash floodplain" means a small watershed with a very high percentage of runoff after torrential rainfall.

(6) "Expansive soil and rock" means soil and rock which contains clay and which expands to a significant degree upon wetting and shrinks upon drying.

(7) "Floodplain" means an area adjacent to a stream, which area is subject to flooding as the result of the occurrence of an intermediate regional flood and which area thus is so adverse to past, current, or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes but is not limited to:

(a) Mainstream floodplains;

(b) Debris-fan floodplains; and

(c) Dry wash channels and dry wash floodplains.

(8) "Geologic hazard" means a geologic phenomenon which is so adverse to past, current, or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes but is not limited to:

(a) Avalanches, landslides, rock falls, mudflows, and unstable or potentially unstable slopes;

(b) Seismic effects;

(c) Radioactivity; and

(d) Ground subsidence.

(9) "Geologic hazard area" means an area which contains or is directly affected by a geologic hazard.

(10) "Ground subsidence" means a process characterized by the downward displacement of surface material caused by natural phenomena such as removal of underground fluids, natural consol'dation, or dissolution of underground minerals or by man-made phenomena such as underground mining.

(11) "Mainstream floodplain" means an area adjacent to a perennial stream that is subject to periodic flooding.

(12) "Mudflow" means the downward movement of mud in a mountain watershed because of peculiar characteristics of extremely high sediment yield and occasional high runoff.

(13) "Natural hazard" means a geologic hazard, a wildfire hazard, or a flood.

(14) "Natural hazard area" means an area containing or directly affected by a natural hazard.

(15) "Radioactivity" means a condition related to various types of radiation emitted by natural radioactive minerals that occur in natural deposits of rock, soil, and water.

(16) "Seismic effects" means direct and indirect effects caused by an earthquake or an underground nuclear detonation.

(17) "Siltation" means a process which results in an excessive rate of removal of soil and rock materials from one location and rapid deposit thereof in adjacent areas.

(18) "Slope" means the gradient of the ground surface which is definable by degree or percent.

(19) "Unstable or potentially unstable slope" means an area susceptible to a landslide, a mudflow, a rock fall, or accelerated creep of slope-forming materials.

(20) "Wildfire behavior" means the predictable action of a wildfire under given conditions of slope, aspect, and weather.

(21) "Wildfire hazard" means a wildfire phenomenon which is so adverse to past, current, or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes but is not limited to:

(a) Slope and aspect;

(b) Wildfire behavior characteristics; and

(c) Existing vegetation types.

(22) "Wildfire hazard area" means an area containing or directly affected by a wildfire hazard.

106-7-104. Definitions pertaining to other areas and activities of state interest. As used in this article, unless the context otherwise requires:

(1) "Airport" means any municipal or county airport or airport under the jurisdiction of an airport authority.

(2) "Area around a key facility" means an area immediately and directly affected by a key facility.

(3) "Arterial highway" means any limited-access highway which is part of the federal-aid interstate system or any limited-access highway constructed under the supervision of the state department of highways.

(4) "Collector highway" means a major thoroughfare serving as a corridor or link between municipalities, unincorporated population centers or recreation areas, or industrial centers and constructed under guidelines and standards established by, or under the supervision of, the state department of highways. Collector highway does not include a city street or local service road or a county road designed for local service and constructed under the supervision of local government.

(5) "Domestic water and sewage treatment system" means a wastewater treatment plant, water treatment plant, or water supply system, as defined in section 66-38-2 (6), (7), and (8), C.R.S. 1963, and any system of pipes, structures, and facilities through which wastewater is collected for treatment.

(6) "Historical or archaeological resources of statewide importance" means resources which have been officially included in the national register of historic places, designated by statute, or included in an established list of places compiled by the state historical society.

(7) "Key facilities" means:

(a) Airports;

(b) Major facilities of a public utility;

(c) Interchanges involving arterial highways;

(d) Rapid or mass transit terminals, stations, and fixed guideways.

(8) "Major facilities of a public utility" means:

(a) Central office buildings of telephone utilities;

(b) Transmission lines, power plants, and substations of electrical utilities; and

(c) Pipelines and storage areas of utilities providing natural gas or other petroleum derivatives.

(9) "Mass transit" means a coordinated system of transit modes providing transportation for use by the general public.

(10) "Mineral" means an inanimate constituent of the earth, in either solid, liquid, or gaseous state which, when extracted from the earth, is usable in its natural form or is capable of conversion into usable form as a metal, metallic compound, a chemical, an energy source, a raw material for manufacturing, or construction material. This definition does not include surface or ground water subject to appropriation for domestic, agricultural, or industrial purposes, nor does it include geothermal resources.

(11) "Mineral resource area" means an area in which minerals are located in sufficient concentration in veins, deposits, bodies, beds, seams, fields, pools, or otherwise, as to be capable of economic recovery. The term includes but is not limited to any area in which there has been significant mining activity in the past, there is significant mining activity in the present, mining development is planned or in progress, or mineral rights are held by mineral patent or valid mining claim with the intention of mining.

(12) "Natural resources of statewide importance" is limited to shorelands of major publicly-owned reservoirs and significant wildlife habitats in which wildlife species, as identified by the division of wildlife of the department of natural resources, in a proposed area could be endangered.

(13) "New communities" means the major revitalization of existing municipalities or the establishment of urbanized growth centers in unincorporated areas.

(14) "Rapid transit" means the element of a mass transit system involving mechanical conveyance on an exclusive lane or guideway constructed solely for that purpose.

106-7-105. Effect of article — public utilities. (1) With regard to public utilities, nothing in this article shall be construed as enhancing or diminishing the power and authority of municipalities, counties, or the public utilities commission. Any order, rule, or directive issued by any governmental agency pursuant to this article shall not be inconsistent with or in contravention of any decision, order, or finding of the public utilities commission with respect to public convenience and necessity. The public utilities commission and public utilities shall take into consideration and, when feasible, foster compliance with adopted land use master plans of local governments, regions, and the state.

(2) Nothing in this article shall be construed as enhancing or diminishing the rights and procedures with respect to the power of a public utility to acquire property and rights-of-way by eminent domain to serve public need in the most economical and expedient manner.

106-7-106. Effect of article — rights of property owners — water rights. (1) Nothing in this article shall be construed as:

(a) Enhancing or diminishing the rights of owners of property as provided by the state constitution or the constitution of the United States;

(b) Modifying or amending existing laws or court decrees with respect to the determination and administration of water rights.

106-7-107. Effect of article — developments in areas of state interest and activities of state interest meeting certain conditions. (1) This article shall not apply to any development in an area of state interest or any activity of state interest which meets any one of the following conditions as of the effective date of this article:

(a) The development or activity is covered by a current building permit issued by the appropriate local government; or

(b) The development or activity has been approved by the electorate; or

(c) The development or activity is to be on land:

(I) Which has been conditionally or finally approved by the appropriate local government for planned unit development or for a use substantially the same as planned unit development; or

(II) Which has been zoned by the appropriate local government for the use contemplated by such development or activity; or

(III) With respect to which a development plan has been conditionally or finally approved by the appropriate governmental authority.

106-7-108. Effect of article — state agency or commission responses. (1) Whenever any person desiring to carry out development as defined in section 106-7-102 (1) is required to obtain a permit, to be issued by any state agency or commission for the purpose of authorizing or allowing such development, pursuant to this or any other statute or regulation promulgated thereunder, such agency shall establish a reasonable time period, which shall not exceed sixty days following receipt of such permit application, within which such agency must respond in writing to the applicant, granting or denying said permit or specifying all reasonable additional information necessary for the agency or commission to respond. If additional information is required, said agency or commission shall set a reasonable time period for response following the receipt of such information.

(2) Whenever a state agency or commission denies a permit the denial must specify:

(a) The regulations, guidelines, and criteria or standards used in evaluating the application;

(b) The reasons for denial and the regulations, guidelines, and criteria or standards the application fails to satisfy; and

(c) The action that the applicant would have to take to satisfy the state agency's or commission's permit requirements.

(3) Whenever an application for a permit as provided under this section contains a statement describing the proposed nature, uses, and activities in

conceptual terms for the development intended to be accomplished and is not accompanied with all additional information, including, without limitation, engineering studies, detailed plans and specifications, zoning approval, or where a hearing is required by the statutes, regulations, rules, ordinances, or resolutions thereof prior to the issuance of the requested permit, the agency or commission shall, within the time provided in this section for response, indicate its acceptance or denial of the permit on the basis of the concept expressed in the statement of the proposed uses and activities contained in the application. Such conceptual approval shall be made subject to the applicant filing and completing all prerequisite detailed additional information in accordance with the usual filing requirements of the agency or commission within a reasonable period of time.

(4) All agencies or commissions authorized or required to issue permits for development shall adopt rules and regulations, or amend existing rules and regulations, so as to require that such agency or commission respond in the time and manner required in this section.

(5) Nothing in this section shall shorten the time allowed for responses provided by federal statute dealing with, or having a bearing on, the subject of any such application for permit.

(6) The provisions of this section shall not apply to applications approved, denied, or processed by a unit of local government.

PART 2

AREAS AND ACTIVITIES DESCRIBED

CRITERIA FOR ADMINISTRATION

106-7-201. Areas of state interest — as determined by local governments. (1) Subject to the procedures set forth in part 4 of this article, a local government may designate certain areas of state interest from among the following:

(a) Mineral resource areas;

(b) Natural hazard areas;

(c) Areas containing, or having a significant impact upon, historical, natural, or archaeological resources of statewide importance; and

(d) Areas around key facilities in which development may have a material effect upon the facility or the surrounding community.

106-7-202. Criteria for administration of areas of state interest. (1) (a) Mineral resource areas designated as areas of state interest shall be protected and administered in such a manner as to permit the extraction and exploration of minerals therefrom, unless extraction and exploration would cause significant danger to public health and safety. If the local government having jurisdiction, after weighing sufficient technical or other evidence, finds that the economic value of the minerals present therein is less than the value of another existing or requested use, such other use should be given preference; however, other uses which would not interfere with the extraction and exploration of minerals may be permitted in such areas of state interest.

(b) Areas containing only sand, gravel, quarry aggregate, or limestone used for construction purposes shall be administered as provided by article 65 of chapter 92, C.R.S. 1963.

accomplished in a manner which causes the least practicable environmental disturbance, and surface areas disturbed thereby shall be reclaimed in accordance with the provisions of article 13 or article 32 of chapter 92, C.R.S. 1963, whichever is applicable.

(d) Unless an activity of state interest has been designated or identified or unless it includes part or all of another area of state interest, an area of oil and gas or geothermal resource development shall not be designated as an area of state interest unless the state oil and gas conservation commission identifies such area for designation.

(2) (a) Natural hazard areas shall be administered as follows:

(I) Floodplains shall be administered so as to minimize significant hazards to public health and safety or to property. The Colorado water conservation board shall promulgate a model floodplain regulation no later than September 30, 1974. Open space activities such as agriculture, recreation, and mineral extraction shall be encouraged in the floodplains. Any combination of these activities shall be conducted in a mutually compatible manner. Building of structures in the floodplain shall be designed in terms of the availability of flood protection devices, proposed intensity of use, effects on the acceleration of floodwaters, potential significant hazards to public health and safety or to property, and other impact of such development on downstream communities such as the creation of obstructions during floods. Activities shall be discouraged which, in time of flooding, would create significant hazards to public health and safety or to property. Shallow wells, solid waste disposal sites, and septic tanks and sewage disposal systems shall be protected from inundation by floodwaters. Unless an activity of state interest is to be conducted therein, an area of corrosive soil, expansive soil and rock, or siltation shall not be designated as an area of state interest unless the Colorado soil conservation board, through the local soil conservation district, identifies such area for designation.

(II) Wildfire hazard areas in which residential activity is to take place shall be administered so as to minimize significant hazards to public health and safety or to property. The Colorado state forest service shall promulgate a model wildfire hazard area control regulation no later than September 30, 1974. If development is to take place, roads shall be adequate for service by fire trucks and other safety equipment. Firebreaks and other means of reducing conditions conducive to fire shall be required for wildfire hazard areas in which development is authorized.

(III) In geologic hazard areas all developments shall be engineered and administered in a manner that will minimize significant hazards to public health and safety or to property due to a geologic hazard. The Colorado geological survey shall promulgate a model geologic hazard area control regulation no later than September 30, 1974.

(b) After promulgation of guidelines for land use in natural hazard areas by the Colorado water conservation board, the Colorado soil conservation board through the soil conservation districts, the Colorado state forest service, and the Colorado geological survey, natural hazard areas shall be administered by local government in a manner which is consistent with the guidelines for land use in each of the natural hazard areas.

(3) Areas containing, or having a significant impact upon, historical, natural, or archaeological resources of statewide importance, as determined by the state historical society, the department of natural resources, and the appropriate local government, shall be administered by the appropriate state agency in conjunction with the appropriate local government in a manner that will allow man to function in harmony with, rather than be destructive to, these resources. Consideration is to be given to the protection of those areas essential for wildlife habitat. Development in areas containing historical, archaeological, or natural resource shall be conducted in a manner which will minimize damage to those resources for future use.

(4) The following criteria shall be applicable to areas around key facilities:

(a) If the operation of a key facility may cause a danger to public health and safety or to property, as determined by local government, the area around the key facility shall be designated and administered so as to minimize such danger; and

(b) Areas around key facilities shall be developed in a manner that will discourage traffic congestion, incompatible uses, and expansion of the demand for government services beyond the reasonable capacity of the community or region to provide such services as determined by local government. Compatibility with nonmotorized traffic shall be encouraged. A development that imposes burdens or deprivation on the communities of a region cannot be justified on the basis of local benefit alone.

(5) In addition to the criteria described in subsection (4) of this section, the following criteria shall be applicable to areas around particular key facilities:

(a) Areas around airports shall be administered so as to:

(I) Encourage land use patterns for housing and other local government needs that will separate uncontrollable noise sources from residential and other noise-sensitive areas; and

(II) Avoid danger to public safety and health or to property due to aircraft crashes.

(b) Areas around major facilities of a public utility shall be administered so as to:

(I) Minimize disruption of the service provided by the public utility; and

(II) Preserve desirable existing community patterns.

(c) Areas around interchanges involving arterial highways shall be administered so as to:

(I) Encourage the smooth flow of motorized and nonmotorized traffic;

(II) Foster the development of such areas in a manner calculated to preserve the smooth flow of such traffic; and

(III) Preserve desirable existing community patterns.

(d) Areas around rapid or mass transit terminals, stations, or guideways shall be developed in conformance with the applicable municipal master plan adopted pursuant to section 139-59-6, C.R.S. 1963, or any applicable master

plan adopted pursuant to section 106-2-7. If no such master plan has been adopted, such areas shall be developed in a manner designed to minimize congestion in the streets; to secure safety from fire, flood waters, and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. Such development in such areas shall be made with reasonable consideration, among other things, as to the character of the area and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdiction of the applicable local government.

106-7-203. Activities of state interest as determined by local governments. (1) Subject to the procedures set forth in part 4 of this article, a local government may designate certain activities of state interest from among the following:

(a) Site selection and construction of major new domestic water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems;

(b) Site selection and development of solid waste disposal sites;

(c) Site selection of airports;

(d) Site selection of rapid or mass transit terminals, stations, and fixed guideways;

(e) Site selection of arterial highways and interchanges and collector highways;

(f) Site selection and construction of major facilities of a public utility;

(g) Site selection and development of new communities;

(h) Efficient utilization of municipal and industrial water projects; and

(i) Conduct of nuclear detonations.

106-7-204. Criteria for administration of activities of state interest. (1) (a) New domestic water and sewage treatment systems shall be constructed in areas which will result in the proper utilization of existing treatment plants and the orderly development of domestic water and sewage treatment systems of adjacent communities.

(b) Major extensions of domestic water and sewage treatment systems shall be permitted in those areas in which the anticipated growth and development that may occur as a result of such extension can be accommodated within the financial and environmental capacity of the area to sustain such growth and development.

(2) Major solid waste disposal sites shall be developed in accordance with sound conservation practices and shall emphasize, where feasible, the recycling of waste materials. Consideration shall be given to longevity and subsequent use of waste disposal sites, soil and wind conditions, the potential problems of pollution inherent in the proposed site, and the impact on adjacent property owners, compared with alternate locations.

(3) Airports shall be located or expanded in a manner which will minimize disruption to the environment of existing communities, will minimize the impact on existing community services, and will complement the economic and transportation needs of the state and the area.

(4) (a) Rapid or mass transit terminals, stations, or guideways shall be located in conformance with the applicable municipal master plan adopted pursuant to section 139-59-6, C.R.S. 1963, or any applicable master plan adopted pursuant to section 106-2-7. If no such master plan has been adopted, such areas shall be developed in a manner designed to minimize congestion in the streets; to secure safety from fire, flood waters, and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. Activities shall be conducted with reasonable consideration, among other things, as to the character of the area and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdiction of the applicable local government.

(b) Proposed locations of rapid or mass transit terminals, stations, and fixed guideways which will not require the demolition of residences or businesses shall be given preferred consideration over competing alternatives.

(c) A proposed location of rapid or mass transit terminal, station, or fixed guideway that imposes a burden or deprivation on a local government cannot be justified on the basis of local benefit alone, nor shall a permit for such a location be denied solely because the location places a burden or deprivation on one local government.

(5) Arterial highways and interchanges and collector highways shall be located so that:

(a) Community traffic needs are met;

(b) Desirable community patterns are not disrupted; and

(c) Direct conflicts with adopted local government, regional, and state master plans are avoided.

(6) Where feasible, major facilities of public utilities shall be located so as to avoid direct conflict with adopted local government, regional, and state master plans.

(7) When applicable, or as may otherwise be provided by law, a new community design shall, at a minimum, provide for transportation, waste disposal, schools, and other governmental services in a manner that will not overload facilities of existing communities of the region. Priority shall be given to the development of total communities which provide for commercial and industrial activity, as well as residences, and for internal transportation and circulation patterns.

(8) Municipal and industrial water projects shall emphasize the most efficient use of water, including, to the extent permissible under existing law, the recycling and reuse of water. Urban development, population densities, and site layout and design of storm water and sanitation systems shall be accomplished in a manner that will prevent the pollution of aquifer recharge areas.

(9) Nuclear detonations shall be conducted so as to present no material danger to public health and safety. Any danger to property shall not be disproportionate to the benefits to be derived from a detonation.

PART 3

LEVELS OF GOVERNMENT INVOLVED AND THEIR FUNCTIONS

106-7-301. Functions of local government. (1) Pursuant to this article, it is the function of local government to:

(a) Designate matters of state interest after public hearing, taking into consideration:

(I) The intensity of current and foreseeable development pressures; and

(II) Applicable guidelines for designation issued by the applicable state agencies;

(b) Hold hearings on applications for permits for development in areas of state interest and for activities of state interest;

(c) Grant or deny applications for permits for development in areas of state interest and for activities of state interest;

(d) Receive recommendations from state agencies and other local governments relating to matters of state interest;

(e) Send recommendations to other local governments and the Colorado land use commission relating to matters of state interest; and

(f) Act, upon request of the Colorado land use commission, with regard to specific matters of state interest.

106-7-302. Functions of other state agencies. (1) Pursuant to this article, it is the function of other state agencies to:

(a) Send recommendations to local governments and the Colorado land use commission relating to designation of matters of state interest on the basis of current and developing information; and

(b) Provide technical assistance to local governments concerning designation of and guidelines for matters of state interest.

(2) Primary responsibility for the recommendation and provision of technical assistance functions described in subsection (1) of this section is upon:

(a) The Colorado water conservation board, acting in cooperation with the Colorado soil conservation board, with regard to floodplains;

(b) The Colorado state forest service, with regard to wildfire hazard areas;

(c) The Colorado geological survey, with regard to geologic hazard areas, geologic reports, and the identification of mineral resource areas;

(d) The Colorado division of mines, with regard to mineral extraction and the reclamation of land disturbed thereby;

(e) The Colorado soil conservation board and soil conservation districts, with regard to resource data inventories, soils, soil suitability, erosion and sedimentation, floodwater problems, and watershed protection; and

(f) The division of wildlife of the department of natural resources, with regard to significant wildlife habitats.

(3) Pursuant to section 106-7-202 (1) (d), the oil and gas conservation commission of the state of Colorado may identify an area of oil and gas development for designation by local government as an area of state interest.

PART 4

DESIGNATION OF MATTERS OF STATE INTEREST — GUIDELINES FOR ADMINISTRATION

106-7-401. Designation of matters of state interest. (1) After public hearing, a local government may designate matters of state interest within its jurisdiction, taking into consideration:

(a) The intensity of current and foreseeable development pressures; and

(b) Applicable guidelines for designation issued by the Colorado land use commission after recommendation from other state agencies, if appropriate. In adopting such guidelines, the Colorado land use commission shall be guided by the standards set forth in this article applicable to local governments.

(2) A designation shall:

(a) Specify the boundaries of the proposed area; and

(b) State reasons why the particular area or activity is of state interest, the dangers that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantages of development of such area or conduct of such activity in a coordinated manner.

106-7-402. Guidelines — regulations. (1) The local government shall develop guidelines for administration of the designated matters of state interest. The content of such guidelines shall be such as to facilitate administration of matters of state interest consistent with sections 106-7-202 and 106-7-204.

(2) A local government may adopt regulations interpreting and applying its adopted guidelines in relation to specific developments in areas of state interest and to specific activities of state interest.

(3) No provision in this article shall be construed as prohibiting a local government from adopting guidelines or regulations containing requirements which are more stringent than the requirements of the criteria listed in sections 106-7-202 and 106-7-204.

106-7-403. Technical and financial assistance. (1) Appropriate state agencies shall provide technical assistance to local governments in order to assist local governments in designating matters of state interest and adopting guidelines for the administration thereof.

(2) (a) The department of local affairs shall oversee and coordinate the provision of technical assistance and provide financial assistance as may be authorized by law.

(b) The department of local affairs shall determine whether technical or

financial assistance or both are to be given to a local government on the basis of the local government's:

(I) Showing that current or reasonably foreseeable development pressures exist within the local government's jurisdiction; and

(II) Plan describing the proposed use of technical assistance and expenditure of financial assistance.

106-7-404. Public hearing — designation of an area or activity of state interest and adoption of guidelines by order of local government. (1) The local government shall hold a public hearing before designating an area or activity of state interest and adopting guidelines for administration thereof.

(2) (a) Notice, stating the time and place of the hearing and the place at which materials relating to the matter to be designated and guidelines may be examined, shall be published once at least thirty and not more than sixty days before the public hearing in a newspaper of general circulation in the county. The local government shall send written notice to the Colorado land use commission of a public hearing to be held for the purpose of designation and adoption of guidelines at least thirty days and not more than sixty days before such hearing.

(b) Any person may request, in writing, that his name and address be placed on a mailing list to receive notice of all hearings held pursuant to this section. If the local government decides to maintain such a mailing list, it shall mail notices to each person paying an annual fee reasonably related to the cost of production, handling, and mailing such notice. In order to have his name and address retained on said mailing list, the person shall resubmit his name and address and pay such fee before January 31 of each year.

(3) Within thirty days after completion of the public hearing, the local government, by order, may adopt, adopt with modification, or reject the particular designation and guidelines; but the local government, in any case, shall have the duty to designate any matter which has been finally determined to be a matter of state interest and adopt guidelines for the administration thereof.

(4) After a matter of state interest is designated pursuant to this section, no person shall engage in development in such area and no such activity shall be conducted until the designation and guidelines for such area or activity are finally determined pursuant to this article.

(5) Upon adoption by order, all relevant materials relating to the designation and guidelines shall be forwarded to the Colorado land use commission for review.

106-7-405. Report of local government's progress. (1) Not later than one hundred eighty days after the effective date of this article, each local government shall report to the Colorado land use commission, on a form to be furnished by the Colorado land use commission, the progress made toward designation and adoption of guidelines for administration of matters of state interest.

(2) Upon the basis of the information contained in such reports and any information received pursuant to any other relevant provision of this article, the Colorado land use commission may take appropriate action pursuant to section 106-4-3 (2) (a).

106-7-406. Colorado land use commission review of local government order containing designation and guidelines. (1) Not later than thirty days after receipt of a local government order designating a matter of state interest and adopting guidelines for the administration thereof, the Colorado land use commission shall review the contents of such order on the basis of the relevant provisions of part 2 of this article and shall accept the designation and guidelines or recommend modification thereof.

(2) If the Colorado land use commission decides that modification of the designation or guidelines is required, the Colorado land use commission shall, within said thirty-day period, submit to the local government written notification of its recommendations and shall specify in writing the modifications which the Colorado land use commission deems necessary for compliance with the relevant provisions of part 2 of this article.

(3) Not later than thirty days after receipt of the modifications recommended by the Colorado land use commission, a local government shall:

(a) Modify the original order in a manner consistent with the recommendations of the Colorado land use commission and resubmit the order to the Colorado land use commission; or

(b) Notify the Colorado land use commission that the Colorado land use commission's recommendations are rejected.

106-7-407. Colorado land use commission may initiate identification, designation, and promulgation of guidelines for matters of state interest. (1) (a) The Colorado land use commission may submit a formal request to a local government to take action with regard to a specific matter which said commission considers to be of state interest within the local government's jurisdiction. Such request shall identify the specific matter and shall set forth the information required in section 106-7-401 (2) (a) and (2) (b). Not later than thirty days after receipt of such request, the local government shall publish notice and hold a hearing within sixty days pursuant to the provisions of section 106-7-404, and issue its order thereunder.

(b) After receipt by a local government of a request from the Colorado land use commission pursuant to paragraph (a) of this subsection (1), no person shall engage in development in the area or conduct the activity specifically described in said request until the local government has held its hearing and issued its order relating thereto.

(c) If the local government's order fails to designate such matter and adopt guidelines therefor, or, after designation, fails to adopt guidelines therefor pursuant to standards set forth in this article applicable to local governments, the Colorado land use commission may seek judicial review of such order or guidelines by a trial de novo in the district court for the judicial district in which the local government is located. During the pendency of such court proceedings, no person shall engage in development in the area or conduct the activity specifically described in said request except on such terms and conditions as authorized by the court.

PART 5
PERMITS FOR DEVELOPMENT IN AREAS OF STATE INTEREST AND FOR CONDUCT OF ACTIVITIES OF STATE INTEREST

106-7-501. Permit for development in area of state interest or for conduct of an activity of state interest required. (1) (a) Any person desiring to engage in development in an area of state interest or to conduct an activity of state interest shall file an application for a permit with the local government in which such development or activity is to take place. The application shall be filed on a form prescribed by the Colorado land use commission. A reasonable fee determined by the local government sufficient to cover the cost of processing the application, including the cost of holding the necessary hearings, shall be paid at the time of filing such application.

(b) The requirement of paragraph (a) of this subsection (1) that a public utility obtain a permit shall not be deemed to waive the requirements of article 5 of chapter 115, C.R.S. 1963, that a public utility obtain a certificate of public convenience and necessity.

(2) (a) Not later than thirty days after receipt of an application for a permit, the local government shall publish notice of a hearing on said application. Such notice shall be published once in a newspaper of general circulation in the county, not less than thirty nor more than sixty days before the date set for hearing, and shall be given to the Colorado land use commission. The Colorado land use commission may give notice to such other persons as it determines not later than fourteen days before such hearing.

(b) If a person proposes to engage in development in an area of state interest or for conduct of an activity of state interest not previously designated and for which guidelines have not been adopted, the local government may hold one hearing for determination of designation and guidelines and granting or denying the permit.

(c) The local government may maintain a mailing list and send notice of hearings relating to permits in a manner similar to that described in section 106-7-404 (2) (b).

(3) The local government may approve an application for a permit to engage in development in an area of state interest if the proposed development complies with the local government's guidelines and regulations governing such area. If the proposed development does not comply with the guidelines and regulations, the permit shall be denied.

(4) The local government may approve an application for a permit for conduct of an activity of state interest if the proposed activity complies with the local government's regulations and guidelines for conduct of such activity. If the proposed activity does not comply with the guidelines and regulations, the permit shall be denied.

(5) The local government conducting a hearing pursuant to this section shall:

(a) State, in writing, reasons for its decision, and its findings and conclusions; and

(b) Preserve a record of such proceedings.

(6) After the effective date of this article, any person desiring to engage a development in a designated area of state interest or to conduct a designated activity of state interest who does not obtain a permit pursuant to this ction may be enjoined by the Colorado land use commission or the appro-iate local government from engaging in such development or conducting ch activity.

106-7-502. Judicial review. The denial of a permit by a local government ency shall be subject to judicial review in the district court for the judicial strict in which the major development or activity is to occur.

Section 2. Article 3 of chapter 106, Colorado Revised Statutes 1963, as nended, is amended BY THE ADDITION OF A NEW SECTION to read:

106-3-9. Statewide program for identification of matters of state interest as art of local land use planning. (1) The department of local affairs shall onduct a statewide program encouraging counties and municipalities to pre-ore, as a part of the comprehensive plan provided for in section 106-2-5 nd article 59 of chapter 139, C.R.S. 1963, a complete and detailed identifi-ation and designation of all matters of state interest within each county by une 30, 1976. The general assembly shall appropriate funds for this purpose o the department of local affairs for distribution to participating counties. ach county desiring to participate in the identification and desi nation of natters of state interest program established by this section shall be allocated n equal amount by the department of local affairs from the funds so appro-riated, to be expended by each county separately or through an organized roup of counties or counties and municipalities. The department of local ffairs, in cooperation with applicable state agencies, shall establish reason-able standards relative to the scope, detail, and accuracy of the program and shall insure that all information is comparable for each county. Each county shall, after consultation with the municipality, prepare such identification and designation for territory located within these municipalities which request such preparation and in any municipality which fails to undertake an identifi-cation and designation program. Each county shall, upon request of the municipality, assist the municipality in its identification and designation pro-gram.

(2) The general assembly shall appropriate to the department of local affairs funds to assist counties and municipalities participating in the identifi-cation and designation of matters of state interes rogram, where additional assistance is deemed by the department of local affairs to be necessary. The department of local affairs shall also allocate such funds upon request of any county participating in the identification and designation of matters of state interest program under subsection (1) of this section for implementation of supplemental planning in that county, or to any municipality, based upon priorities established by the department of local affairs and on the need and capabilities of each county and municipality.

Section 3. 106-4-3 (2) (a), Colorado Revised Statutes 1963 (1971 Supp.), is amended to read:

106-4-3. Duties of the commission — temporary emergency power. (2) (a) Whenever in the normal course of its duties as set forth in this article the commission determines that there is in progress or proposed a land development activity which constitutes a danger of irreparable injury, loss, or damage of serious and major proportions to the public health, welfare, or safety, the

commission shall immediately give written notice to the board of county commissioners of each county involved of the pertinent facts and dangers with respect to such activity. If the said board of county commissioners does not remedy the situation within a reasonable time, the commission may request the governor to review such facts and dangers with respect to such activity. If the governor grants such request, such review shall be conducted by the governor at a meeting with the commission and the boards of county commissioners of the counties involved. If, after such review, the governor shall determine that such activity does constitute such a danger, the governor may direct the commission to issue its written cease and desist order to the person in control of such activity. Such order shall require that such person immediately discontinue such activity. If such activity, notwithstanding such order, is continued, the commission may apply to any district court of this state in which such activity is located for a temporary restraining order, preliminary injunction, or permanent injunction, as provided for in the Colorado rules of civil procedure. Any such action shall be given precedence over all other matters pending in such district court. The institution of such action shall confer upon said district court exclusive jurisdiction to determine finally the subject matter thereof.

Section 4. Article 4 of chapter 106, Colorado Revised Statutes 1963, as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

106-4-5. Commission staff to assist counties and municipalities. The commission, within available appropriations, shall assign full-time professional staff members to assist counties and municipalities in the program established under article 7 of this chapter and to monitor progress in the same. No later than February 1, 1975, the commission shall issue its report to the general assembly as to progress being made in such program and shall include in its report those items required by section 106-4-4 (4) (b) and (4) (c).

Section 5. Appropriation. (1) There is hereby appropriated to the department of local affairs, out of any moneys in the state treasury not otherwise appropriated, the sum of two million seventy-five thousand dollars ($2,075,000), or so much thereof as may be necessary, to implement the provisions of section 106-3-9, C.R.S. 1963, which moneys shall become available upon passage of this act and remain available until June 30, 1975, to be allocated as follows: Identification and designation of matters of state interest program — one million five hundred seventy-five thousand dollars ($1,575,000); supplemental planning — five hundred thousand dollars ($500,000).

(2) There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, to the Colorado land use commission, for the fiscal year beginning July 1, 1974, the sum of three hundred thousand dollars ($300,000), or so much thereof as may be necessary, to provide assistance to counties and municipalities pursuant to section 106-4-5, C.R.S. 1963 (10.0 FTE, five of which shall be full-time professional staff pursuant to said section 106-4-5).

Section 6. 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.

Approved: May 17, 1974

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M July 25, 1979

SUBJECT: Appropriation to Department of Public Safety for state participation in the Alaska Avalanche Warning System (Work Order 7292)

TO: Representative Mike Miller

FROM: John B. Chenoweth
Legislative Counsel

After speaking with Bob Janes, I am suggesting that the appropriation requested be increased to $135,000, combining the requests for FY 80 and 81. Assuming the bills pass during the 1980 legislative session, the first $53,000 would be available immediately to meet the state share of costs of implementation in the 1979 - 1980 season, as the program funding estimate indicates, with the remaining $82,000 available for payment as the state's share during the 1980 - 81 season. In subsequent years, this would have the effect of providing a state appropriation the amount of which is known by participants in the program in advance of the winter avalanche season. If, by legislative or executive action, the full amount of the state's share were not provided, other federal or local government participants might be able to compensate.

The fiscal note on this would appear:

FY 80	$ 53,000	)
		) 135,000
FY 81	82,000	)
FY 82 (based on figures provided)		112,000
FY 83 (based on figures provided)		112,000

If this approach does not comply with your wishes, please advise me.

JBC:sl

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

A PROPOSAL

FOR AN

ALASKA AVALANCHE WARNING SYSTEM

PREPARED BY

USDA - FOREST SERVICE, DIVISION OF STATE AND

PRIVATE FORESTRY

5-10-79

Alaska Avalanche Warning System

1. Situation: The combination of the permanent ice and snow fields in the mountain terrains of Alaska with the associated heavy snow fall during the winter creates a potential avalanche danger on a year around basis. Because of these conditions, during the period 1970-78, Alaska has had more fatalities due to snow avalanches than any of the other eleven Western States of the United States. Out of 109 deaths, 29 has occurred in Alaska, or 27% of the total. Colorado is second with 24 fatalities and Washington third with 21. The number of persons caught in a snow avalanche in Alaska and survived are unknown. A good estimate would be over 100 victims since 1970.

In reviewing Art Judson's (Snow Management Specialist from the USDA - Forest Service Mountain Snow and Avalanche Research Center in Fort Collins, Colorado) report on the Alaska Avalanche situation, there are 500+ structure directly exposed to avalanches with the City of Juneau posing the greatest potential for catastrophic avalanching in North America. In addition there are approximately 180 identified avalanche paths crossing public highways and railroads that compose a constant hidden danger to the limited land transportation corridors in the state. The public is forced to use these avalanche prime routes since there are no alternative safe roads to use.

The report also points out there are thousands of avalanche paths, both in developed and non developed recreation areas, with significant potential for avalanche fatalities to skiers, snowmobilers, mountain climbers and hikers on a year round basis.

With a young outdoor minded population in the State, a prolonged winter condition, and the nucleus of the population living within minutes of the mountains, they are constantly using the snow covered mountain terrain for recreation activities with little or no knowledge of how the unseen changing snow pack structure and what can cause an avalanche could turn a pleasant outdoor outing into a catastrophic phenomenon within seconds.

Alaskans with a desire of rural type of living along with a desire to obtain a vast view of the country side are pushing higher into the apline reaches of the mountains seeking a place of residency. A high number of these persons are not aware or concerned of the lurking snow avalanche danger that may exist high above them when selecting and constructing their home. Their interest lies mainly in the unobstructive view they are seeking. This creates not only an avalanche hazard situation to the owners but a demand for public access thus creating more risk exposure in high ~~prime~~ avalanche country to ~~risk~~ the public and work maintenance crews.

2. Need: Three geogrpahic areas have been identified in Alaska that have a high snow avalanche danger associated with a high concentration of outdoor users. They are the Chugach-Kenai-Talkeetna Mountains, Mt. McKinley and the Coastal Range of Southeastern Alaska in the vicinity of Juneau and Sitka. A fourth potential area has been identified in the Haines-Skagway area. There are numerous smaller isolated areas where human activity is relative small.

In the Chugach-Kenai-Talkeetna Mountains the outdoor visits are increasing tremendously between population growth and more people seeking the outdoor experience with no awareness of the snow hazard situation involved in mountainous terrain. Housing is expanding into the avalanche zones of Eagle River Drainage, Indian Creek and Rainbow Creek and in other areas of the State which is lacking both municipalities and Statewide avalanche zoning regulations.

In the Juneau area, Behrends Ave. and the immediate vicinity poses the greatest risk in North America for a catastrophic avalanche to happen. Thirty-three homes, a motel, a high school auditorium and 453 boats located in the harbor along with the numerous cars passing by the area are exposed to a 3,000 foot vertical avalanche path that has a record of causing severe damage to the home in the area. This condition also exist in several other areas around Juneau which effects five other homes and several electrical transmission lines and towers.

More people are seeking the winter outdoor experience in Juneau with the opening of Eaglecrest Ski Area in 1975, thus increasing the avalanche risk exposure and the need for a more intense avalanche awareness program.

Whereas on Mt. McKinley, the mountain climbers are knowledgeable on avalanche phenonemon and are aware of the extreme avalanche danger and adverse weather elements found on the mountain. What their lacking is advance notice on predicted weather changes that could change the climb from a pleasant expedition to a ~~holocaast~~ disaster within hours. The proposed establishment of a summer-winter visitor center in the Petersville area on the south side of McKinley National Monument will open up a ·ole new area of avalanche exposure to the public.

The Haines-Skagway area which includes Klondike Gold Rush Historical Park extends into Canada which encompasses both the Providence of British Columbia and Yukon Territory. The Park, because of its historical volume, has and will attract more people to hike over the historical trails during the winter time which are noted for their avalanche hazards. In order to fully provide an avalanche warning service to this area, weather stations will have to be installed in Canada which would involve obtaining an international agreement with the Canadians. Once the AAWS becomes operational, negotations with the Canadian Government will be made to otain their cooperation on the project.

With the few vital avalanche prone transportation corridors in Alaska, there exist a potential for all unaware travelers being caught in a snow slide along with maintenance crews clearing the blockage. The unsuspected closure of the road by the slides can also cause short term economical losses to both the public and business in addition to the high cost of opening up the roads to traffic. Travelers and maintenance crews should be aware of the existing hazards in advance in order to plan accordingly to cope with the situation.

The high avalanche problems in Alaska points to a need in developing a reliable and systematic state wide avalanche warning system along with a well organized public awareness and educational program.

3. Proposal: That an interagency Alaska Avalanche Warning System (AAWS) be established on a state wide basis for the purpose of:

   a. Forecasting snow avalanche conditions through out the State with main emphasis in Southcentral and Southeastern Alaska.

   b. Coordinate a public awareness program on avalanche.

c. Coordinate an annual Alaska Avalanche School.

d. Identify and catalog a comprehensive atlas of avalanche paths and slide occurrences.

e. Assist state and local governments in developing snow avalanche zoning regulations and identificaton of avalanche zones.

f. Providing a historical depository for avalanche snow data collected in Alaska.

With the main thrust of the AAWS being ~~similar~~ winter orinated, the slack summer months can be devoted to providing:

a. Statewide fire weather forecasting

b. Special mountain weather forecasting for Mt. McKinley

c. Flood forecasting in areas covered by the orographic percipitation model

4. Organization: The USDA-Forest Service, the most noted historical government agency in snow management research and applied science is the most logical choice as being the lead agency in operating the AAWS. The AAWS would be under the direction of the ~~S~~ Division of State and Private Forestry who has the responsibility of providing forestry and related technical assistance to State and private land owners.

The AAWS organization structure comprises of three component parts - The Alaska Avalanche Warning System Center, (AAWSC) Primary field stations and supplemental field stations. Their structures and functions are:

AAWSC: The center will be located in Anchorage and housed in the National Weather Service Forecasting Office. It will be staffed with three Forest Service permanent professional employees - a project leader who has administrative and snow management experience, a mountain meterologist specialist who will be in charge of the forecasting and one mountain meterologist specialist assistant.

Their primary duty will be to provide a seven day service on avalanche forecasting during the period October 1 - May 15 and fire weather forecasting along with mountain weather and flood forecasting within the areas covered by the orographic precipitation model during the summer period. Secondary duties will be to assist in training and supervising the field personnel, assist in developing and carrying out an avalanche awareness program, conduct formal training sessions on mountain and fire weather meterology, catalog avalanche paths and record their activity, and provide technical assistance in developing avalanche zone regulations and zoning identification.

Primary Field Stations: Six field stations, have been identified to date which will be staffed with a temporary snow management technician between the period October 1 - May 15. The position could be a Forest Service or a cooperating agency employee who would either be detailed or assigned the primary duty of assisting the AAWSC.

The stations and where they will be housed at are:

Station	Housed at
Juneau	National Weather Service Office
Girdwood	Forest Service Office at Alyeski Ski Resort
Moose Pass	Forest Service Kenai Lake Work Center
McKinley	McKinley National Park Headquarters - McKinley
Valdez	Dept. of Transportation State Highway Office
Chugach State Park	Handled by the Park Rangers in Anchorage

The primary duties of the snow management technician are to provide on the ground weather conditions, snow pack conditions and avalanche activity to the AAWSC; carry out a public awareness program in the area; identify and catalog avalanche paths in their area of responsibility; read and record supplemental weather stations located in the immediate vicinity of their duty station.

Supplemental Field Stations: Twenty five supplemental field stations have been identified to furnish weather data to the AAWSC. Additional ones will be added as the need arises to assist in increasing the accuracy of the forecasting or expand the operation into new areas. There will be weather instrument stations located in an area where either a resident cooperator on a contractual arrangement or an employee from a cooperating agency who is assigned the task as part of his regular assignment can collect and forward the data to the AAWSC. The resident cooperator will also be requested to submit reports on any avalanche activity observed or investigated to the AAWSC.

In selected areas, remote sites will be established in high altitude locations to monitor the snow pack and weather conditions near the avalanche starting zones using the Meteor Burst System of Telemetry for recording and transmitting the data to the AAWSC.

The location of the site and type are:

Regional Area Type	Site	Type
Southcentral	Tazlina Lodge	Resident Cooperator
	Thompson Pass	Cooperating Agency
	Isabelle Pass	Cooperating Agency
	Hatcher Pass	Resident cooperator
	Granview	Cooperating agency
	Alyeska Ski Resort	" "
	Max's Mt. (Alyeska Ski Resort)	Remote site
	Arctic Valley	Resident Cooperator
	Bird Creek	Cooperating Agency
	Turnagain Pass	" "
	Summit Lake	Resident Cooperator
	Six Mile Cr.(Sunrise)	" "
	Chugach State Park	Cooperating Agency
	Cambpell Cr	
	Indian Cr.	
	Ship Cr.	
	Eagle Cr.	
	Rabbit Cr.	
	Eagle River	Remote site

McKinley	Kahiltna Glacier(7000')	Resident cooperator (Summer only)
	Mt. McKinley	Remote site
	McKinley National Park Hdq.	Cooperating agency
Southeastern	Eaglecrest Ski Area	Cooperating agency
	Salmon Cr. Reservoir	Resident cooperator
	Mt. Juneau	Remote site
	Klukwan	Resident cooperator
	White Pass	Resident cooperator
	Sitka	Cooperating agency
	Hyder	Resident cooperator
	Mt. Troy	Remote site

5. AAWS Project Cost

The following is an estimated cost of setting up and operating the AAWS on an annual basis.

a. AAWSC operating cost

1)	Staffing	
	Project leader GS-23	35,000
	Meterologist in charge CS-12	35,000
	Assist. meterologist	28,000
2)	Travel for training and supervison by staff	15,000
3)	Staff office space, office equipment, clerical, data transmission and meterologist support	18,000
4)	Commercial Communications	10,000
	Subtotal	141,000

b. AAWS field station operating cost

1)	Staffing	
	6 Snow Management Tech. GS-9 7/9 @ $12,000	72,000
2)	Project travel for field personnel	10,000
3)	Station Mtc. and Supplies	5,000
4)	Supplemental Station Cost	24,000
5)	Equipment Replacement	15,000
6)	Cooperative agreements on remote site mtc.	3,000
	Subtotal	129,000
	Overhead cost	$42,000
	Total operating cost	$ 312,000

The USDA-Forest Service, Regional Office will provide the administrative support for the AAWS.

The above operating costs are based upon the AAWS being totally financed as a seperate identity without any cooperative support. The overall package can be reduced by the cooperating agencies absorbing part of the cost by intergesting various items into their regular on-going programs such as assigning certain individuals additional duties to perform a required task. Example - a state highway empoloyee be assigned the duty of reading the supplemental weather station at Thompson Pass.

The National Weather Service has stated they will furnish the office space, office equipment, clerical staff, data transmission of the forecasting and meterological support for the AAWSC.

c. Capital Investment
The following is a breakdown of the estimated capital investment cost needed to make the AAWS fully operable

1.	Weather instruments for the supplemental field stations	25,000
2.	UHFM radio for field personnel	5,000
3.	Remote instruments and installation cost 5@ 15,000	75,000
4.	Orographic Precipitation models * for Southcentral, Mt. McKinley and Southeaster	100,000
5.	Overhead cost	28,000
	Total	$233,000

* A computor program designed for Hydrometeorological use to determine the ability to diagnose the effect of topography on winter ~~written~~ precipitation over various time periods for differing wind regimes, employing upper air data and a fine-mesh topographic grid. Attached in the appendix is a summary report on the orographic precipitation model.

6. Action Plan

Phase I - Fiscal year 1979 & 1980

FY 79
a. Install remote weather instrumentation on Max's Mt.

b. Contract orographic precipitation model for Southcentral and Southeastern.

FY 80
a. Hire one meterologist GS-11/12

b. Activate primary stations at Girdwood, Juneau and Chugach State Park.

c. Activate supplemental stations at: Thompson Pass, Isabelle Pass, Bird Cr, Turnagain Pass, 6 Mile Cr, Grandview, Tazlina Lodge, Summit Lake, Hatcher Pass, Chugach State Park, Alyeska Ski Resort, Eaglecrest Ski Area, Salmon Cr. Reservoir.

d. Project leader duties will be carried out by present USDA-FS, Division of State and Private Forestry Staff.

Phase II - Fiscal Year 1981

a. Hire project leader GS-12

b. Hire one Meterologist GS-11/12 *

c. Activate Primary Station at McKinley National Park

d. Activate supplemental Stations at Arctic Valley Ski Area, Kluckwan, White Pass, Kahiltna Glacier, McKinley National Park Hdq.

e. Contract Orographic Precipitation Model for Mt. McKinley.

f. Install remote weather instrumentation on Mt. Juneau.

Phase III Fiscal year 1982

a. Activate primary station at Moose Pass and Valdez.

b. Activate supplemental stations at Sitka and Hyder.

c. Install remote weather instrumentations on Mt. McKinley, Mt. Troy near Juneau, and one other site to be selected in Southcentral area.

Phase IV - Fiscal year 1983 and on - AAWS in full operation.

a. Activate supplemental stations as needed.

* Will be hired during third quarter of FY 80 if BLM enters into a cooperative agreement with AAWS to perform fire weather forecasting.

7. FINANCIAL PLAN:

Suggested financial plan by agencies based upon beneficial Cooperators.

AGENCY	By Fiscal Year in "M" Dollars 79	80	81	82	83
USDA - FS	50	90	115	115	100
RMF	25	-	10	-	-
SCS	9	1	2	2	2
USDC - WS	3	10	25	35	30
USDI - BLM**	-	25 **	25 **	25 **	25 **
NPS	-	-	20	25	20
USDOT -AR	-	5	6	11	10
State of Ak.	-	53	82	112	112
DNR SP (25%)	-	-	-	-	-
CS (10%)	-	-	-	-	-
FL&W (10%)	-	-	-	-	-
DOT (50%)	-	-	-	-	-
DPS (5%)	-	-	-	-	-
BOROUGHS - Juneau	-	2	6	6	6
Anchorage	-	-	-	10	7
Private - Alyeska Ski Resort	2	1	1	1	1
TOTAL	89	187	297	342	312

** For Fire Weather forecasting only. Cost estimated at $25,000 per year which is based upon the meterologist salaries for 4 months.

Appendix

1. Memorandum from John A. Sandor, Regional Forester to David E. Herrick, Director, Rocky Mountain Station dated 2-1-79.

2. Letter from J.E. DiFalco, Chief, Operations Division, National Weather Service - Anchorage to Bob Janes, Deputy Director State and Private Forestry dated 3-14-79.

3. Alaska Avalanche Report by Art Judson, Researcher, USDA-FS Mountain Snow and Avalanche Project, Fort Collins, Colorado dated 3-20-79.

4. Orographic Precipitation Model for hydrometeorology use by J. Owen Rhea, excerpts from Atmospheric Science Paper No. 287, March 1978.

5. U.S. Ski Association - Alaska Division. Resolution supporting AAWS, adopted May 12, 1979.

6. Anchorage Times newsclipping of 5-12-79 re a Mount Hunter Avalanche fatality.

National Oceanic and Atmospheric Administration
NATIONAL WEATHER SERVICE - ALASKA REGION
701 C Street, Box 23, Anchorage, AK 99513

March 14, 1979

OA/WFA11/ALC:1
(1304-55)

Mr. Robert C. Janes
Deputy Director
State and Private Forestry
U. S. Department of Agriculture
Box 1628
Juneau, Alaska 99801

Dear Mr. Janes:

We agree with the proposal that a Statewide Avalanche Warning System (SAWS) should be developed and implemented. Statistics indicate that use of State and Federal land will steadily increase.

It is logical that the Avalanche Warning Center (AWC) be colocated with WSFO Anchorage. We assume that one of the people manning the AWC would also be designated as the SAWS coordinator. This is necessary for two reasons: (1) Considerable time and talent will be needed to coordinate, implement, and maintain the system, and (2) the coordination function will enable management to justify a grade of at least GS-12 at the AWC. At any lower grade we would get very few applicants for the job, most would be young and relatively inexperienced -- not only in avalanche work but in meteorology as well, and finally they wouldn't stay around long enough to acquire the expertise needed to do a good job.

The coodinator will have to work with federal, state, municipal, and private groups. He/she should have a strong physical science background. He/she should be able to communicate well from middle management levels to recreation groups. He/she will have a supervisory function and should be knowledgeable about communications and instrumentation. It's been our experience that we can get fairly good talent and some longevity at the GS-12 level, and good to excellent talent and good longevity at the GS-13 level.

As to the financial plan, we cannot at this time provide any support other than to provide space, office equipment, and secretarial support. If there is general agreement to go ahead, and if additional resources are required, we'll have to request funds through the normal budget process, or develop a reimbursable from the Forest Service to the NWS.

Sincerly yours,

James E. DiFalco
Chief, Operations Division

cc: OA/WJ
WSFO Anchorage

REPLY TO: 3210 Cooperative Programs
2300 Recreation

FEB 1 1979

SUBJECT: Snow Avalanche Assistance

TO: David E. Herrick
Director, Rocky Mountain Station

We appreciate Dr. Pete Martinelli and Art Judson's recent assistance trip in helping to conduct the Alaska Avalanche School in Anchorage, January 12-14, 1979.

The attendance of 250 participants, and many more being turned away because of size limitations, testifies to the interest and importance of the subject in this State. The school was a good example of effective interagency cooperation, and I am pleased we could play a rather lead role.

Following the session, Pete and Art stopped by Juneau for a day and I was able to have a brief chat with them. Their number one recommendation, regarding Alaska's needs, was to develop and implement a Statewide Avalanche Warning System at the earliest possible time. I intend to followup on this with the Alaska Land Managers Cooperative Task Force, a group of Federal-State and private entities that may be able to get such a project underway.

Another of their recommendations pertained to Juneau's extreme avalanche problems. Here, there is a need to strengthen and improve the local warning system. In this respect, and because of Art Judson's previous work on Colorado's system that could be applicable, we hope to further utilize his expertise. Our goal would be to get a local system developed and operable by next winter.

Because of the interagency coordination that could be involved in the overall effort, I am asking Bob Janes, Deputy Director of our Division of State and Private Forestry, to serve as our liaison. Bob also has personal qualifications and interest that should be useful. If agreeable with you, Bob will set up and maintain direct contact with Dr. Martinelli regarding further plans.

JOHN A. SANDOR

JOHN A. SANDOR
Regional Forester

cc: Marv Meier, Dr. Martinelli
Ray Clark, Art Judson

RJ:ds

S&PF

RSW

1/30

FOREST SERVICE
ROCKY MOUNTAIN FOREST AND RANGE EXPERIMENT STATION
240 West Prospect Street
Fort Collins, Colorado 80526

March 20, 1979

Robert C. Janes
Deputy Director
State & Private Forestry, R-10
Juneau, Alaska

RE: Alaskan Avalanche Report

Dear Bob:

Alaska's widespread and varied avalanche problems are summarized in Tables 1-4. Approximately 500 structures are directly exposed to avalanches, not to mention the ones I did not see on my last two trips. The Juneau area avalanches alone, pose the greatest potential for catastrophic avalanching in North America. Strong positive action is needed to alleviate this problem in Alaska. The fatality count from 1970 to date ranks first in the nation with 29 deaths. Eighty percent of these were mountain climbers but the records are much too short to indicate any definitive trend. The number of people exposed to avalanches along highways, in permanent structures, and at recreation areas justifies a warning program now. The Forest Service should:

--1. Establish a statewide avalanche warning service.

--2. Obtain orographic precipitation models for two sections of Alaska.

--3. Publish a comprehensive atlas of avalanches along Alaskan highways, recreation areas, and railroads.

--4. Continue annual avalanche schools.

--5. Institute public awareness programs.

--6. Initiate a vigorous research program to provide instrumentation needed for effective operation of the warning network.

--7. Start zoning avalanche areas on a contractual basis.

Development in the Eagle River drainages is rapidly increasing avalanche encounter probabilities there. Avalanche zoning is needed at that site now. This requires highly specialized personnel. The RM Station has the necessary contacts for such work, and we

would be pleased to recommend qualified personnel for this work.

The Division of State and Private Forestry is best suited to coordinate the entire avalanche program in Alaska, because of the numerous interactions with Federal, state and private landowners affected. We support your efforts, and will be glad to help in any way possible.

Central warning systems have proven effective in Colorado, Washington, and Oregon. The mechanics of running such systems have been solved over the past 10 years by the Forest Service with good results. Existing programs in Colorado and Washington have wide public acceptance, and afford unusual opportunities for Federal, state and local governments to give the general public immediate returns for their tax dollars. The primary thrust is to save lives. Because these programs have been successful, I strongly recommend immediate action. It takes years to establish a complete program, but you will find it a gratifying and worthwhile venture.

Precedence

Authorization for an avalanche warning program is covered in the March 4, 1974 Memorandum of Understanding signed by the Chief of the Forest Service and the Director of the National Weather Service (NWS), enclosed. Specific application is authorized by local memorandums of understanding between the Forest Service (FS) and Weather Service Forecast Offices (WSFO's). The memorandum for Colorado is enclosed. Operations are detailed in the NWS Operations Manual Letter 1-75, also enclosed.

Some minor changes for your proposal of 1/25/79

Primary Station No. 4, Chugach State Park, could be more stratigically located at Moose Pass. Proposed additional supplemental stations include: Chugach State Park sites to be selected, DOT maintenance stations at Thompson Pass and Isabelle Pass, Grandview (railroad stop), Tsaina Lodge near Thompson Pass, Klukwan, Sitka, White Pass, Hyder and Salmon Creek Reservoir. Other supplemental stations are needed,but these can be gradually brought on stream when the warning system becomes operational. Both Meteor Burst Telemetry Systems - NWS and SCS should be incorporated in the data acquisition scheme. A standard "Westwide" wind system could be located at Arctic Valley, preferably at the Army Radar Site. Thorough and complete records on weather, snow, and avalanches will be essential. Alaskan avalanche records are nearly non-existent at the moment. This was the weak point of the early studies conducted by the Bureau of Public Roads near Girdwood in the 1950's. I have studied their data in detail and am sorry to say that the avalanche data are sadly lacking in documentation.

Research needs

The number one research priority relative to the warning system is to develop a heated, non-moving part anemometer. I am working with the Chief of NOAA's Laboratory Support Branch on this problem. A prototype model has been developed, but needs additional work, and a full winter of testing at a manned severe weather site--possibly Mt. Washington, N.H. Our project has already committed $10,000 toward this program and more will be needed. With luck we may have a working unit available for use in R-10 by 1981. Standard systems and heavy reliance on upper air data will be necessary for the present.

FM - CW Unit

We are working with the National Bureau of Standards Electromagnetics Division to develop a snow and water equivalent monitor which has great potential for measuring snow accumulation rates, loading rates, and avalanche occurrence in remote starting zones. The system uses frequency modulated continuous waves which penetrate the snow cover from an emitter buried in the ground. Present results show a one on one correlation with snow depth and water equivalent for snowpacks in the central Colorado mountains. Further testing is underway in deep snowpacks on the west coast. If we are lucky, the system will provide a major breakthrough in avalanche forecasting and warnings. I can foresee employment of several of these units in the starting zone areas of Behrends Avenue avalanche and at other critical locations.

Other Research

The Station's Mountain Snow and Avalanche Project has numerous studies underway which include quantitative measurements on blowing snow, acoustic emissions from stressed snow, avalanche dynamics, numerical models for simulating avalanche danger, wind flow in mountain terrain, passive seismic monitoring of mountain snowpacks, and analyses of seismic signals associated with avalanche slopes to mention a few. Many additional studies are underway, and all of these are pertinent to avalanche problems in Alaska and elsewhere. I know the Director is very interested in helping you solve some of Alaska's many avalanche problems, and our project knows the avalanche situation in R-10 requires action. We will do everything possible to help make Alaskan winters safer from an avalanche standpoint.

Thank you for inviting us to Alaska for a first-hand look at your avalanche problems. Our recent trips have been extremely interesting, and thanks to your unusual dedication, interest and hospitality; a great deal has been accomplished in record time.

Sincerely,

ARTHUR JUDSON
Mountain Snow & Avalanche Research

Table 1

Developments with homes or other structures in avalanche zones as of March 1979

TECHNICAL STUDY BY A QUALIFIED AVALANCHE DYNAMICS MAN RECOMMENDED AT AREAS OTHER THAN BEHRENDS AVENUE

Location	Number and Type of Structures	Return Interval	Encounter Probability	Severity of problem	Danger Trend
Juneau Area					
Behrends Avenue	33 homes [1]/453 boats	13 years	very high	extreme	constant
	1 motel [2]/ 1 high school auditorium	unknown	high	high	constant
White Subdivision	3 homes	unknown	high	high	constant
[3]/ North of Gold Creek	1 home	unknown	unknown	moderate	constant
Norway Point	1 home	unknown	high	high	constant
Snettisham Project	several power lines	unknown	unknown	unknown	constant
Power Line-Thane Road	3 power towers	unknown	unknown	unknown	constant
Anchorage-Seward					
Eagle River	several homes	unknown	high	moderate	increasing
Rainbow Creek	few homes	unknown	high	moderate	constant
Alyeska	1 lodge	unknown	high	high	unknown
	several other structures	unknown	high	high	constant
Indian Creek	few homes	unknown	unknown	low	unknown
Moose Pass Mile 35	unknown, homes	unknown	unknown	unknown	unknown
W. of Cooper Landing	few homes	unknown	unknown	unknown	unknown
Valdez	[4]/ 1 high school	unknown	low	low	constant
	1 home	unknown	high	moderate	constant

[1]/ Estimate of the number of boats occupied is 10 percent.

[2]/ Northwest section most exposed.

[3]/ At entrance to Evergreen bowl toward cemetary.

[4]/ Structural damage to north wall possible, but unlikely--parking lot to East is highly exposed to infrequent avalanches.

Table 2

Avalanches affecting state highways and other roads as of March 1979

Note: Avalanche advisories and/or warnings recommended all areas

Location	No. of Avalanche Paths	No. of Miles	No. of Paths with Frequency ≥ one/yr.	Present Control	Control Intensity	Recommendations
Seward Highway	90	90	~15	artillery	light	intensify control
1/ Thompson Pass	30	47	7	none	---	periodic closure
Juneau Area	15	10	2	artillery	light	intensify control and training
Isabelle Pass	10	4	unknown	none	---	none
Ritchor Pass	several	~10	unknown	none	---	periodic closure
Six Mile Creek	several	>5	unknown	unknown	---	periodic closure
Glenn Highway	several	>100	unknown	none	---	periodic closure
Eagle River	several	unknown	unknown	none	---	none
Chitna	several	~3	unknown	none	---	none
Nenana Canyon	several	1	unknown	none	---	none
Arctic Valley	1	---	0	none	---	none
		Areas Not Visited				
Eyak-Cordova	2	---	unknown	none	---	none
Hyder Area	few	unknown	unknown	none	---	periodic closure
Haynes-Klukwan	few	unknown	unknown	none	---	none
Iliamna Bay to Pile Bay	several	unknown	3	none	unknown	plan spring opening during stable condition
Skagway to White Pass	numerous--severe problem when highway is opened to winter travel in 1979-80.					
Aleutian Islands	several--control not yet warranted.					

1/ Thompson Pass has large destructive avalanches at infrequent intervals in addition to avalanches from 7 frequent paths. At least one of two newly planned bridges circumventing the tunnel at the upper end of Keystone Canyon will be directly exposed to a very large avalanche (4500 feet vertical fall to bridge). ALASKA D.O.T. DESIGN PERSONNEL SHOULD CONTACT A QUALIFIED ENGINEER SPECIALIZING IN AVALANCHE DEFENSE STRUCTURES FOR THIS BRIDGE. PETER SCHAERER, NATIONAL RESEARCH COUNCIL OF CANADA, VANCOUVER, CANADA, OR HANS FRUTIGER, SWISS FEDERAL INSTITUTE FOR SNOW AND AVALANCHE RESEARCH, DAVOS, SWITZERLAND, PREFERRED.

Table 3

Recreational areas with significant potential for avalanche fatalities

Location	Avalanche Paths - No.	Primary Use	No. of Fatalities 1970-1979	Degree of Hazard	Comment
McKinley National Park	thousands	climbing	8	extreme	Constant danger, no viable means of hazard reduction. Mt. McKinley is an international drawing card.
Chugach State Park	thousands	all winter uses	5	very high	Public warnings and avalanche awareness training most effective.
Turnagain Pass	>100	skiing, snowmobiling	4	high	Same as above.
Independence Mine	~100	skiing	0	high	Same as above.
Alyeska	>30	skiing	0	moderate	Excellent control program.
Eaglecrest	numerous small paths	skiing	0	low	Good control program.
Juneau Region	>100	all uses	0	high	Public warnings.
Dyea to Lake Bennett	numerous	skiing	0	high	Warnings and avalanche awareness training most effective.
Sitka-Silver Bay to Blue Lake	numerous	skiing, snowmobiling	0	high	Same as above.
Seward Region	numerous	skiing, climbing	1	high	Same as above.
Thompson Pass	numerous	skiing	0	high	Same as above.
Mt. St. Elias	thousands	climbing	4	extreme	Same as Mt. McKinley

Table 4

Avalanches affecting Alaskan railroads

Location	No. of Paths	Severity of Problem	Present Control	Control Intensity	Recommendation
Spencer to Hunter	11	high	artillery	light	Heavier control, avalanche warnings.
Moraine to Whittier	unknown	low	none	---	Avalanche warnings.
Skagway to White Pass	unknown	very high	none	---	On ground evaluation, avalanche advisories and warnings.

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

OROGRAPHIC PRECIPITATION MODEL FOR HYDROMETEOROLOGICAL USE

by

T. Owen Rhea

Research report sponsored by the

Rocky Mountain Forest and Range Experiment Station
Forest Service
U.S. Department of Agriculture
Under Cooperative Agreements
16-022-CA and 16-567-CA

Department of Atmospheric Science

Colorado State University

Fort Collins, Colorado

March, 1978

Atmospheric Science Paper No. 287

Abstract

Orographic precipitation model for use in hydrometeorological use

Research was performed to determine the ability to diagnose the effect of topography on winter precipitation for western Colorado over various time periods for differing wind regimes, employing upper air data and a fine-mesh topographic grid.

To accomplish the objectives, a simple, physically oriented orographic precipitation model was developed. The model is two-dimensional, steady state, and multi-layer. It follows parcels of layer mid-points through topographically-induced rises and falls in terms and descents. Layer budgets of water substance are calculated by (a) allowing precipitation of a constant fraction of total cloud water (i. e., local condensation plus imported cloud water), (b) carrying the air under downstream where it and additional condensate is partially precipitate, and (c) permitting evaporation of cloud water upon descent and of precipitation falling into unsaturated layers. A key feature of the approach is its representation of precipitation enhancing by upstream barriers (when used with a different terrain grid for each wind direction).

Airflow is constrained to two dimensions and the complications of topographic effects on the flow regime are handled by using a set of gravity-dependent damping factors to limit the vertical displacement of layers. Effects of barrier-scale vertical motion are taken to be those of topography.

The model was tested for western Colorado using 12 winter seasons of twice daily upper air soundings as input. The data were summed

and compared to observed spring and summer runoff from watersheds of varying size. Correlation coefficients between seasonally-summed model watershed precipitation and observed runoff range mainly between 0.75 and 0.94. On a daily basis large discrepancies between model and observation sometimes exist, but model frequency distribution of daily precipitation totals appears realistic.

A 13 year model mean precipitation map was found to agree quite well in mountainous areas with an isohyetal map constructed by ESSA of the U.S. Department of Commerce using precipitation and snow-course data with empirical correlation to topographic features. This model underestimated broad valley precipitation in most cases.

Test quantitative precipitation forecasts (QPF's) were made (and communicated daily to the U. S. Forest Service) from November, 1975, to March, 1976, using wind direction-dependent model pattern maps as objective aids. Isohyets on these pattern maps were subjectively using forecast wind speed, moisture depth, duration, cloud coverage, and cloud temperatures. Skill scores for 24 hour QPF's ranged from 0.56 to 0.67.

The derived method has utility (a) in assessing the average magnitude and the inter-season variation of topographic effects on winter precipitation in western Colorado and (b) as an objective aid for quantitative precipitation forecasting. It has substantial potential utility as input to hydrologic process models for streamflow forecasting. The basic approach should be transferable to other topographically complex areas which are dominated by stratiform precipitation.

John Owens Rhea
Department of Atmospheric Science
Colorado State University
Fort Collins, Colorado 80523
Summer, 1977

using wind direction-dependent pattern maps from the model as objective aids. Isohyets on these pattern maps were calibrated using forecast values of wind speed, moisture depth, duration and areal coverage, and cloud temperature. Skill scores for 24 hour quantitative precipitation amounts ranged from 0.55 to 0.67.

8.2 Conclusions

From this study a number of conclusions can be drawn and these are listed below.

1. It has been demonstrated that it is feasible to assess the average magnitude and the inter-season variation of topographic effects on winter season precipitation in the mountainous section of Colorado using only routinely available upper air information, a fine mesh topographic grid, and a simple orographic precipitation model.

2. Computations of model volume precipitation over various watersheds in the study area show strong positive correlation to observed spring and summer runoff. This has led to the substantial potential for providing input to hydrologic process models for streamflow forecasting, especially for watersheds of greater than 150 square miles. This input could consist of computed areal and temporal distributions of winter precipitation using only routinely available upper air data as soon as it is collected.

3. The employment of model wind-direction dependent pattern maps of precipitation as objective aids to quantitative precipitation forecasting in mountainous areas is quite useful and should be continued.

and compared to observed spring and summer runoff from watersheds of varying size. Correlation coefficients between seasonally-summed model watershed precipitation and observed runoff range mainly between 0.75 and 0.94. On a daily basis large discrepancies between model and observation sometimes exist, but model frequency distribution of daily precipitation totals appears realistic.

A 13 year model mean precipitation map was found to agree quite well in mountainous areas with an isohyetal map constructed by ESSA of the U.S. Department of Commerce using precipitation and snow-course data with empirical correlation to topographic features. The model underestimated broad valley precipitation in most cases.

Test quantitative precipitation forecasts (QPF's) were made (and communicated daily to the U. S. Forest Service) from November, 1975, to March, 1976, using wind direction-dependent model pattern maps as objective aids. Isohyets on these pattern maps were calibrated using forecast wind speed, moisture depth, duration, cloud coverage, and cloud temperature. Skill scores for 24 hour QPF's ranged from 0.26 to 0.67.

The derived method has utility (a) in assessing the average magnitude and the inter-season variation of topographic effects on winter precipitation in western Colorado and (b) as an objective aid for quantitative precipitation forecasting. It has substantial potential utility as input to hydrologic process models for streamflow forecasting. The basic approach should be transferable to other topographically complex areas which are dominated by stratiform precipitation.

Jenn Owen Shen
Department of Atmospheric Science
Colorado State University
Fort Collins, Colorado 80523
Summer, 1977

4. The basic model should be transferable to other mountainous areas which are not dominated by convective precipitation. Parameter re-calibration would be required depending on such things as latitude, altitude, terrain scale-size and micro-physical characteristics of the moist air masses.

5. Historical orographic precipitation computations using real upper air information as model input require correctors for humidity sensor lag if meaningful model results are to be obtained.

8.3 Model Utilization Suggestions

Model patterns of precipitation are sufficiently realistic to suggest several immediately useful applications. Some of these are briefly discussed below.

First of all, the skill scores attained from the 1975-76 winter of test quantitative precipitation forecasting (QPF) are sufficiently high to warrant the construction and use of model pattern maps for QPF also in other topographically complex areas as well as the continued use of the method for Colorado.

A second endeavor which would likely yield useful results would involve the interfacing of this orographic precipitation model to models of hydrologic processes and blowing snow to obtain runoff estimates. Snowcourses and precipitation gauge data for adjusting the model volume watershed precipitation should be incorporated in the method, while then using the adjusted precipitation model output to define the areal relative distribution of precipitation over the watershed. Adaptation of the blowing snow model by Schmidt (1972) for use with interpolated winds aloft

data is recommended as a technique for estimating sublimative water losses from blowing snow in the alpine zone.

The combined usage of the orographic precipitation model and a blowing snow model naturally suggests the incorporation of the resulting output into an avalanche dynamics model currently being developed by the U.S. Forest Service. Related to this, but more empirical in nature would be a climatological study of the model-indicated frequency of conditions conducive to avalanche occurrence utilizing model precipitation and upper air wind information.

Historical upper air information concerning previous record point snowfalls could be input to the model for the construction of maps of "project snowstorms", an exercise which should be useful for structural planning purposes.

The gridded arrays of model output for each wind direction would be immediately useful for identifying widely separated points having a high degree of correlation between their precipitation values over a wide range of wind directions. Such information could be utilized for selection of precipitation measurement sites for use as weather modification target and control areas. The technique could also be employed to strategically locate gauges in a hydrometeorological network to maximize the information gained from a minimum number of gauges.

With adequate spatial and temporal resolution of upper air soundings, model output would be a quite useful data set for direct use as a covariate (equivalent to a control area precipitation station) for reducing the unexplained variance in weather modification target area precipitation and thus minimizing the required duration of the experiment for obtaining meaningful results.

Finally, the rather dramatic visual and quantitative depiction of terrain shadowing effects in model output suggests that qualitative insight into the possible downwind effects of weather modification might be gained from a series of model sensitivity tests employing spatially variable precipitation efficiency values.

While results from this simple approach to the orographic precipitation problem are encouraging and point to its immediate utility for certain purposes, limitations inherent in both the model simplicity and in the input data should be kept in mind. Based on this study and those of several other investigators referenced herein, accuracy limits even with adequate input data for computing precipitation over periods of 6 hours or less should be near a value of 0.7 for the correlation coefficient between model and measurement. Summation of these short period computations over 24-hour periods might attain a correlation coefficient of approximately 0.8. Seasonal summations can be expected to attain peak correlation of near or just slightly above 0.9.

Accuracy beyond that stated above will likely require (1) consideration of three-dimensional effects on airflow, (2) markedly improved knowledge of precipitation efficiency, (3) improved parameterization of meso-scale banded precipitation phenomena, and (4) better temporal and spatial resolution of upper air moisture profiles.

8.4 Recommendations for Further Research

Continued pursuit of the problem of seasonal orographic precipitation estimation is recommended along the lines discussed in this study. In particular the implications from Section 7.4.3 suggest an attempt to quantify effects from (a) terrain funneling, (b) ridges aligned with the wind, or (c) isolated peaks might be profitable. Objective precipitation

corrections for these effects might logically be sought by comparing the fields of either horizontal perturbation velocity or vertical motion obtained from a three-dimensional flow model to those from the current computation scheme.

The regression relationships obtained between total precipitation and observed runoff should be tested for stability for several subsequent years. In particular tests should be made using data from any available extremely dry or wet years.

Also, it would be instructive to test the approach for other areas including topographically complex coastal locations by application again.

Much more effort should be expended to understand the nature of and quantify precipitation efficiency.

An attempt should be made to fine tune the model to even finer resolution topography. This should include testing the model topographic grids with resolutions of one kilometer and 2.5 km. The trajectory subroutine of the model should be retained for this research. Empirical fine-grain solutions could then be sought by developing correction factors for current model output by comparing model and actual station elevations and precipitation. These correction factors might then be useful over a limited area to estimate precipitation on the sub-grid scale.

Finally, the model should be coupled with an appropriate water balance box model such that the moisture budget over the box volume quantity precipitation minus evaporation rate and orographic model is utilized to locally deliberate the precipitation. Extensive usage of interpolated upper air temperature, wind, and humidity data should be made in this study not only for model corrections but also

to test the utility of these interrelated data for developing relations to indicate periods of high mountain evaporation through both blowing snow sublimation and from the stationary snow cover. Insight into the areal and temporal distribution of evaporation should be one outcome of this research.

The extreme short period variability of relative humidity profiles observed in this study suggests the need for additional research into the causes for such with end goals of (a) arriving at improved ways of considering the effects of mesoscale banded structures (including convection bands) and (b) a determination of the minimum sampling frequency of upper air moisture fields required to significantly improve precipitation estimates.

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

U. S. SKI ASSOCIATION - ALASKA DIVISION

RESOLUTION

STATE-WIDE AVALANCHE WARNING SERVICE IN ALASKA

WHERE AS:

The U. S. Ski Association-Alaska Division, a non-profit organization for the promotion and development of Alpine and Nordic skiing and comprising of 750 members, is vitally concerned for the safety of both their members and non-members participating in these sports, and

WHERE AS:

Snow avalanche hazards in Alaska have resulted in the highest number of avalanche fatalities in the Nation since 1970, and

WHERE AS:

More than 500 human habitable structures are directly exposed to avalanches in addition to 180 avalanche paths crossing public highways and railroads and thousands of avalanche paths within heavily used developed and undeveloped public recreation areas, and

WHERE AS:

the establishment of a State-wide avalanche network is needed in order to alert our State citizens to changing snow conditions and to inform outdoor use of related avalanche danger, and

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WHERE AS:

the establishment of a State wide avalanche network is needed in order to alert our State citizens to changing snow conditions and to inform outdoor use of related avalanche danger, and

WHERE AS:

such a network could provide important supplemental benefits for flooding and fire weather forecasting, and mountain weather forecasting for mountain climbers, and thus resulting in a year-round life and property saving service to all our citizens.

THEREFORE BE IT RESOLVED:

the U. S. Ski Association - Alaska Division urges the State of Alaska Legislature to provide financing for a cooperative State-wide Avalanche Warning Service in Alaska, and

BE IT FURTHER RESOLVED

that such a service should involve State and Federal Agencies, Municipalities and private enterprises for the purposes of a jointly financed and operated Alaska Avalanche Warning Service.

ADOPTED BY, the U. S. Ski Association - Alaska Division at their annual meeting on 12 May 1979.

_____

SAM HAYES
President - USSA - Alaska Division

Climber Killed By Avalanche In Alaska Range

A Japanese mountain climber was the victim Wednesday of the first climbing fatality of the season in the Alaska Range, but his death was not reported until Friday when his partner reached a landing strip on the southeast fork of the Kahiltna Glacier.

Dead is Masamitsu Urayama, 29.

Yutaka Shinohara, 40, is the partner who survived. He was taken to Providence Hospital and has been released.

Both were members of Shizuoka Climbing Club of Japan.

McKinley Park rangers said today they did not know what city in Japan the men are from.

An avalanche caught the climbers as they were descending the west ridge of Mount Hunter, which is just south of Mount McKinley in Denali National Monument.

The two had just completed a difficult route on the north face of the 14,573-foot peak, said Bob Gerhard, spokesman for the National Park Service.

"This is probably the first fatality ever on Mount Hunter," Gerhard said.

Shinohara was flown to Talkeetna and then to Anchorage Friday for medical attention. He had an apparent knee injury, lacerations and bruises, Gerhard said.

The victim's family, the surviving climber and National Park Service personnel "will have to make the decision on retrieving the victim and then decide whether it will be possible, practical or desirable," Gerhard said.

Park Service personnel are not sure of the exact location of the body, he said.

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

Alyeska RESORT

P.O. BOX 249 GIRDWOOD, ALASKA 99587

January 27, 1980

The Honorable Mike Miller, Chairman
House State Affairs Committee
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Mike:

Bob Janes of the U. S. Forest Service in Juneau recently briefed me on the legislation pending before your committee regarding avalanche forecasting and control program funding. I certainly appreciate your active participation in getting such a program run on a professional basis statewide.

I had planned to testify last Monday via telecon before your committee from the Anchorage legislative office; however, the Seward Highway was closed due to avalanches, and I was unable to get through. As you have probably heard, the Highway was closed from Thursday, January 17 through Wednesday, January 23. Several cars were hit and a train derailed when it could not stop in time to avoid hitting one of the slides.

I have enclosed a letter and picture which I sent Commissioner Ward regarding the avalanches on the Seward Highway last spring. This slide cost the Highway Department over $60,000 to clean up. I am sure the cost of regular control work which would have brought down the snow before it had a chance to build up would have been far less costly.

Alyeska Resort is willing to participate in such a program to help in the scientific evaluation of avalanche hazards in this region. The resort itself has had an extensive control program for many years for the ski slopes and in recent years has spent approximately $75,000 per year to keep the slopes safe for skiers. Because the Department of Highways is not fully funded or prepared to undertake a regular control program, we have loaned them two of our four 105mm rifles.

Naturally, I feel this program is absolutely essential. It would be desirable for funding to be retroactive to this winter season and go through

1981; although, I feel the amount recommended is conservative especially if the program is to be successful on a statewide basis.

Bob Janes and I both agree that the agency of the State that would best be suited to be responsible for the program is the Department of Public Safety.

Mike, I appreciate your getting this going in the House. Although I do not know who will spearhead this program in the Senate, I have sent a copy of this letter to Senator Colletta who represents this district. He has been very helpful in getting a control program going and is well versed on the subject as it pertains to this area.

If I can be of further help, please let me know. I would be willing to come to Juneau and do whatever necessary to get the funding for this program approved.

Best regards,

Chris von Imhof
Vice President and General Manager

CVI/bbp
Attachments 2

Copy to Senator Mike Colletta
Mr. Bob Janes

GIRDWOOD
BOARD OF SUPERVISORS

P.O. BOX 249
GIRDWOOD, ALASKA 99587

PAT ARSHER
DANA BROCKWAY
HAROLD CASEY
SUVELL FAULKNER
CHRIS VON IMHOF, CHAIRMAN

MUNICIPALITY OF ANCHORAGE
GEORGE M. SULLIVAN, MAYOR

April 13, 1979

Mr. Robert Ward, Commissioner
Department of Transportation and
Public Facilities
Juneau, Alaska 99811

Mr. Robert Dorsey General Manager
Alaska Railroad
Pouch 7-2111
Anchorage, Alaska 99510

Gentlemen:

As a result of the recent major natural (uncontrolled) avalanches over the Seward Highway between March 23 and March 25, the Board of Supervisors felt an inquiry should be made into why it happened and what was done or not done to prevent the occurence.

We solicited reports from three avalanche experts who were directly involved in the follow up avalanche control. The experts are Tom Miller and Jim Hackett, Snow Rangers for the U. S. Forest Service; David Hamre, Avalanche Technician for Alyeska, the third most avalanche prone ski area in the country; and Doug Fessler, Chief Ranger, Chugach State Park. Their findings and recommendations are enclosed.

For decades the tremendous avalanche hazard between Bird and Girdwood has been acknowledged. Various experts over the years such as Norm Wilson of California and Art Judson of the U. S. Forest Service in Colorado, have been consistent in their recommendations that the area be controlled regularly.

Last year several natural avalanches covered the Seward Highway and concern was expressed at that time about safety of the highway given the sporadic control work done by the Department of Transportation. A meeting was held last February, and I felt the outcome would result in a coordinated preventative avalanche control program between the DOT and the Alaska Railroad. Apparently this did not happen.

Speaking as the General Manager of Alyeska Resort, we have been forced to become well-versed in all aspects of avalanche control techniques and consequently I feel qualified to recommend such a program be undertaken in earnest by the DOT and the Railroad before there is loss of life and property.

It is common opinion that it was only a matter of luck that no one was injured or killed in one of these natural releases. I know that three people narrowly escaped death - two from the Department of Highways in Girdwood and a Municipal inspector. It is providential that the highway was closed for construction (Potter South Project); however, the releases occurred within an hour of the road reopening.

Systematic preventative control work would have gotten the snow down as it accumulated before the accumulation was so heavy that the resulting slides covered the highway and railroad tracks. Besides alleviating the danger to life and property, a control program would have saved the considerable cost of clearing the snow off the highway. In addition, the huge climax slides cause heavy damage to the soil and therefore increase the likelihood of mud slides during rainy seasons which are also expensive to clean up.

The DOT does have a few dedicated employees with the basic knowledge of avalanches; however, either because of budget restrictions or other duties or lack of authority, they are not able to monitor the avalanche conditions on the highway consistently enough to provide reliable control. We are also concerned that the DOT does not have the necessary rifles, equipment, blind firing data, or commitment to do helicopter control work or whatever is necessary to keep the slides from reaching the highway.

Should a fatality occur as a result of an avalanche across the highway or railroad tracks, the DOT most certainly would be held responsible. Given the information already compiled on avalanche conditions, under most circumstances, it could not be considered an "Act of God."

We feel the taxpayers would not object to spending extra money to keep the Seward Highway safe for travel in the winter. We hope you will study these reports and are persuaded to budget for a more comprehensive avalanche control program for this coming year.

Speaking again as the General Manager of Alyeska Reosrt, one business that lost an estimated $70,000 over that weekend in March, the Resort stands ready to assist the DOT and the Railroad with manpower and artillery on a contractual basis.

The Board of Supervisors would like to ask the DOT and the Railroad how they intend to handle the avalanche problem on the Seward Highway for the 1979-80 winter season. By copy of this letter we would also like to request our State and Federal representatives to support the DOT with the necessary budgetary authorizations.

Sincerely yours,

Chris von Imhof
Chairman

CVI/bbp

Copy to Governor Jay Hammond
Mr. Mike Colletta, State Senator, District I
Mr. Ray H. Metcalf, State Representative, District II
Ms. Joyce Munson, State Representative, District II
Mr. Ted Stevens, U. S. Senator, Alaska
Mr. Mike Gravel, U. S. Senator, Alaska
Girdwood Board of Supervisors

INTER-OFFICE CORRESPONDENCE

Alaska Airlines

DATE 4/3/79

SUBJECT Avalanche problems on the Seward Highway

TO Chris Von Imhof

FROM David Hamre
Avalanche Technician

In response to your recent request to document the recent avalanche activity on the highway, and provide some recommendations for improving the control program, I have written a summary of weather and avalanche occurence here for the past month, a chronology of events on Bird Hill and other selected areas, a short summary of the methods used in two other transporation corridors, and a list of what I feel to be the most important areas that need attention in the D.O.T. control program. The list of recommendations could include numerous less important suggestions, but I have left these out in order to emphasize the importance of the six suggestions I made.

It is an unfortunate fact of life that problems are not often recognized until a major disaster occurs, hopefully my efforts here will help to persuade a far-sighted individual or group to act now, rather than react later when the effects of the current program become catastrophic, as they surely will.

Every year the amount of traffic on the Seward Highway increases, raising the chances of an accident. As has been the case in every other avalanche-threatened transporation corridor, economics will some day dict te that the avalanche problem here be dealt with on a far more active basis.

In spite of the lack of traffic on March 23rd, I still think we were very lucky that no one was caught in the avalanche activity. Let us both hope we don't have to rely on luck any more.

Alyeska RESORT INC.

4/3/79

WEATHER AND AVALANCHE SUMMARY ON MT. ALYESKA
prior to avalanche cycle of March 20-25 on Seward Highway

Weather - Late January- moderate depth and temperature snowpack
February 2- 5 inches of light new snow followed by 4 hrs of freezing drizzle.
February 3- Temperatures had been running in the high teens for lows and high twenties for highs for all of January making the snowpack somewhat uniform in temperature at 26-28°F. Then on Feb.3 a cold front came in dropping the temperature below 0°F. for several days, moderating to highs in the 4-7°F. and lows below 0°F. till mid-February.
February 4- Strong surface hoar formation above and depth hoar formation below the ice lens caused by the freezing drizzle on Feb. 2. Very steep temperature gradient between snowpack and air would normally form surface hoar, but ice on the surface of the snowpack is prohibiting necessary vapor transfer above, so vapor transfer is occuring just below ice lens.
February 6- Snow below ice lens now looking like begginning T.G., poorly sintered
February 9- T.G./ice lens layer of snowpack has now developed to the point that a notation is made in daily weather and snowpack summary that this layer could produce large avalanches when given a rapid load of new snow.
Mid-February- Highs moderating to mid-teens, lows around 5°F.
Late February- Highs moderating to mid-twentys, lows around 10°F.

There was no precipitation from February 3 to March 3, then four storms followed in March as follows:
March 3- March 6 Storm#1 onto the T.G./ice layer
March 7- March11 Storm#2
March 13- March 17 Storm#3
March 18- March 23 Storm#4

Storm #	1500' elevation snowfall/Water equiv.	2,200' winds	3,000' snowfall/water equiv.
1	23"-2.25"	130[illegible]5m.p.h.	22"-2.68"
2	24"-2.55"	130[illegible]20m.p.h.	23"-3.85"
3	42"-3.64"	240[illegible]5m.p.h.	42"-4.73"
4	62"-6.22"	130[illegible]10m.p.h.	74"-8.85"
Totals	151"-14.66"		161"-20.11"

Avalanche- March 5-Significant avalanching starts at Alyeska with some natural releases and many paths reacting to control work- up to 2' fractures.
March 9- More loading causes slightly larger avalanching with average fracture depth around 2' and one fracture 3' deep. Inspection of the three foot fracture reveals that the snow had run on the T.G. crystals just below the ice lens caused by freezing drizzle.
March 13- Larger fractures appeared with good releases on almost all shots. Many areas of instability were cleaned out and most run-outs were far short of what they would have been had we allowed the snow to stay put for the next storm.
March 15-18 Lucas (D.O.T.) informed that there could be a serious instability on Bird Hill. Fracture size at Alyeska is dropping off in general, indicating that many places have avalanched off the T.G./ ice layer. Occasional large fractures to 5' are still

occuring indicating there is a probability that the unstable T.G./ice layer still exists in large pockets.
March 20-21 Many new snow avalanches but only occasional large releases from control.
March 22- Extreme loading from last storm has brought many remaining T.G./ice pockets to critical levels causing large natural releases in the backcountry, and onto the highway during the past 48 hrs. Several large releases occured on the 22nd on Alyeska, one of these went 2' below the T.G./ice layer into old T.G. 2 feet above ground. Fracture profile from North Face reveals 60" -86" depth with 13.75" of water content.

As early as February 9 we felt that we would see large avalanches on the T.G./ice layer so that when the precipitation arrived we made an attempt to do continuous control work in an effort to bring down the accumulating snow in small quantities. These efforts were reasonably succesful in keeping the size of the avalanches smaller than could have been expected had we allowed the hazard to build.

David Hamre, Avalanche Technician

Alyeska RESORT INC.

CHRONOLOGY OF AVALANCHE EVENTS ON BIRD HILL MARCH 20-28
and other selected areas

March 20 Natural avalanche at SP 15½ closes road all night. Road buried 300'x20'

March 21 Visual fire on SP19 and 20 produce one avalanche that crosses road in the morning burying road 80'x20'. Road crew cleans debris from avalanche of night before and control work, opening road approx. 10 A.M.
4 P.M. Intense storm causes natural release at 106 mile, first time since earthquake of 1964 that this avalanche had reached the road.
7 P.M. Natural release at 93 Mile closes road for night, two other natural releases occur shortly after.

March 22 6 A.M. Road crew goes to work clearing debris from avalanches of night before. Storm abating somewhat. Road open at noon. Blind fire on Whiskey in afternoon produces another avalanche that crosses highway. By evening the storm has let up considerably.

March 23 6 A.M Cloudy weather in early morning, D.O.T. gun crew decides to go to Hatcher Pass for control work.
8 A.M. Rapid clearup followed by warm breeze and sunshine.
1:15 P.M. First large natural release onto highway reported at Alyeska by skiers on hill. This avalanche was probably Bird Hill Left (SP9-12) burying road approx. 2,000'x20'. Triangulation of debris shows that the snow ran 550 yards into the inlet, giving an indication of the velocity involved.
1:17 P.M. Another major release goes well out into the inlet, this one probably Bird Hill Right (SP13 and 14)
1:18 Large natural avalanche hits highway near Whiskey
1:19 Tom Miller blocks traffic at Girdwood end.
1:20 Phone call from Alyeska to Bird catches Doug Fessler who stops traffic in Bird. Quick action in blocking the highway at both ends could well have saved some lives as several more large avalanches occured until approx.
2:30 P.M. Miller and Hamre had immediately suggested an aerial reconnaissance to determine if anyone had been in the avalanches. It is still not clear to them whether this was ever done.
3:00 P.M. Larry Daniels gets approval from Lucas or Morrow, D.O.T., to get a helicopter bombing mission together in an effort to make the road safe for highway crews to go to work clearing debris.
5:00 P.M. Helicopter bombing crew flies out to highway observing for people, cars, etc. before starting bombing mission. Observations show that approx. 40% of the release zones had avalanched naturally, leaving a tremendous amount of snow still to come down. Natural activity had already buried the road in about ten places, with about 1½ miles of debris averaging 10 ft. in depth. Control work is mandatory to insure safe conditions for road clearing operation. Helicopter lands on highway about ½mile beyond Bird Hill where D.O.T. control team has set up for firing. D.O.T. crew fires one round bringing a major avalanche out of SP8 and 9 that covers road approx. 400'x20'. The velocity of the avalanche when it hit the road was about 100 m.p.h. with a throw out of debris to 50 ft. high and a dust cloud to 200 ft. Several mature cottonwoods were seen flying through the air, with the debris coming to within 100 yards of the gun position. Lucas joins bombing team in helicopter while gun crew pulls back to safe position on Bird Point. Helicopter bombing commences at Girdwood end of Bird Ridge, and proceeds west to SP 6. The first mission uses 40 hand charges, placing approx. 32 effectively, and releasing another 4 major avalanches that went into the inlet and 10 that reached the road in addition to some smaller ones that did no reach the road. Aerial recon indicates that many of the chutes on the ridge had not released, particularly on the Girdwood end. Lucas decides to make up remaining explosives and make another pass. The second mission takes off at 6:30 and uses 6 charges, releasing one more

major avalanche and 5 smaller ones that stop just short of the road. Operations are suspended because of darkness.

March 24 6 A.M. Road crews go to work clearing avalanche debris from highway. Approx. 80% of the release zones had run yesterday leaving only a moderate hazard on Bird Ridge. Decision made by Lucas to shoot avalanche paths above Peterson Creek with Alyeska 75mm and use these observations to determine if more helicopter bombing is necessary on Bird Ridge. Bird Ridge has S.E. aspect and Peterson Cr. S.W. No results from test firing. Road crews work all day to clear avalanche debris. Helicopter bombing late in afternoon of ski slopes used by Far North Ski Guides Inc. releases a slab avalanche in Glacier Cr. with an 8 ft. fracture, and another in Winner Cr. with a 12 ft. fracure, both on southerly aspects.

March 25 6 A.M. Road crews again at work clearing debris from highway. By 2 P.M. using 16 pieces of machinery they have cleaned the road up to allow for a normal flow of traffic, and the road is once again opened. At 1 P.M. test firing is done on slopes adjacent to Bird Ridge with several large releases occuring. On the basis of these results Lucas decides to once agin helicopter bomb Bird Ridge in an effort to clean out all the remaining unstable pockets. Helicopter takes off at 3:30 P.M. to place 30 charges on the ridge. 29 charges are placed effectively producing one more large avalanche that crosses the highway, and several that stop just short. Road is closed from 3 P.M. to 6 P.M. for bombing and clearing debris.

By the end of the last Helicopter bombing mission approx. 90% of the hazard area that overhangs the 3.8 miles of highway from the west end of Bird Hill to the railroad crossing in Girdwood had released. The few chutes that did not release could well have been the ones that ran naturally early in the storm. Avalanche debris averaged 10 ft. in depth with a maximum of 40 ft. for a length of 2.2 miles of the 3.8 miles of highway in this section. SP 6 also released onto Bird Flats, bring down several 400 yr. old trees. There was a total of 35 avalanches on Bird Hill and 7 others on Bird Flat.

March 27 An earthquake measuring 2.9 on the Richter scale occured at 8:39 A.M. with an epicenter 12 miles S.E. of Girdwood. Numerous avalanches occured in California Cr. and Virgin Cr., one of which the fracture line was estimated to be two miles in length involving slopes of north, west, and south aspect, indicating that an unstable condition still exists in the snowpack.

March 28 Helicopter bombing for powerline problem areas releases another large avalanche with fracture depth of 6-8 ft.

March 29 Helicopter bombing for Railroad gets no results/

Alyeska RESORT INC.

4/3/79

AVALANCHES ---
MODEL FORECASTING AND CONTROL

Historically speaking, transportation corridors that are threatened by avalanches and show an increase in traffic every year find it economically necessary to establish a comprehensive control program to avoid property damage and loss of life. With the present control program on the Seward Highway, it is just a matter of time before there are severe losses of life and property. The problem is complex because of the interaction between politics and a natural phenomena, but there are several possible solutions that would greatly reduce the chances of an accident happening, and increase the reliability of the transportation corridor. For any solution to work, however, there must be a cooperative venture between the railroad and highway.

There are two transportation corridor control plans that we can look to as models for establishing a comprehensive solution to the problems here. The first and probably foremost is Rogers Pass in central British Columbia. There is no other pass available to transcontinental traffic for 400 miles north or south, so economics have fostered an awareness of the avalanche problem from the start. During construction numerous snowsheds were built in areas that frequently avalanche along both the highway and railroad. Weather data is fed to a main center from several mountaintop remotes and two other manned stations. Forecasting is done by a conventional method; when a storm reaches a critical level so that avalanches are expected on the road or rail, a gun crew is called in to fire on the places that are felt to be a problem. Blind fire data is kept and used when necessary on all shots. Crews are on call 24-hours a day, and shooting is done during the critical periods of instability, with temporary closures of an hour or so for control work to be done. Every attempt is made to control the avalanches while they are small, with the realization that the manpower and money for this is, in the long run, cheaper than large clean-up efforts after major avalanches and loss of the use of the transportation corridor. Natural avalanche occurances onto the highway or railroad is a very rare occurrence, as the intent of any control program is to reduce the odds of a natural avalanche occurring that will cause loss of life or property damage.

Another example of a highway control program is in Little Cottonwood Canyon, Utah. There are two major ski areas at the end of the nine mile road, with an average of 4,000 cars per day crossing underneath the 21 major avalanche paths. One hundred and ten avalanches cross the highway on an average year. As in Rogers Pass, storms are allowed to build up to an unstable condition short of naturally releasing, then the road is closed temporarily for firing from fixed mounts at three different locations. Firing is commonly done from all three mounts simultaneously. The intent again is to release the snow under controlled circumstances, with small enough avalanches to hopefully stop short of the road. Occasionally a large storm will occur with an instability deep in the pack that necessitates closing the road for a longer period of time. Forecasting is done utilizing conventional methods, with two mountaintop weather stations; and control work is done in the ski areas on similar slopes and aspects, providing basic input.

(continued)

Briefly, these are the methods used in two highly regarded transportation corridor control programs. Perhaps an examination of these compared to the Department of Transportation's program here could bring a revision in procedures to reduce the hazard to life and property.

Comparison Chart
Avalanche Control

Description	Rogers Pass	L.C. Canyon	Department of Transportation
Fixed Mounts for Gun Positions	Yes	Yes	Some
Blind Fire Data on all Shots	Yes	Yes	Blind Fire on SOME Shots
Capability to Shoot at Night	Yes	Yes	Onl w/Existing Blind Fire .ata
Instrumentation	Yes	Yes	Fu Is Pending
Qualified Forecaster w/only Responsibility Hwy. Control	Yes	Yes	Not Sole Responsibility
Study of Snow & Snow Pack in Release Zones	Yes	Yes	No
Emergency Rescue Procedures for Crew & Pub.ic	Yes	Yes	Speed of Rescue in Doubt
Closures before Natural Activity	Yes	Yes	Rarely

* * *

Dave Hamre, Avalanche Technician

DH:bjb

Alyeska RESORT INC.

4/3/79

RECOMMENDATIONS FOR D.O.T. AVALANCHE CONTROL PROGRAM

For any meaningful improvements to occur in the avalanche control program there must be a recognition amongst a wide diversity of people that there is a problem that could be solved before there is a serious accident. Had conditions of Friday, March 23rd been slightly later in reaching thier peak, there could have been a school bus full of children under the paths, or a truck with people and cargo, or a train with equipment bound for the north. The results would obviously be far more catastrophic. Following is a list of recommendations:

1. Appropriations specifically earmarked to deal with the avalanche problem on the Seward Highway and Alaska Railroad.

2. Hire a qualified avalanche technician with transportation experience to set up and run a comprehensive control program utilizing the funds hopefully appropriated for this purpose.

3. Fixed mounts installed to have the capability of blind firing all shots at any time of day or in any weather.

4. Instrumentation for weather monitoring at starting zone locations.

5. Rescue plans should be drafted and practiced.

6. Economics demand a unified approach by the D.O.T. and Alaska Railroad in the funding and operation of a control program. Cost of the original installation could be appropriated by the state, with operational costs to be split between the two agencys.

A very rough estimate of the amount of money necessary to set up a comprehensive control program, including the purchase of two howitzers, installation of two gun platforms, signing systems, manpower, and one more weather station would be around $100,000.

To run a comprehensive program with two people to do the forecasting and control plus 600 rounds of artillery per year and two full scale helicopter bombing missions when conditions warranted, will cost approx. $50,000/yr.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF PARKS

JAY S. HAMMOND, GOVERNOR

Terry A. McWilliams, Director

2601 Commercial Drive
Anchorage, Alaska 99501

April 2, 1979

RECEIVED

APR 4

ALYESKA RESORT, INC.

Chris Von Imhof, Chairman
Girdwood Board of Supervisors
P.O. Box 249
Girdwood, Ak 99587

Dear Chris,

Pursuant to your request for recommendations for increasing public safety in Avalanche Zones along the Seward Highway, I offer the following comments:

- A public safety problem does exist along the Bird Hill section of the Seward Hwy and elsewhere due to avalanches. (This is evident in the number of close calls to passerbys, destruction of power lines, guard rails, motor vehicles and railroad tracks, road closures and loss of business revenue. However, only one fatality and 5 injuries are known to have occured since 1952.

- It is not anticipated that this problem will disappear without initiation of a bonafide program of avalanche control in conjunction with snow pit studies and meterological data collection.

- The purpose of an avalanche control program is to trigger small avalanches on a regular basis under controlled situations in order to protect public safety, transportation and business interests.

- It is generally less expensive - and far safer - to deal with an avalanche problem through a comprehensive avalanche control program then to respond to road clean-up as a result of fate.

- DOT's present activity of periodically shooting down avalanches is not an avalanche program in the real sense of the meaning and it would seem that the State is leaving itself open to a significant amount of liability should someone be killed or injured along the Highway as a result of an avalanche in an area that is supposedly "controlled".

Perhaps those agencies delegated with joint management responsibilities for areas identified as being avalanche hazard areas should form a joint Task Force whose responsibility it would be to draw up and implement a comprehensive snow safety plan which would address the how, who, what, when and where of avalanche control, snow pit and meterological data collection, and road closure/rescue contingency plan.

Additionally, it would be wise for the DOT to hire an avalanche "expert" who's full time responsibility would be to implement and coordinate the program. Much of the actual control work could be done on a contractual basis for less than present costs. Public safety would be greatly enhanced and State liability would be greatly reduced. I hope these comments are of some use in helping to solve the problem. The problem is enormous but not out of reach.

Sincerely,

Doug Fesler, Chief Ranger
Chugach State Park

DSF:lmk

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
Chugach National Forest
Pouch 6606
2221 E. Northern Lights Blvd
Anchorage, AK 99502

4 APR 1979

2340

Chris von Imhof
Board of Supervisors
Community of Girdwood
Girdwood, Ak. 99587

The following is an analysis of the Seward Highway Avalanche activity March 23-25, 1979 and recommendations to Department of Transportation, State of Alaska (DOT) pertaining to public safety, the avalanche phenomenon, and control procedures along the Seward Highway.

ANALYSIS

1. March 23, sunny, clear snowplumes observed on Bird Ridge. Approximately 1:00 p.m. Snow Ranger Miller received report from Alyeska Resort's Pro-patrol that two avalanches had just been observed crossing the highway below Bird Ridge.

2. Miller and Alyeska's Avalanche Technician Dave Hamre act to close the highway. (Miller on south end, and Hamre by phone to Park Ranger D. Fesler on north end)

3. Miller finds one barricade and sign already established on south end so proceeded to first avalanche where he finds the Girdwood Trooper.

4. Trooper states that one loader and operator in route to start clearing the slides from south end. Miller pointed out that in his opinion road should be closed to all personnel and area below Bird Road should be vacated immediately - due to the high probability of additional natural released avalanches occurring.

5. The trooper radios D.O.T. personnel and advises of the recommendation. D.O.T. concurred.

6. Several additional avalanches released naturally and ran to and across the road during the next two hours.

7. Hamre - Miller recommended that the Seward Highway between Bird Point and Girdwood be flown to look for any victims or trapped vehicles and that stranded D.O.T. personnel be flown out.

8. Approximately 4:00 p.m. Miller, Hamre, Alyeska Mountain Manager L. Daniels flew by helicopter with explosives ready for bombing operation to location of D.O.T. gun 105 mm truck and crew, and landed 100 yds. North of gun to observe artillery results and discuss bombing operation with D.O.T.

9. D.O.T. fires one 105 round to the ridge crest above and released a large class 4-5 avalanche that crossed the highway a few yds. in front of the gun truck and crew. The slide continued down and spilled into Turnagain Arm.

10. The crew was lucky the avalanche did not propagate back-up the ridge or the crew would have been buried.

11. The helicopter bombing operation produced several additional avalanches across the highway approximated 50 charges were thrown.

12. March 24, Sat., clear, sunny, winds observed from N.W. along Turnagain Arm.

13. D.O.T. begin highway clearing project from north and south ends of avalanche debris with D.O.T. and leased equipment.

14. Miller - Hamre advise D.O.T. that they felt the snowpack conditions were still unstable on Bird Ridge due to deep snow instability. They advised of possible natural avalanche releases south of Girdwood. Miller and Hamre recommended use of U.S.F.S. and Alyeska's 75 mm for test shots at Peterson Creek slide area. D.O.T. concurred and the shots were scheduled for 2:00 p.m.

15. Five rounds were fired with negative results. Miller and Chris von Imhof recommended to move to Kern Creek slide area for more test shots. D.O.T. turned down recommendation.

16. Just prior to the test shooting at Peterson, Snow Ranger Jim Hackett discussed with D.O.T. on the north end of the slides that he felt, due to the deep snow instability that additional hazard still existed on Bird Ridge.

17. March 25, Sunday, clear, sunny.
Miller, Hackett recommend to D.O.T. that the 75 mm be used for more shots on Bird Ridge.

18. Miller - Hackett felt strongly that unstable conditions still existed Bird Ridge and that until all large snowfields had released that the potential of more avalanches reaching and crossing the highway was high. D.O.T. concurred and test shots were fired at 2:00 p.m.

19. Three large avalanches reaching the valley floor resulted from six shots.

20. Miller, Hackett, and Hamre recommended additional helicopter bombing that afternoon.

21. Highway clearing was completed and the road opened to the public at approximately 2-3 p.m.

22. Helicopter bombing was postponed due to railroad activities during late afternoon, exposing them to potential run-out zones.

23. Monday, March 25,1979.
Helicopter bombing performed on Bird Ridge at approximately 2:00 p.m. Several large avalanches occurred.

24. One avalanche deposited five piles of debris on the highway. One pile approximately 50 ft. wide and 20 ft. high, and the other 30 ft. wide, 20 ft. high. Both large enough to bury several vehicles.

Recommendation to D.O.T.

1. Consult experienced individuals and firms in highway and transportation corridor avalanche control and forcasting programs. (Rogers Pass, British Columbia which is considered the leading program in North America dealing with avalanche hazard)

2. Hire an experienced, qualified avalanche technician to constantly monitor snow stability and direct an avalanche control program.

3. Install meteorological instrumentation at necessary locations at ridge top elevations along the Seward Highway. This data received being a major imput for stability evaluations.

4. Set up control program of initiating slides prior to the time when they become critical and natural release in large volumes.

   a. Blind fire from fixed gun positions during and after storms.

   b. Helicopter bomb when weather permits.

5. Document an intensified Snow Safety Plan that outlines the procedures that state personnel shall follow to maximize state employee and public safety during snow avalanche occurrences.

6. Initiate a plan to relocate the highway from the runout zones where possible. Where not possible consider defense mechanisms, snow sheds, etc. Many of these considerations have been outlined by an avalanche study report prepared by the State of Alaska, Department of Highways Planning & Research Section completed in 1963.

7. In conclusion, considering the avalanche potential along the Seward Highway, that we, the State of Alaska, the community of Girdwood, residents of the Kenai Peninsula, and employees of the Alaska Railroad, have been very very lucky in the past. This is especially true during last week's Bird Ridge avalanche activity. In our opinion the avalanche problem along the Seward Highway is complex. Extensive effort, technology, and dollars must be spent in order that the safety of the traveling public is assurred.

Tom S. Miller

TOM S. MILLER
Head Snow Ranger
Chugach National Forest

J.E. Hackett

J.E. HACKETT
Snow Ranger
Chugach National Forest

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Ombudsman
Frank Flavin
State of Alaska
360 "K" Street, Room 246
Anchorage, Alaska 99501
(907) 276-4011

OCT 10 1977

September 30, 1977

Mr. B. B. Allen
Commissioner
Department of Administration
Pouch C
Juneau, Alaska 99811

RE: 77-1586 (Pending)
Preliminary Report

Dear Commissioner Allen:

Please be advised that the above-cited complaint has been investigated by the Office of the Ombudsman. In pursuing information relevant to this complaint, several other problems have come to light prompting us to expand this investigation into a special Ombudsman investigation (pursuant to AS 24.55.120) spanning the last four months.

The original complaint alleged that the changes brought about in the State Employees' Deferred Compensation Program were unsupported by fact or logic, were contrary to legislative intent, and represent a breach of good faith on the part of the State. For clarity, we have separated the issues in the discussion which follows.

Pursuant to AS 24.55.150, the Ombudsman may investigate an administrative act of an agency which the Ombudsman has reason to believe might be:

(1) contrary to law
(2) unreasonable, unfair, oppressive, arbitrary, capricious, an abuse of discretion, or unnecessarily discriminatory, even though in accordance with the law
(3) based on a mistake of fact
(4) based on improper or irrelevant grounds
(5) unsupported by an adequate statement of reasons
(6) performed in an inefficient or discourteous manner
(7) or otherwise erroneous

Because of the complexity of this subject which involves financial investment of public monies, and the fact

that time has been a major factor in this issue, we have not pursued the merits of one deferred compensation investment vehicle versus another. However, we support the contention that the questions raised by the complainant in this matter are significant and do require appropriate review. Our recommendations address this need.

As Mr. Gates indicated in his September 12 letter to my Assistant, Don Fisher, the background of this matter must be examined in order to understand the recent action involving the Deferred Compensation Program. It is our understanding that the deferred compensation fund is viewed by your department as state monies whose management comes under the general authority of AS 35, Public Finance, and is subject therefore to the requirements set forth in that chapter.

Our investigation revealed several major discrepancies in the State's management of the Deferred Compensation Program. These discrepancies centered around the failure of the State to responsibly monitor and supervise the professional actions and attitude of the State consultant, Mr. Robert Irwin of the William Mercer Company. In his capacity as the State's consultant, Mr. Irwin allegedly threatened Hartford associates several times, in front of witness in September, 1976, to use his influence to remove the Hartford Company from the Deferred Compensation Program. The fact that personal problems existed between the Hartford people and the consultant were communicated to then Director of Retirement, Mr. Robert Gates, in a February 16, 1977, luncheon meeting with Mr. Ron Robinson of Hartford at the Juneau Hilton Hotel. Further concern was expressed about Mr. Irwin's conduct in a letter dated May 27, 1977, to Mr. Irwin from Michael E. Greene, Assistant Vice President and Director of Sales for Hartford. You responded to Mr. Greene's letter on June 2, 1977. Both letters are attached as Exhibit 1 to this report.

In his September 12, 1977, letter to Mr. Fisher, Mr. Gates stated that "the Hartford was advised on May 11, 1977, that we were not satisfied with the proposal which had been presented up until that date..." In conversation with Mr. Fisher, Mr. Gates further advised that on the State's authority bid questionnaires were solicited by the consultant, Robert Irwin, and that the bid period was June 15 through July 15, 1977 He also indicated that Mr. Irwin had opened the bids on

behalf of the State on July 15, in his Seattle office. Mr. Irwin's consultant's report was not dated, but Mr. Gates stated it was received by the State on August 15, 1977.

The record of dates as restated above indicates that the bid process was perceived as a necessary procedure in conducting this transaction of public finance. However, at least two items of record were retracted from the Equitable's original bid on August 3, 1977. These changes were agreed upon approximately nineteen days after the bidding period had closed. Exhibit 2 is a copy of a letter dated August 3, 1977, from Paul J. Dolinoy, Pension Consultant with The Equitable, to Mr. Robert F. Irwin. In his letter Mr. Dolinoy states in part, "You expressed concern about the penalty (3%) that would be levied in the event that a unilateral withdrawal of the fund was made by the State of Alaska prior to the end of the guarantee period. Your concerns were communicated to Equitable's home office in New York with the hope that an arrangement could be worked out where there would be "no penalty" after the market value adjustment was determined. We are pleased to inform you that the "penalty" provision of the market value adjustment will be eliminated..."

A second change was made in the Equitable bid on August 3, 1977, in another letter from Paul J. Dolinoy to Robert Irwin. In part it said, "We have re-evaluated the guaranteed expenses for the above group's Deferred Compensation Program and we are pleased to advise you that we were able to decrease our expense formula to .25% from the previously quoted .30%." A copy of this letter is attached as Exhibit 3.

Impact:

Alaska Statute 37.05.230, embellished by the 1959 Attorney General's Opinion No. 27, set the tone and has direct application in the matter at hand. "The purpose of this chapter was not only to protect the State and the public purse from uneconomic contracts let because of failure to request competitive bids and because of possible favoritism, but was also to insure that contractors would be insured a certain amount of "fair play" in dealing with the State government and in competing with one another for State contracts." In allowing a consultant for the State to act exclusively unsupervised and in private in a distant city (Seattle) on a sealed public bid, and with the prior knowledge that his professional perspective had been seriously questioned, has cast a cloud over the entire process. In effect, the bids were not opened in public. The State failed to ensure that an employee of the State was present at the opening

on July 15, 1977 to ensure that AS 37.05.230 and 37.05.240 were adhered to. In addition, major changes to the plan were negotiated by the consultant with his choice of program carriers after the bids were opened. This violates the intent of the bidding process and undermines the spirit of "fair play" which is insured by AS 37.

Findings

I find; that the State failed to follow the bidding requirements as set forth as AS 37.05.250, in that the Retirement and Benefits Division delegated the duties and legal obligations of soliciting and opening bids to Mr. Robert Irwin, an unauthorized individual not in the employment of the State; and that the State authorized Mr. Robert Irwin to open bids in his Seattle office, not in public as prescribed in AS 37.05.230(2); and that through the State's acquiescence, Mr. Irwin negotiated significant changes in the Equitable carrier's original bid after the July 15 closing date in violation of the spirit and intent of AS 37.05.230; and that AS 37.05.240 requiring specific organization of bidding documents was not adhered to.

The statute states: "All bids with the names of the bidders and the amounts of the bids, together with all documents pertaining to the award of a contract, shall be made a part of a file or record and retained by the department . . . and these files or records are open to public inspection at all reasonable times."

It was our finding that no such coordination of bids and documents existed in the State files and were therefore not readily available to the public upon request. It was our understanding that most records pertaining to the bids were in Mr. Irwin's custody.

In view of the secretive manner in which this initial changeover of the Deferred Compensation Program was done and due to the peculiarities of this system, it is recommended that:

1. The State immediately stop further action in pursuing the new contract with Equitable and T. Rowe Price until the following step has been accomplished and the collective decision has been reached by those involved:

2. In light of the reported conflicts of the present consultant cited above, Commissioner of Administration establish a committee of five impartial persons, two of whom would meet with approval of the executive branch and three of whom would meet with the approval of APEA, Local 71, and IBU, whose members comprise in excess of 85% of the total plan participants.

Because of the constraints of time we have not outlined how the above committee should operate; however, we will detail these procedures at a later time. In addition, because of the limited time involved, we have not put forth our concerns about the lack of participant input into the management decisions of this program.

The above recommendations have taken into account the fact that the 1978 open enrollment period is to begin October 1, 1977. We see no reason why the present carrier cannot continue to enroll new participants and make necessary adjustments for current members regardless of the outcome of this matter. On the other hand, if this is perceived as a problem, the review process could be expedited and would merely result in a shortening of the open enrollment period this year.

Since this represents the formal report with recommendations from this office, may we please be advised of the disposition your agency gives to each recommendation in accordance with 21 AAC 05.080.

We will appreciate your careful consideration of these recommendations.

Sincerely,

Frank Flavin

Frank Flavin
Ombudsman

FF/DF/lh
cc: Don Fisher, Ombudsman Assistant
Governor Hammond, State of Alaska

1,100 state workers involved:

Tax shelter faces a challenge

by Howard Weaver

Anchorage

Debate surrounding planned changes in the deferred compensation plan for state employes has many of the 1,100 participants worrying about the tax-exempt status of almost $10 million of their money.

The deferred compensation plan (DCP), through which workers reduce their tax burden by electing to postpone receipt of some wages, has been called to question because the IRS was not notified of a planned change in administration. State officials say there are "absolutely confident" that the contemplated change of investment managers is not a substantive modification and so does not require the IRS okay.

But if they're wrong, the plan—designed as a tax shelter—could become a massive tax liability for most participants. Should the plan be disallowed, participants face the prospect of having their money returned in one lump sum—all of it then taxable at high rates.

"There is no problem and has never been a problem. Everyone (in state government) is very confident there is no problem," said Paul Arnoldt, who as director of the Division of Retirement and Benefits heads the program.

Critics are not that sure. Senior officials of Hartford Insurance Co.—which stands to lose the contract to manage the fund—say the proposed transfer of carriers and investment plans likely are substantive amendments. That would require approval which the IRS says it just won't give, they say.

Meanwhile, the procedure used to award the investment contract is under investigation by the state Ombudsman's Office. Results of his preliminary examination say the manner in which that contract was changed "violates the intent of the bidding

> It's called 'deferred compensation,' and it's turned into what one state official calls 'a game of politics.'

He also said changes made after the selection process closed were "improvements to an already superior product." Had the consultant not accepted them, he said, the state would have received a program less suitable than it ultimately got.

The uncertainty about IRS approval, however, could make moot the question of who manages the investments. In the worst case, tax agents could simply disqualify the plan, mandating return of deferred wages. That would leave participants holding the bag for taxes perhaps greater than they would have paid had they not deferred income. The returned funds would be counted taxable income; they are exempt only while in the DCP system. Since the money would come all in one tax year, participants likely would find themselves in a higher bracket than if they had not deferred income over a period of years.

The plan has proved extremely attractive to many state workers—especially those in the upper range of the salary schedule. Some state employes have deferred more than $2,000 monthly, and total investments run to more than $30,000 for some individuals.

One state employe, at least, has written to Allen raising concerns over the IRS status of the system and asked the state to guarantee he will not suffer by participating in the plan. He said representatives of T. Rowe Price and Equitable were "unable to answer the questions" he raised.

In a recent letter to Allen, the employe said the uncertainty "leaves me totally con-

U.S. Internal Revenue Service approval for its deferred compensation plan.

"Therefore, before I made my decision on what amount of my income, if any, to defer during. . .1978, I am formally requesting that you. . .certify to me that I shall incur no federal or state tax liability on any income so deferred as long as I am enrolled in the State deferred compensation plan.

"In effect, I am asking that you agree to hold me harmless should the Internal Revenue Service eventually decide that as of January 1, 1978, the State of Alaska did not have a valid ruling on the plan," the letter said.

At issue is what the IRS calls a "private taxpayer letter," by which the tax service authorizes tax-exemption plans such as the Alaska DCP. The State obtained approval for its plan in 1974—but, as is often the case with the IRS, there's a catch.

After approving the DCP as passed by the legislature and amended, the IRS cautioned ". . .that if the Plan is amended or modified. . .this ruling may no longer apply."

To compound that threat, the IRS recently issued a bulletin saying it does not intend to issue any new approvals or to approve newly amended plans pending a review of the deferred income, tax shelter schemes. If plans to change carriers for the plan and related changes in it are deemed substantive—therefore requiring IRS approval—the State could find itself without a valid DCP.

But while the state is most unlikely to

officials say they are confident the change in management does not require IRS approval and the DCP will remain a solid tax shelter.

Asst. Atty. Gen. Tom Koester, who is preparing a formal opinion at Arnoldt's request, says he sees "no spectre of adverse tax consequences" for DCP participants.

"I don't believe IRS approval is jeopardized by a change in carriers. We're not changing the terms of the plan document approved by the IRS (in 1974)," he said.

Robert R. Baird, vice president of Hartford, sees it differently. In a recent letter, he wrote, ". . .it is difficult to think of any amendment which is meaningful as far as the operation of the plan is concerned which would not also be considered substantive by the IRS."

Later, Philadelphia lawyer Daniel S. Knight prepared an opinion at Baird's request and came to similar conclusions.

Since the state plan authorized by the IRS specifies that DCP payments will "equal the amount which would have been payable under a variable annuity contract" and the proposed new managers don't offer variable annuities, the plan likely would need amendment, Knight said.

". . .At a bare minimum, the State of Alaska would be most imprudent if it did not call these changes to the attention of the (Internal Revenue) Service," he wrote.

The state hasn't done that, and doesn't intend to, according to Arnoldt. "It's been our feeling right along that we're not changing the plan. There's been no change, so why ask for approval? There is absolutely no need or justification," he said.

The only problem, he says, has come from rumors spread by "self-serving interests"—a clear reference to Hartford agents—who may well lose their status as providers of the DCP service. Arnoldt laid responsibility for the disquiet on "people looking more from their interested perspective than the interest of participants.

say the manner in which that contract was changed "violates the intent of the bidding process and undermines the spirit of 'fair play'. . ."

That change, resulting from a selection process concluded in August, would transfer management of the DCP from Hartford to a team of Equitable Insurance and the T. Rowe Price Co. The contract can be a lucrative one, and the competition, although publicly quiet, has been intense.

Ombudsman Frank Flavin recommended in a Sept. 30 letter to Commissioner of Administration B.B. Allen that the state "immediately stop further action in pursuing the new contract" until a special five-member panel is appointed to reveiw the process.

Flavin's investigation dealt not with the question of IRS approval but the manner in which new management contractors were awarded the DCP account. His letter outlined findings of an Ombudsman investigation:

". . .The State failed to follow the bidding requirements (of state law) in that the Retirement and Benefits Division delegated the duties and legal obligations of soliciting and opening bids to Mr. Robert Irwin, an unauthorized individual not in the employment of the state; and the State authorized Mr. Irwin to open bids in his Seattle office, not in public as prescribed (by law); and through the State's acquiescence Mr. Irwin negotiated significant changes in the Equitable carrier's original bid after the. . .closing date in violation of the spirit and intent of (legal bid procedures); and (laws) requiring specific organization of bidding documents were not adhered to. . ."

Arnoldt said Tuesday the DCP "really defies the bid process," and that Irwin's solicitations were handled in the manner of professional services not subject to competitive bidding by specifications.

"I am totally convinced the people involved with the bid process maintained a professional approach. They acted as honestly and with as good faith as anybody," Arnoldt said. He expressed "utmost faith and confidence" in Irwin, the Seattle-based consultant to the DCP.

In a recent letter to Allen, the employe said the uncertainty "leaves me totally confused as to whether the State has a valid DCP.

But while the state is most unlikely to agree to hold anybody harmless for taxes, looking more from their interested perspective than the interest of participants.

"I think we've gone through the big hump now," he said. "A lot of people with concerns are now satisfied."

A number of others, however, may not be. There has been talk of filing a lawsuit to stop transfer of the management contract until the IRS question is finally determined. A kind of network has emerged among opponents of the change, and word of developments is passed continually along it.

"The former carrier has generated some interest with unsubstantiated claims. We recognized there would be some pressure brought. That's politics, that's the name of the game," Arnoldt said.

'The state failed to follow the bidding requirements,' an Ombudsman's investigation found. 'The state delegated the duties and legal obligations of opening bids to . . . an unauthorized individual not in the employment of the state; and the state authorized (him) to open the bids in his Seattle office, not in public as prescribed (by law) . . .'

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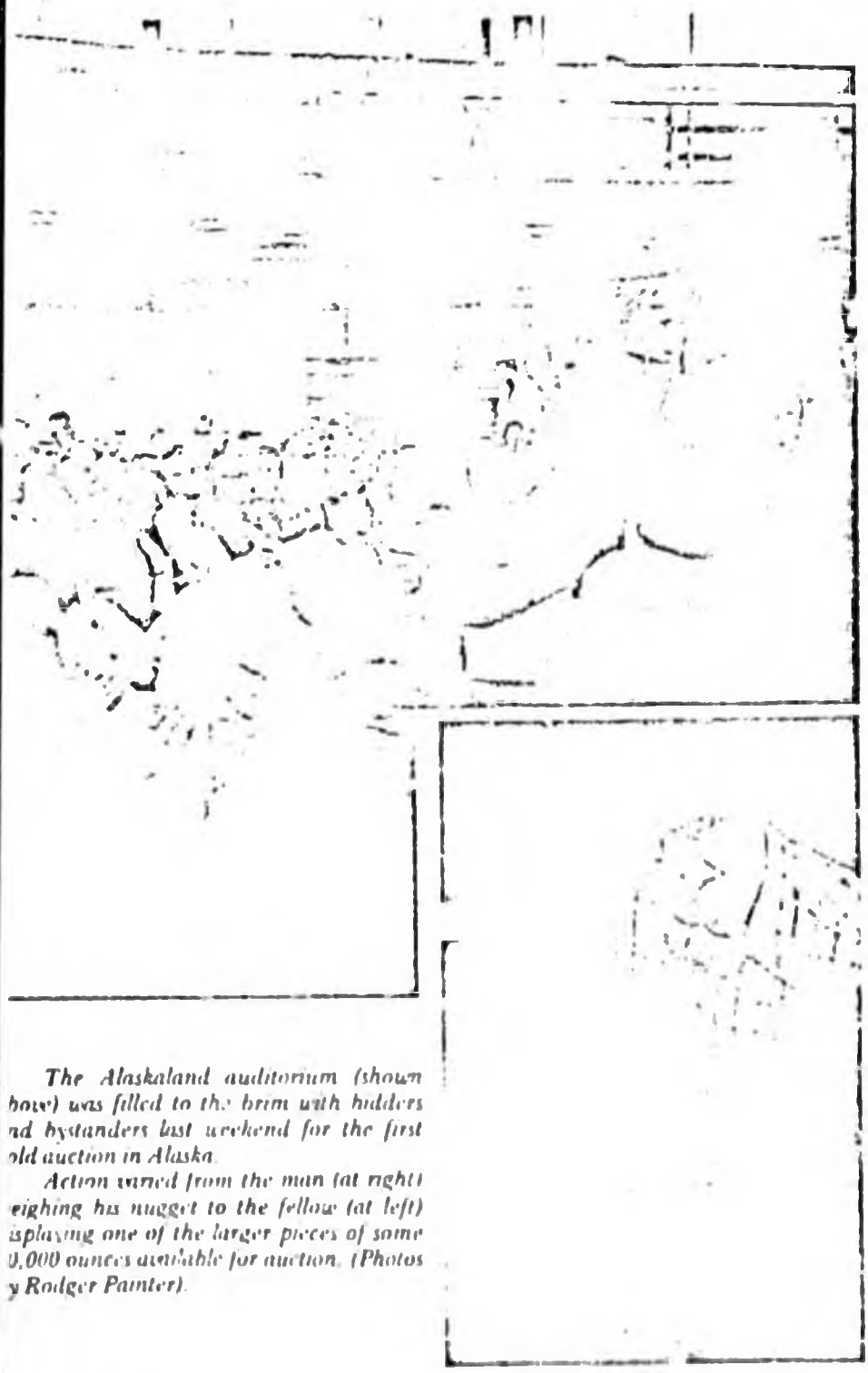

The Alaskaland auditorium (shown here) was filled to the brim with bidders and bystanders last weekend for the first gold auction in Alaska.

Action turned from the man (at right) weighing his nugget to the fellow (at left) displaying one of the larger pieces of some 10,000 ounces available for auction. (Photos by Rodger Painter).

Lawsuit ready in IRS flap

Juneau

A high-ranking Legislative Affairs official says he plans to sue the state over proposed changes in the state's deferred compensation plan for state employes.

Myrt Charney, director of administrative services for the Legislative Affairs Agency, told the *Advocate* he and a few other employes have instructed their lawyers to file a class action suit on behalf of the 1,100 employes participating in the plan.

Under the deferred compensation plan (DCP) workers reduce their tax burden by delaying receipt of a portion of their wages. Since the plan went into effect in October, 1974, almost $10 million has been invested in the fund. The money is returned with interest to participants or their beneficiaries upon retirement, termination, disability or death.

The DCP has come into question recently because the IRS was not notified of a planned change in administrators (*Advocate*, Nov. 10-16). State officials say the decision to change from Hartford Insurance Co. to a team of Equitable Insurance and the T. Rowe Price Co. does not require IRS approval.

But top Hartford officials say the proposed transfer is a substantial amendment requiring IRS approval.

Because state officials are convinced the change is not a major modification and therefore does not require IRS okay, state officials say they do not plan to notify the IRS.

But if it is determined that IRS approval is necessary and it is not given, the plan could be disqualified, mandating return of the wages. Participants then would face the prospect of having their money returned in one lump sum – much of it then taxable at high rates.

Charney said he expects the suit to be filed within the next two weeks. He said it will seek an injunction preventing the state from transfering administration of the plan until an IRS ruling has been issued.

If the IRS approves the transfer, the suit will be dropped, Charney said.

The new carrier currently is scheduled to take over Jan. 1.

Commissioner of Administration Bill Allen said he is confident the change does not require IRS approval. He said the allegations that the change is a substantial modification have come primarily from Hartford.

"Hartford is putting pressure on our office to find fault with our decision," Allen said. "We asked Hartford to consider renegotiating this three times but they didn't come up with the best plan."

According to state officials, the Equitable plan would result in higher guaranteed interest and annuity rates and lower operating expenses. Under the new plan, an employe who invested $5,000 a year for 10 years would be guaranteed a return of $74,203 compared to $63,350 under the Hartford plan, state officials said.

The current deferred compensation plan has proved extremely attractive to many state workers.

—Jean Kizer

uction attracts bids; have a little larceny'

checkbooks walked away with the fattest pokes.

Prices generally were above smelter prices offered to small miners, but below the current world gold market price of $161.15 per ounce.

The audience and promoters were equally given at the auctioning process, which appeared to stifle spirited bidding. Most of the miners offered their inning bidders were allowed to purase as little as one ounce, and the ining gold from that consignment s offered to anyone else interested – the same price.

But, some of the larger nuggets, nging in size up to 62 ounces, attract competitive bidding.

Auctioneer Joe Kasler of Skagway

$900 an ounce, and many of the vials of smaller nuggets went at $220 an ounce or more.

The two-day auction had somewhat of a carnival atmosphere and many came to observe without making a bid.

No official estimate of the total sales was available immediately, but it appeared to be well below the 10,000 ounces scheduled for auctioning.

International Gold Corp. of Santa Ana, Calif., bid $115,000 for the 62-ounce nugget, well below the minimum asking price of $150,000. The nugget was found in the McGrath area by Miner Warren Magnusson in 1950.

The largest nugget sold weighed 18.9 oz. and drew a bid of $15,000.

Miners and sponsors of the auc-

DEFERRED COMPENSATION

November 30, 1977

The Deferred Compensation Plan for the employees of the State of Alaska is designed as a convenient and economical method of increasing their financial independence during retirement years. The primary purpose of this plan is to allow individuals to defer receiving a portion of their current salary and have it accumulate on a pre-tax basis until some future date when they will then be in a position to receive an annuity to supplement other types of income. All regular full-time and permanent part-time State employees who have completed six consecutive months of employment may voluntarily elect to place a portion of their salary into this Internal Revenue Service approved tax sheltered plan. The plan allows the participant to defer receiving a portion of their current salary and postpone payment of both State and Federal income taxes on such deferred amounts plus any interest or investment income until the time those monies are paid out under one of the various provisions.

The plan was established in 1974 following enactment of Ch. 40, SLA 1973 which granted the authority for offering a deferred compensation plan to State employees. The plan is adminstered by the Division of Retirement and Benefits, Department of Administration. From the inception of the program it has been the goal of the Department of Administration to provide an administratively feasible plan which has great flexibility and the best possible guarantees

for the participating employees. The consulting firm of William M. Mercer, Inc. was retained to assist the State in the initial selection of an insurance carrier to handle the plan, and after an extensive review of the proposals submitted it was concluded that the Hartford Variable Annuity Life Insurance Company could best provide what was felt to be the most desirable overall program. The program was implemented in October 1974, and since that time approximately 1,100 eligible employees have enrolled in the plan and are deferring nearly $400,000 a month. The open enrolled period for this program is held during October and November of each year.

The administration and the investment options of the plan are periodically reviewed to insure that the employees of the State are participating in the best overall deferred compensation program at the lowest possible cost. Over the past several years an increasing number of financial institutions have started to offer products to fund deferred compensation plans. In March 1977, the Department of Administration directed its consultant to conduct a market survey to determine the availability of products suitable for funding the deferred compensation plan. The findings of this survey indicated that there were a number of competitive products to the existing State plan being offered. Based on this information the State solicited proposals from various financial in-

stitutions. After a detailed review of the various proposals submitted it was concluded that the current insurance company no longer offered the best overall program and that a change in the funding vehicle for the deferred compensation plan was warranted. The combined proposals submitted by two other financial institutions were deemed to be the most attractive funding vehicles offered from the individual participant's standpoint. The most significant advantage of the new program is that the accumulation of funds based on contractual interest guarantees is substantially greater than the present plan. For example, based on contract guarantees only, a participant who is deferring $5,000 annually in a fixed income account over a 10 year period would have an accumulated account value under the new plan of approximately $13,000 more than the present plan. Another major advantage of the new program is that the annuity rates are substantially greater than those guaranteed by any of the other proposals which were received.

The improvements in the deferred compensation plan will become effective January 1, 1978.

FILE COPY

ALASKA PUBLIC EMPLOYEES ASSOCIATION

State Headquarters: 130 Seward Street, Suite 508, Juneau, Alaska 99801 • Tel: (907) 586-2334

December 1, 1977

Re: Status Report on the Alaska Deferred Compensation Plan

John Pugh, President and
Members of the Executive Committee:

I have been asked by the Executive Director to provide you with an update as to the present status of the dispute over the Alaska Deferred Compensation Plan. As you know, the Deferred Compensation Plan, approved by the Internal Revenue Service, permits state employees to postpone receiving part of their salary and defer payment of both Federal and State income taxes on the amount deferred until time of payout.

Briefly stated the background of this problem is outlined as follows:

1. The State of Alaska adopted a Deferred Compensation Plan on May 31, 1974. Although the State is not required to fund the Plan with an insurance carrier, it has done so and originally selected Hartford Variable Annuity Life Insurance Company ("Hartford") as the funding medium.

2. The only documents submitted to the IRS in connection with the ruling request were the Plan document, a transmittal letter from Mr. Joseph R. Henrie, Commissioner of the Alaska Department of Administration and a letter dated June 4, 1974 submitted by Mr. Robert Gates on behalf of the Department of Administration. Mr. Gates' letter of June 4 was merely a transmittal letter forwarding the Plan document as amended in response to an IRS letter dated May 28, 1974.

3. The State of Alaska decided to change the carrier under the Plan from Hartford to the Equitable Life Assurance Society of America ("Equitable") and T. Rowe Price ("Price"), a no-load mutual fund.

The foregoing has resulted in a dispute that has two primary issues:

1. First, were the bidding procedures followed by the Department of Administration for the change in carriers contrary to legislative intent and/or a breach of good faith on the part of the State?

2. Secondly, does the change in carriers by the State of Alaska render the favorable IRS Ruling of 1974 inapplicable to the State's Deferred Compensation Plan?

Turning to the first issue, this problem was originally raised in a complaint filed with the Office of the Ombudsman. The Ombudsman found, in part, as follows:

> "I find; that the State failed to follow the bidding requirements as set forth as AS 37.05.250, in that the Retirement and Benefits Division delegated the duties and legal obligations of soliciting and opening bids to Mr. Robert Irwin, an unauthorized individual not in the employment of the State; and that the State authorized Mr. Robert Irwin to open bids in his Seattle office, not in public as prescribed in AS 37.05.230(2); and that through the State's acquiescence, Mr. Irwin negotiated significant changes in the Equitable carrier's original bid after the July 15 closing date in violation of the spirit and intent of AS 37.05.230; and that AS 37.05.240 requiring specific organization of bidding documents was not adhered to."

The State's reply has consistently been that changing of carriers for handling of the Deferred Compensation Plan is outside of and not regulated by the Statutes and Administrative Regulation and that Irwin's soliciations to Equitable and Price were handled in the way professional services are handled and were not subject to competitive bidding by specifications.

After conversations with Bob Gates, Deputy Commissioner of Administration, and the Ombudsman's office, it appears that the resolution of this first issue is in limbo; no one is doing anything. Hartford Insurance has not retained attorneys to enjoin the State from proceeding further and the Department of Administration has not even replied in writing to the Ombudsman complaint dated September 30, 1976. (In fact, in a conversation with Paul Arnoldt, Director of Benefits and Retirement on November 28, 1977, he told me the Ombudsman was now fully satisfied.)

A.P.E.A. does have interest in seeing that State Statutes and Regulations are followed; however, we are not a watchdog for all violations by the three branches of government. Our primary concern is "does what the State is doing adversely affect the employees we represent." For this reason the second question is of more immediate concern to our membership.

Moving to the second issue, if the change in carriers were to disqualify the Plan from the coverage of the 1974 IRS Ruling, it would leave participating State employees with the obligation to pay taxes probably greater than they

would have paid had they not deferred income. The returned deferred funds would all come to the employee in one tax year leaving most state employees in a higher tax bracket. This is for the reason that the IRS in 1974 warned the State of Alaska..."that if the Plan is amended or modified...this ruling may no longer apply."

Hartford and their attorneys claim that the change in carriers is an amendment of the Plan which would affect the deferred tax status of the Plan. However, I have talked to Paul Arnoldt, Director of Benefits and Retirement; to Bob Gates, Deputy Commissioner of Administration; and Assistant Attorney General Tom Koester (in a verbal preliminary opinion) and they all believe that IRS approval is not jeopardized by a change in carriers. I also talked to a tax attorney in town who also leans toward the position that the change of carriers standing alone does not jeopardize the IRS Ruling.

For approximately 10 days I have been awaiting an Attorney General's opinion on this change of carriers issue and it will apparently notbe forthcoming. The last information I have is that the Attorney General will now seek an opinion from the IRS on whether the change of carriers affects the deferred status of the Plan. This request of the IRS follows on the heels of a similar request to the IRS by Jay Hogan of Legislative Finance. In conversations with Mr. Hogan he stated to me that he was told by the IRS that he could expect a reply by December 15th. I have serious doubts that such a reply will be given by the IRS prior to January 1, 1978.

Attached for your review is a number of opinions on the deferred compensation issue. Of particular interest is an article in the Alaska Advocate dated November 24-30th stating that Myrt Charney, Director of Administrative Service for Legislative Affairs and other state employees intend to file a class action suit for injunctive relief on behalf of all state employees seeking to prevent the State from transfering administration of the Plan until an IRS Ruling has been issued.

In the next day or two Bart Rozell and myself will seek a meeting with Commissioner Allen. Thereafter, Bart Rozell and I will weigh all information available and present you with our recommended course of action. It may well be that the best course of action is for A.P.E.A. to join in such a suit for injunctive relief if the State will not voluntarily hold up the change of carriers until after the reply from the IRS.

Very truly yours,

Patrick E. Murphy
General Counsel
Alaska Public Employees Association

PEM/bg

Attachments

ALASKA PUBLIC EMPLOYEES ASSOCIATION
State Headquarters: 130 Seward Street, Suite 508, Juneau, Alaska 99801 • Tel: (907) 586-2334

DECEMBER 19, 1977
RELEASE: IMMEDIATELY
CONTACT: MICHAEL WILLIAMS
(907) 586-2334

APEA FILES SUIT AGAINST THE STATE OF ALASKA

JUNEAU, ALASKA -- THE EXECUTIVE DIRECTOR OF THE ALASKA PUBLIC EMPLOYEES ASSOCIATION, RUSSELL D. MOLT, ANNOUNCED TODAY THAT A SUIT FOR INJUNCTIVE RELIEF HAS BEEN FILED IN JUNEAU SUPERIOR COURT BY APEA AND CERTAIN OTHER PARTIES, INCLUDING STAFF MEMBERS OF THE LEGISLATIVE AFFAIRS AGENCY, AGAINST THE STATE OF ALASKA IN REFERENCE TO THE CHANGE OF CARRIERS FOR THE STATE'S DEFERRED COMPENSATION PROGRAM.

"APEA HAS A VITAL INTEREST IN QUESTIONS AND CONTROVERSIES ARISING FROM THE CHANGE OF CARRIERS IN THAT APPROXIMATELY 800 OF THE 1100 PARTICIPATING MEMBERS ARE ALSO MEMBERS OF APEA. CONSIDERING THE NUMBER OF APEA STATE EMPLOYEES DEFERRING PORTIONS OF THEIR INCOME, UNDER THIS PROGRAM, IT SEEMS ONLY REASONABLE TO DO WHATEVER IS NECESSARY TO SET OUT THE FACTS CONCERNING THE DEFERRED COMPENSATION PROGRAM AS IT NOW EXISTS," STATED MOLT.

OUTLINING SOME OF THE MAJOR CONCERNS WHICH RESULTED IN THIS SUIT, MR. MOLT SAID,

- MORE -

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"FIRST, TO THE BEST OF APEA'S KNOWLEDGE, NO DETAILED STATEMENT COMPARING THE DIFFERENCES BETWEEN THE OLD (HARTFORD) AND THE NEW (EQUITABLE) INVESTMENT PROGRAM EXISTS. WITHOUT SUCH A COMPARISON, IT IS DIFFICULT IF NOT IMPOSSIBLE TO SAY WHAT THE PARTICIPATING EMPLOYEES HAVE GAINED....VERSUS WHAT THEY HAVE LOST. "

"SECONDLY, THERE IS SERIOUS QUESTION CONCERNING THE BIDDING PROCESS THE STATE FOLLOWED, AS BROUGHT OUT BY THE STATE'S OMBUDSMAN, FRANK FLAVIN."

"THIRDLY, THE REAL VALUE OF THE STATE'S DEFERRED COMPENSATION PROGRAM HINGES ON A WRITTEN RULING FROM THE U.S. INTERNAL REVENUE SERVICE DATED JULY 25, 1974, WHICH GIVES THE PROGRAM A TAX DEFERRED STATUS. HOWEVER, THE I.R.S. HAS SUSPENDED THE ISSUANCE OF TAX RULINGS ON DEFERRED COMPENSATION PLANS UNTIL FURTHER NOTICE, SO THERE IS NO WAY ONE COULD SAY THAT THE NEW PROGRAM WOULD BE TAX DEFERRED."

"FOURTHLY, THE BUDGET UNDER WHICH THE NEW PROGRAM WOULD BE ADMINISTERED HAD NEITHER BEEN PRESENTED TO THE LEGISLATURE, NOR OBVIOUSLY RECEIVED THEIR APPROVAL. THE NEW PROGRAM ENVISIONS STATE PERSONNEL AND FACILITIES PERFORMING MANY OF THE FUNCTIONS PREVIOUSLY PROVIDED BY THE CARRIER AND THUS REQUIRING A COMMITMENT OF STATE FUNDS."

- MORE -

"LASTLY, THE "PUBLIC FORUM" INVOLVED IN THIS DECISION-MAKING PROCESS CONSISTED APPARENTLY OF OFFICIALS OF THE DEPARTMENT OF ADMINISTRATION, THE STATE'S INSURANCE CONSULTANT, AND A HANDFUL OF PERSONS SELECTED BY THE GOVERNOR'S OFFICE TO REVIEW THE DECISION TO CHANGE CARRIERS/PROGRAMS. HOWEVER, IT APPEARS THAT THE LATTER WERE NOT AWARE THEY WERE "APPROVING" THE PROGRAM CHANGE OR THAT THE DECISION TO CHANGE THE PROGRAM HAD ALREADY BEEN MADE. NO PERSONS REPRESENTING EMPLOYEE ASSOCIATIONS, WITH THE EXCEPTION OF THE CONFIDENTIAL BARGAINING UNIT, NO LEGISLATORS, NO LEGISLATORS STAFF AND NO MEMBER OF THE GENERAL PUBLIC APPEAR TO HAVE BEEN INVOLVED IN ANY WAY DURING THE DECISION MAKING PROCESS."

THE ALASKA PUBLIC EMPLOYEES ASSOCIATION AND THE STATE OF ALASKA HAVE BEEN IN NEGOTIATIONS OVER THE DEFERRED COMPENSATION PROGRAM FOR THE PAST THREE (3) MONTHS, TRYING TO RESOLVE THE DIFFERENCES WITHOUT HAVING TO RESORT TO LITIGATION. HOWEVER, THERE IS NO OTHER RECOURSE LEFT OPEN TO APEA TO PROTECT THE VITAL INTEREST OF THE 1100 PUBLIC EMPLOYEES.

ALASKA PUBLIC EMPLOYEES ASSOCIATION

State Headquarters: 130 Seward Street, Suite 508, Juneau, Alaska 99801 • Tel: (907) 586-2334

DECEMBER 20, 1977
RELEASE: IMMEDIATELY
CONTACT: MICHAEL WILLIAMS

*** BULLETIN ***

JUNEAU, ALASKA -- SINCE THE FILING OF THE SUIT BY THE ALASKA PUBLIC EMPLOYEES ASSOCIATION, IN JUNEAU SUFERIOR COURT THIS MORNING AT 11:00 AM, BOTH THE STATE OF ALASKA AND APEA'S ATTORNEYS HAVE RE-ENTERED INTO NEGOTIATIONS OVER THE DEFERRED COMPENSATION PROGRAM.

"IT IS APEA'S HOPE, AND BELIEF, THAT THE PROBLEMS OVER THE DEFERRED COMPENSATION PROGRAM CAN BE JOINTLY RESOLVED WITHOUT HAVING TO PURSUE FURTHER LITIGATION," STATED RUSSELL D. MOLT, EXECUTIVE DIRECTOR OF THE ALASKA PUBLIC EMPLOYEES ASSOCIATION.

- 30 -

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ALASKA PUBLIC EMPLOYEES ASSOCIATION
State Headquarters: 130 Seward Street, Suite 508, Juneau, Alaska 99801 • Tel: (907) 586-2334

DECEMBER 28, 1977
RELEASE: IMMEDIATELY
CONTACT: MICHAEL WILLIAMS

PRESS RELEASE

AGREEMENT MADE

JUNEAU, ALASKA -- THE EXECUTIVE DIRECTOR OF THE ALASKA PUBLIC EMPLOYEES ASSOCIATION, RUSSELL D. MOLT, ANNOUNCED TODAY THAT AN AGREEMENT HAS BEEN REACHED BETWEEN THE STATE OF ALASKA AND APEA OVER THE CHANGE OF CARRIERS FOR THE STATE'S DEFERRED COMPENSATION PROGRAM.

"AFTER FILING A SUIT DECEMBER 20, 1977, AGAINST THE STATE OF ALASKA, IN JUNEAU SUPERIOR COURT, FOR INJUNCTIVE RELIEF IN THE MATTER OF CHANGE OF CARRIERS IN THE DEFERRED COMPENSATION PROGRAM, ATTORNEYS FOR APEA AND THE STATE OF ALASKA RE-ENTERED INTO NEGOTIATIONS. AS A RESULT OF THOSE NEGOTIATIONS, THE STATE HAS POSTPONED CHANGING CARRIERS FOR THE DEFERRED COMPENSATION PROGRAM FOR AT LEAST ONE YEAR. BOTH PARTIES AGREED THAT THE QUESTION OF THE POSSIBLE LOSS OF THE TAX DEFERRED STATUS OF THE PROGRAM WAS SO VITAL A QUESTION, THAT NO CHANGE COULD TAKE PLACE AT THIS TIME," MOLT STATED.

MOST OF THE CONCERNS WHICH HAD LEAD APEA TO FILE THE SUIT, ON BEHALF OF THE STATE EMPLOYEES, HAVE BEEN RESOLVED. AND AT PRESENT, APEA'S ATTORNEYS ARE LOOKING INTO THE POSSIBLE DISMISSAL OF THE LAW SUIT AGAINST THE STATE OF ALASKA.

- 30 -

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THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

August 18, 1977

Mr. Robert Irwin, CLU
Assistant Vice President
Wm. M. Mercer, Inc.
Norton Building
Seattle, Wash. 98104

Dear Bob:

I would like to express our appreciation for your consultants report on the State of Alaska's Deferred Compensation Plan. Your report has been reviewed with Commissioner Allen and Deputy Commissioner Gates, and we concur with your recommendations regarding the change in carriers for the State's plan.

By way of this letter you are authorized to notify The Hartford effective January 1978 they will no longer be the State's carrier for the Deferred Compensation Plan. You should also advise the Equitable Life Insurance Company and T. Rowe Price that they have been selected as carriers for the fixed and equity portions of the plan respectively.

If you have any questions regarding this direction, please do not hesitate to contact me.

Sincerely,

Paul B. Arnoldt
Deputy Director

PBA/jb
cc: Commissioner Allen
Deputy Commissioner Gates

EXHIBIT E

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT JUNEAU

MYRTON R. CHARNEY, and ALASKA PUBLIC EMPLOYEES ASSOCIATION, an Alaska non-profit corporation, Plaintiffs, vs. STATE OF ALASKA, DEPARTMENT OF ADMINISTRATION; and HARTFORD VARIABLE ANNUITY LIFE INSURANCE COMPANY, a Connecticut corporation, Defendants.	C. A. NO. 77-

MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

The plaintiffs, pursuant to Alaska Civil Rule 65, move the Court for entry of a temporary restraining order and preliminary injunction against the above-named defendants, as follows:

1. That defendant, State of Alaska, Department of Administration, altogether cease and desist from undertaking any further action implementing a change in carriers of the Public Employees' Deferred Compensation Plan from the Hartford Variable Annuity Life Insurance Company to the Equitable Insurance Company and T. Rowe Price New Era Fund, Inc., a no load mutual fund, pendente lite.

2. That the defendant, Hartford Variable Annuity Life Insurance Company, altogether cease and desist from transferring the funds of the Alaska Public Employees' Deferred Compensation Program from themselves to Equitable Insurance Company and T. Rowe Price New Era Fund, Inc., a no load mutual fund, pendente lite.

/ / / / /

ATTORNEY AND COUNSELLOR AT LAW
318 SEWARD STREET
JUNEAU, ALASKA 99801
907-586-3530

3. That the aforementioned directive be binding upon the agents, successors, assigns, servants, employees, consultants, and those in active concert with defendants.

As grounds for this motion, the plaintiff respectfully refers the Court to the Complaint on file herein and plaintiffs' affidavits in support hereof, and the Affidavit of Genie Chance.

DATED this 20 day of December, 1977, at Juneau, Alaska.

MYRTON R. CHARNEY,
Plaintiff,

Gail Roy Fraties
Fraties & Petersen
Anchorage, Alaska
Attorney for Myrton R. Charney

By James F. Petersen
James F. Petersen
Juneau, Alaska

ALASKA PUBLIC EMPLOYEES ASSOCIATION,
an Alaska non-profit corporation

Faulkner, Banfield, Doogan & Holmes,
Attorneys for Alaska Public Employees
Association,

By William B. Rozell
William B. Rozell
For the Firm

JAMES F. PETERSEN
ATTORNEY AND COUNSELLOR AT LAW
318 SEWARD STREET
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907-586-2530

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT JUNEAU

MYRTON R. CHARNEY, and ALASKA PUBLIC EMPLOYEES ASSOCIATION, an Alaska non-profit corporation, Plaintiffs, vs. STATE OF ALASKA, DEPARTMENT OF ADMINISTRATION; and HARTFORD VARIABLE ANNUITY LIFE INSURANCE COMPANY, a Connecticut corporation, Defendants.	C. A. NO. 77-

COMPLAINT

1. Plaintiff, Myrton R. Charney, is an adult resident of the City and Borough of Juneau, Alaska, and is employed by the State of Alaska, Legislative Affairs Agency, as Director of the Division of Administrative Services and a participant in the Public Employees' Deferred Compensation Program, and is bringing this action on behalf of himself and all similarly situated persons who are employees of the State of Alaska and participants in the Public Employees' Deferred Compensation Program.

2. Plaintiff, Alaska Public Employees' Association, is a non-profit corporation, incorporated under the laws of the State of Alaska. There are presently approximately 1,100 participants in the State of Alaska Public Employees' Deferred Compensation Program as authorized by Chapter 45 of Title 39 of the Alaska Statutes (see Exhibit G to this Complaint), and approximately 900 of these are members of plaintiff, Alaska Public Employees' Association.

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ATTORNEY AND COUNSELLOR AT LAW
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3. The defendant, State of Alaska, Department of Administration, is the designated administrator of the Public Employees' Deferred Compensation Program.

4. The Hartford Variable Annuity Life Insurance Company, a Connecticut corporation, is the designated carrier of the Public Employees' Deferred Compensation Program as the same now exists.

5. In 1974 the Department of Administration contracted with Hartford Variable Annuity Life Insurance Company to be the exclusive carrier for the State of Alaska Public Employees' Deferred Compensation Program, and the plan adopted pursuant thereto is attached as Exhibit A to this Complaint.

6. The Public Employees' Deferred Compensation Plan was submitted to the U.S. Internal Revenue Service and received approval through a private letter ruling of July 25, 1974 (see Exhibit B to this Complaint), and this private letter ruling approving the plan also provided that if the plan were modified or amended the ruling may no longer be applicable.

7. On September 7, 1977, the U.S. Internal Revenue Service issued Directive IR(1881) (attached as Exhibit C to this Complaint) which has suspended all rulings dealing with the income tax treatment of deferred compensation plans, such as the State of Alaska Deferred Compensation Plan previously approved.

8. The Department of Administration is presently in the process of changing the carrier from Hartford Variable Annuity Life Insurance Company to Equitable Insurance Company and the T. Rowe Price New Era Fund, Inc., a no load mutual fund, and also has undertaken steps which will modify and

/ / / / /

amend the plan approved by the Internal Revenue Service in July of 1974.

9. This proposed modification and amendments may cause the plaintiffs, Myrton R. Charney, and the members of the Alaska Public Employees' Association who are participants in the State of Alaska Deferred Compensation Program, irreparable harm and injury by jeopardizing the funds which they are counting on for retirement income and may cause them and others serious income tax problems for the reasons outlined and set forth in the affidavit of plaintiff, Myrton R. Charney, and the affidavit of the Executive Director of the plaintiff, Alaska Public Employees' Association.

10. The existing plan (see Exhibit A) which has received the private letter ruling from the Internal Revenue Service (Exhibit B), specifically states in Section 602 that:

> ". . . Deferred Compensation payments and the death benefits (if paid in other than a lump-sum) will be in an amount equal to the amount which would have been payable under a variable annuity contract, had such a contract been purchased from the carrier at the time of the initial participation in the plan and with the annual premium equal to the annual amount of compensation that had been deferred".

Under the proposed new plan (see Exhibit D attached hereto) variable annuity contracts are not included in the products offered by either of the companies and death benefits are likewise not included.

11. The proposed new plan (Exhibit D) may violate state law by investing in mutual funds, and under the provisions of Chapter 45 of Title 39 of the Alaska Statutes mutual funds are not an authorized investment vehicle for deferred compensation programs in the State of Alaska; and further, the plan document (Exhibit A), which was approved

JAMES F. PETERSEN
ATTORNEY AND COUNSELLOR AT LAW
319 SEWARD STREET
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by Internal Revenue Service in July of 1974, particularly states in Section 14: "This agreement shall be construed under the law of the State of Alaska." The language of the statutes themselves (AS 39.45.010 through .050) specifically does not include an investment vehicle of mutual funds and as such the use or the threatened use of that investment vehicle by the Department of Administration may be in violation of said statutes and the legislative intent of those statutes (see the Affidavit of Genie Chance attached hereto as Exhibit H).

12. The defendant, the Department of Administration, by letter dated August 18, 1977, (see Exhibit E attached hereto) authorized their consultant, Robert Irwin, to notify Hartford Variable Annuity Life Insurance Company to transfer all deferred compensation funds to Equitable Life Insurance Company and T. Rowe Price New Era Fund, Inc., on or about January 1, 1978. The consultant, Robert Irwin, did this by letter dated August 19, 1977, (see Exhibit F) and unless the defendants are enjoined the funds of the Public Employees' Deferred Compensation Program deposited with the Hartford Variable Annuity Life Insurance Company will be transferred which, as stated above, may seriously jeopardize and may subject said funds to immediate taxation by the individual participants, as outlined above.

WHEREFORE, plaintiffs demand relief as follows:

1. That the defendant, Hartford Variable Annuity Life Insurance Company be enjoined from transferring the funds which it now holds as the carrier of the Public Employees' Deferred Compensation Program under the Deferred Compensation Plan as approved by the Internal Revenue Service in July of 1974, until the Internal Revenue Service or a court

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JAMES F. PETERSEN
ATTORNEY AND COUNSELLOR AT LAW
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907 586-3330

o. competent jurisdiction approve any change in the Deferred Compensation Plan and a transfer of funds thereto.

2. That the defendant, the State of Alaska, Department of Administration, be enjoined from carrying out its proposed new plan with the Equitable LIfe Insurance Company and T. Rowe Price New Era Fund, Inc., and from further accepting the offer of Equitable Life Insurance Company and T. Rowe Price New Era Fund, Inc., as being the substituted or new carrier of Public Employees' Deferred Compensation funds.

3. That the Court grant such other and further relief as may be necessary and requisite in the premises.

4. That plaintiffs be awarded their costs and attorneys' fees in prosecuting this acti n.

DATED t Juneau, Alaska, this 20th day of December, 1977.

MYRTON R. CHARNEY,
Plaintiff,

Gail Roy Fraties
Fraties & Petersen
Anchorage, Alaska
Attorney for Myrton R. Charney

By James F. Petersen
James F. Petersen,
Juneau, Alaska

ALASKA PUBLIC EMPLOYEES ASSOCIATION,
an Alaska non-profit corporation

Faulkner, Banfield, Doogan & Holmes,
Attorneys for Alaska Public Employees
Association,

By William B. Rozell
William B. Rozell
For the Firm

JAMES F. PETERSEN
ATTORNEY AND COUNSELLOR AT LAW

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT JUNEAU

MYRTON R. CHARNEY, and ALASKA PUBLIC EMPLOYEES ASSOCIATION, an Alaska non-profit corporation,	)	
Plaintiffs,	)	
vs.	)	
STATE OF ALASKA, DEPARTMENT OF ADMINISTRATION; and HARTFORD VARIABLE ANNUITY LIFE INSURANCE COMPANY, a Connecticut corporation,	)	
Defendants.	)	C. A. No. 77-1169

ENTRY OF APPEARANCE

COMES NOW Robertson, Monagle, Eastaugh & Bradley, Box 1211, Juneau, Alaska, 99802, by and through W. G. Ruddy, entering its appearance on behalf of defendant, Hartford Variable Annuity Life Insurance Company, in the above-captioned court and cause.

DATED this 20 day of December, 1977, at Juneau, Alaska.

ROBERTSON, MONAGLE, EASTAUGH & BRADLEY

By _____
W. G. Ruddy
Of Attorneys for Defendant,
Hartford Variable Annuity Life
Insura ce Company

Service and receipt of copy acknowledged this 20th day of Dec 1977.
James D. Peterson/sam
Attorney for

Service and receipt of copy acknowledged this 20th day of December, 19 77
EJ TRW
Attorney for

ROBERTSON, MONAGLE, EASTAUGH & BRADLEY
A PROFESSIONAL CORPORATION
PHONE 586-2340
P.O. BOX 1211, JUNEAU, ALASKA 99802

AFFIDAVIT OF RUSSELL L. MOLT

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

RUSSELL L. MOLT, being first duly sworn, deposes and states as follows:

1. I am the Executive Director of the Alaska Public Employees Association and have brought this action on behalf of the approximately 8,000 members of APEA. Approximately 6,200 of these APEA members are employees of the State of Alaska.

2. I reside at Engineers Cutoff, Juneau, Alaska and my office is located in the Goldstein Building at 130 Seward Street, Juneau, Alaska.

3. Approximately 800 of the approximately 1,100 participants in the State of Alaska Deferred Compensation Program as authorized by Chapter 45 of Title 39 of the Alaska Statutes (A.S. 39.45.010-050) are members of the Alaska Public Employees Association.

4. The Department of Administration is designated administrator of the Deferred Compensation Program.

5. In 1974 the Department of Administration contracted with Hartford Variable Annuity Life Insurance Company to be the exclusive carrier for the State of Alaska Deferred Compensation Program, and the plan adopted pursuant thereto (attached to Complaint as Exhibit A).

6. The Deferred Compensation Plan was submitted to the U. S. Internal Revenue Service and received approval through a private letter ruling of July 25, 1974 (attached to Complaint as Exhibit B), and this private letter ruling approving the plan also provided that if the plan were modified or amended, the ruling may no longer apply.

7. On September 7, 1977, the U. S. Internal Revenue Service issued IR-1381 (attached as Exhibit C to the Complaint)

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JUNEAU, ALASKA 99801

which has suspended all rulings dealing with the income tax treatment of plans such as the State of Alaska Deferred Compensation Plan previously approved.

8. The Department of Administration is presently in the process of changing the carrier from Hartford Variable Annuity Life Insurance Company to Equitable Insurance Company and the T. Rowe Price New Era Fund, Inc., a no load mutual fund.

9. This proposed change will cause the members of the Alaska Public Employees Association who are participants in the State of Alaska Deferred Compensation Program irreparable harm and injury by jeopardizing the funds they are counting on for retirement income, and may further cause them and others serious income tax problems.

10. APEA first became aware that the Department of Administration proposed to make changes in the Deferred Compensation Plan in September of this year; up until that time the Department of Administration had acted on its own without consultation and without informing participants of the plan, their bargaining representatives, the legislature or other interested parties about the proposed changes. Since that time APEA has worked together with representatives of other bargaining units, the Office of the Ombudsman, and representatives of the legislature in attempting to ascertain why the proposed changes were being made, the manner in which the decision was reached to make the proposed changes, the merits of the proposed changes and whether the tax exempt status of the plan would be jeopardized by the proposed changes.

11. On October 4, 1977, at the request of APEA, a meeting was held in the Governor's conference room among representatives of the Department of Administration, the Office of the Attorney General, the State's financial advisor, Mr. Robert Irwin of William M. Mercer, Inc., representatives of Hartford,

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members of the legislature, representatives from Legislative Affairs, the Assistant Ombudsman, representatives from several employee bargaining units and other interested persons to discuss the changes proposed by the Department of Administration in the Deferred Compensation Plan. It became apparent to everyone present at that meeting, including representatives of the Administration, that many serious questions remained unanswered about the proposed changes. Of particular concern was the fact that a detailed comparison of the merits of the proposed new plan with the existing Hartford plan was not available, that no formal bidding procedure had been followed in soliciting proposals for changes in the plan, that no company except T. Rowe Price was ever requested to submit a proposal on the so-called equity side to complement the proposal of Equitable which was limited to participation on the fixed or guaranteed side, and that the State's financial advisor, Mr. Irwin, had never considered or received any legal advice about the possible effects of any change in the plan on the tax exempt status of the State's Deferred Compensation Plan.

12. Since that time APEA has received a continuing flow of concerned inquiries, complaints and demands for action from participants in the plan seeking to protect their investments in the plan. The Executive Committee of APEA, which is the decision making body of APEA and whose members are all State employees, has directed me to file this action.

13. In the more than two months since the date of that meeting APEA has met and corresponded with representatives of the State Administration on numerous occasions in an effort to cooperate with the State in gathering the information necessary in order to determine whether a change in the proposed Deferred Compensation Plan should be made. During that period of time conflicting legal opinions have been obtained about the effect of

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the proposed change in the Deferred Compensation Plan upon the tax status of the plan from law firms representing William M. Mercer, Inc., the State's financial advisor, and Hartford Variable Annuity, the carrier presently managing the State's Deferred Compensation Plan. Both the Legislative Affairs Agency and the Office of the Attorney General have sought advice and information directly from the Internal Revenue Service concerning the effect of the proposed changes on the tax status of the Deferred Compensation Plan. The Internal Revenue Service has expressly declined to issue any opinion that the proposed change will not jeopardize the present tax exempt status of the State's Deferred Compensation Plan.

14. On or about December 12 and 13, 1977, the Deputy Commissioner of Administration, Robert Gates, and Assistant Attorney General Thomas Koester met with representatives of the Internal Revenue Service in Washington, D.C., in an effort to obtain a statement or commitment from IRS that the proposed changes would not jeopardize the tax status of the plan. The IRS expressly refused to make or give any such statement or commitment.

15. Following that meeting the State represented to APEA that it would not implement the proposed changes because it was not willing to jeopardize the tax status of the plan. However, the State has failed and refused to follow through on its stated intentions even though only seven working days remain in 1977 and before the scheduled date for changing the plan.

16. The approximately 1,100 State employees participating in the Deferred Compensation Plan will suffer irreparable harm if a change is made in the plan which jeopardizes its tax exempt status. There is no evidence that employee participants in the Deferred Compensation Plan will achieve any substantial advantage from the proposed changes in the plan and there is a serious

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question whether the proposed changes result in any increased benefits at all to the participants therein. On the other hand, there is a real and substantial risk that by making a change at this time in the carrier for the plan, and the necessary related changes in the plan itself, that the tax exempt status of the plan will be lost and that the employees who have invested sums in the plan will suffer serious adverse tax consequences. There is substantial doubt whether these employees could ever recover their losses in a claim for damages against the State. Accordingly, since there is no risk and no significant loss in benefits by not making a change in carriers at this time, and since a change in carriers and the related changes in the Deferred Compensation Plan could jeopardize the tax status of the entire State's Deferred Compensation Plan, no change in carriers should be made at this time.

Further affiant sayeth not.

Russell D. Molt

Russell D. Molt

SUBSCRIBED AND SWORN to before me this 20 day of December, 1977.

Notary Public for Alaska
My commission expires: 9-13-81

FAULKNER, BANFIELD, DOOGAN & HOLMES
SUITE 201, 311 FRANKLIN ST. PHONE (907) 586-3210
JUNEAU, ALASKA 99801

AFFIDAVIT OF GENIE CHANCE

STATE OF ALASKA)
) ss.
First Judicial District)

Genie Chance, being first duly sworn, deposes and states as follows:

1. I reside at 1101 "H" Street, Anchorage, Alaska 99501.

2. I was in the Alaska State Legislature from January, 1969, to January, 1977, having spent three terms in the House and one term in the Senate.

3. In the fall of 1972 I learned from the Regional Manager of the Brokerage Department in the Northwest Region of Aetna Insurance Company that the Internal Revenue Service had issued private letters of ruling to two government entities to establish tax shelters for government employees. This provided tax shelters by Internal Revenue Service ruling rather than by congressional action.

4. I asked the aforementioned manager to provide me with the necessary language required by the Internal Revenue Service so that I could introduce a bill in the next session of the legislature in Alaska.

5. I also attended a training seminar on the subject so that I would be able to explain it to the other legislators and appropriate persons in the Executive Branch. The course included the history of variable annuities, mutual funds, savings and loan associations, tax shelters and the new development of deferred compensation programs for public employees, the procedures to follow to get a private letter of ruling from the Internal Revenue Service.

6. At that time, I decided that the safest investment vehicles would be fixed and variable life insurance and annuity contract.

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ATTORNEY AND COUNSELLOR AT LAW
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JUNEAU, ALASKA 99801
907-586-2530

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ATTORNEY AND COUNSELLOR AT LAW
318 SEWARD STREET
JUNEAU, ALASKA 99801
907-586-2520

7. When I received the language for the bill I was disturbed by what I thought could be interpreted as "permissive" language rather than restrictive language concerning the investment vehicles. The language read as follows:

> "The administrator of the state or political subdivision deferred compensation program is authorized, subject to contracts with individual employees, to invest the funds held under a deferred compensation program in fixed and variable life insurance and annuity contracts."

I wanted to change the language from "is authorized" to "shall invest" to ensure that only the investment vehicles in the statute could be used. However, I was advised by the Aetna man in Seattle that the Internal Revenue Service insisted on "is authorized" because, in their interpretation, that is the language which gives authority.

8. I don't remember which attorney in Legislative Affairs Agency I was working with on this bill, but I do remember that we came up with the idea of using both phrases. The attorney said he didn't remember seeing a statute with two authorization sections before, but he saw no reason why we could not do it. So the restrictive language was titled "Authority" and the Internal Revenue Service language was entitled "Investment Authority".

9. As I explained the bill to the other legislators, many of them expressed reservations about investing employees' funds in mutual funds. I explained that mutual funds and other investments were excluded on purpose and investment could be made only in fixed and variable life insurance and annuity contracts and that was the reason for the restrictive language of the general authorization section.

10. While the bill was in the legislative process, I received several calls from persons representing mutual funds and savings and loan associations. They explained

their desire to have me amend their entities into the bill as authorized investment vehicles.

11. But the bill was enacted into law with only one amendment. That was an amendment made in the Senate which changed the phrase "employee's income" to "employee's salary or wages".

Further affiant sayeth not.

Genie Chance
GENIE CHANCE

SUBSCRIBED AND SWORN to before me this 6th day of December 1977.

STATE OF ALASKA
OFFICIAL SEAL
J. Louise Hundell
NOTARY PUBLIC
My Commission Expires August 31, 1981

Notary Public in and for Alaska
My commission expires: 8/31/81

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JAMES F. PETERSEN
ATTORNEY AND COUNSELLOR AT LAW
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AFFIDAVIT OF MYRTON R. CHARNEY

STATE OF ALASKA)
) ss.
First Judicial District)

Myrton R. Charney, being first duly sworn, deposes and states as follows:

1. I am a plaintiff in this case and brought this action on behalf of myself and all similiarly situated State of Alaska employees who are participants in the Public Employees Deferred Compensation Program.

2. I reside at 2163 O'Day Drive, Tongass Park Subdivision in Juneau, Alaska, I am employed by the State of Alaska, Legislative Affairs Agency as Director of the Division of Administrative Services and my office is located in Room 24, on the Ground Floor of the State Capitol Building at Juneau, Alaska.

3. I am a participant in the Public Employees' Deferred Compensation Program as authorized by Chapter 45 of Title 39 of the Alaska Statutes (AS 39.45.010-.050).

4. The Department of Administration is the designated administrator of the Deferred Compensation program.

5. In 1974 the Department of Administration contracted with Hartford Variable Annuity Life Insurance Company to be the exclusive carrier for the State of Alaska Public Employees Deferred Compensation Program, and the Plan adopted pursuant thereto (attached to Complaint as Exhibit A).

6. The Deferred Compensation Plan was submitted to U.S. Internal Revenue Service and received approval through a private letter ruling of July 25, 1974 (attached to Complaint as Exhibit B), and this private letter ruling approving the plan also provided that if the plan was modified or amended the ruling may no longer apply.

7. On September 7, 1977, the U.S. Internal Revenue Service

issued IR-1881 (attached as Exhibit C to the Complaint) which has suspended all rulings dealing with the income tax treatment of plans such as the State of Alaska Employees Deferred Compensation Plan previously approved.

8. The Department of Administration is presently in the process of changing the carrier from Hartford Variable Annuity Life Insurance Company to Equitable Insurance Company and T. Rowe Price, a no load mutual fund, and also modifies and amends the approved plan.

9. This proposed change will cause me and others similiarly situated irreparable harm and injury, by jeopardizing the funds I am counting on for retirement income and may further cause me and others serious income tax problems, for the following reasons:

a. The Plan document (Exhibit A) which received the private letter of ruling from Internal Revenue Service (Exhibit B), specifies in Section 6.02 that "Deferred Compensation Payments and the Death Benefits (if paid in other than a lump-sum) will be in an amount equal to the amount which would have been payable under a variable annuity contract had such a contract been purchased from the carrier at the time of the initial participation in the Plan and with the annual premium equal to the annual amount of compensation that had been deferred." Under the proposed plan (Exhibit D), it is my understanding that variable annuity contracts are not included in the products offered by either of the companies and death benefits are not included.

b. The proposed new plan would violate state law by investing in mutual funds, and the plan document (Exhibit A) approved by Internal Revenue Service states in Section 14: "This Agreement shall be construed under the law of the State of Alaska."

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907-586-3151

c. The proposed new plan would further violate the written agreement entered into by me and other state employees and the State of Alaska. I read the Plan document and the prospectus presented to me by the registered representative of Hartford Variable Insurance Company, and entered into an agreement with the State to defer a portion of my income with the understanding that I would have the pay-out benefits of a variable annuity contract and death benefits, and with the additional understanding that the funds I allocated into the separate account would be invested by the company whose portfolio of investments I had read in the prospectus and approved. Under the new plan, those funds would be unilaterally removed by the State from the portfolio I approved and put into another portfolio.

d. The proposed new plan places all participants in the Deferred Compensation Program in jeopardy by not seeking and obtaining approval of the Internal Revenue Service to the modifications and amendments of the existing plan.

e. The proposed new plan violates the terms of the contracts entered into with current participants by withdrawing the options of variable annuities and death benefits in the equity option.

f. The proposed new plan is misleading participants and prospective participants by leading them to believe the new products offer guaranteed interest and expense factors said interest is guaranteed for only 10 years and annuity rates are guaranteed for only 5 years, whereas the existing plan has lifetime guarantees. Further, the State's 1% administrative expenses are not guaranteed. All of these appear to constitute substantial modification requiring IRS approval, which by their present directives they are refusing to issue (Exhibit C).

Further affiant sayeth not.

MYRTON R. CHARNEY

SUBSCRIBED and SWORN to before me this 16 day of December, 1977.

SEAL

Notary Public for Alaska
My Commission Expires: 4-15-81

JAMES F. PETERSEN
ATTORNEY AND COUNSELLOR AT LAW
319 SEWARD STREET
JUNEAU, ALASKA 99801
907-586-3530

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

HB
539

(7)

COMMITTEE REPORT

HOUSE

1/15/80

FURTHER: FINANCE

Date: 2-5-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 539

"An Act relating to the credited service of permanent part-time state employees for retirement purposes; and providing for an effective date."

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

[X] 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

W. V. C.

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Ben Whitehead Do not Pass
D Glasgow no rec
Lang Wallace no rec.

W. V. C.
CHAIRMAN

H 60 (Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 539
Title An Act Relating to Credited Service of Permanent Part-Time Employees
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Administration - Division of Retirement and Benefits
Program Category Affected Labor Services
BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-01 (PERS)
(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	5.5	5.5	-0-	-0-	-0-	-0-
200	TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
300	CONTRACTUAL	0.1	0.1	-0-	-0-	-0-	-0-
400	COMMODITIES	0.1	0.1	-0-	-0-	-0-	-0
500	EQUIPMENT	0.5	-0-	-0-	-0-	-0-	-0-
600	LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700	STATE TRS MATCHING	-0-	-0-	-0-	-0-	-0-	-0-
100	BENEFITS	-0-	25.0	25.0	25.0	25.0	25.0
	TOTAL	6.2	30.7	25.0	25.0	25.0	25.0

FUNDING (Thousands of Dollars)

GENERAL FUND		20.4	20.4	20.4	20.4	20.4
FEDERAL FUNDS		1.2	1.2	1.2	1.2	1.2
VETERAN'S FUND		0.1	0.1	0.1	0.1	0.1
FISH & GAME FUND		0.2	0.2	0.2	0.2	0.2
HIGHWAY FUND		0.3	0.3	0.3	0.3	0.3
AIRPORT FUND		0.7	0.7	0.7	0.7	0.7
CAPITAL FUND		2.1	2.1	2.1	2.1	2.1
PERS	6.2	5.7	-0-	-0-	-0-	-0-
TRS						

POSITIONS

FULL TIME	.25	.25	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

1. Personal Services: One full-time position for six months (Retirement & Benefits Technician - Range 12) beginning April 1, 1980.

Monthly salary	$1,425
Benefits	417
TOTAL	$1,843

2. Benefits: Assume 150 claims for 9 months service credit each. Total estimated cost to the PERS is $338,000 which would be amortized over 25 years as a past service liability. The annual cost of $25,000 would be reflected in an increase in State contributions.

IV. DATE 1/31/80 PREPARED BY Paul B. Arnoldt, Director
AGENCY Division of Retirement & Benefits
PHONE 465-4460

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) Representative Parker
Office of the Governor (Keith Specking)

February 11, 1980

Legislative Board of Retirement Benefits analysis and recommendations on:

House Bill No. 539:

The board endorses the attached fiscal note as its fiscal analysis of HB 539.

Four members of the board recommend that HB 539 Do Not Pass; two members recommend that it do pass; and one member has no recommendation on the bill.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 539
Title An Act Relating to Credited Service of Permanent Part-Time Employees
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Administration - Division of Retirement and Benefits
Program Category Affected Labor Services
BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-01 (PERS)
(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	5.5	5.5	-0-	-0-	-0-	-0-
200	TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
300	CONTRACTUAL	0.1	0.1	-0-	-0-	-0-	-0-
400	COMMODITIES	0.1	0.1	-0-	-0-	-0-	-0-
500	EQUIPMENT	0.5	-0-	-0-	-0-	-0-	-0-
600	LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700	STATE IRS MATCHING	-0-	-0-	-0-	-0-	-0-	-0-
100	BENEFITS	-0-	25.0	25.0	25.0	25.0	25.0
	TOTAL	6.2	30.7	25.0	25.0	25.0	25.0

FUNDING (Thousands of Dollars)

GENERAL FUND		20.4	20.4	20.4	20.4	20.4
FEDERAL FUNDS		1.2	1.2	1.2	1.2	1.2
VETERAN'S FUND		0.1	0.1	0.1	0.1	0.1
FISH & GAME FUND		0.2	0.2	0.2	0.2	0.2
HIGHWAY FUND		0.3	0.3	0.3	0.3	0.3
AIRPORT FUND		0.7	0.7	0.7	0.7	0.7
CAPITAL FUND		2.1	2.1	2.1	2.1	2.1
PERS	6.2	5.7	-0-	-0-	-0-	-0-
IRS						

POSITIONS

FULL TIME	25	25	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

1. Personal Services: One full-time position for six months (Retirement & Benefits Technician - Range 12) beginning April 1, 1980.

Monthly salary	$1,425
Benefits	417
TOTAL	$1,843

2. Benefits: Assume 150 claims for 9 months service credit each. Total estimated cost to the PERS is $338,000 which would be amortized over 25 years as a past service liability. The annual cost of $25,000 would be reflected in an increase in State contributions.

IV. DATE 1/31/80 PREPARED BY Paul B. Arnoldt, Director
AGENCY Division of Retirement & Benefits
PHONE 465-4460

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Name): Representative Parker
Office of the Governor (Keith Specking)

HB
542

(7)

COMMITTEE REPORT

HOUSE

1/16/80

FURTHER: FINANCE

Date: 1-23-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 542

"An Act making a special appropriation to the Department of Transportation and Public Facilities for the protection of the City of Nenana and Nenana Airport; 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)

[X] replace with CS for HB 542 [ ] same title [X] new title

and recommends DO PASS

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

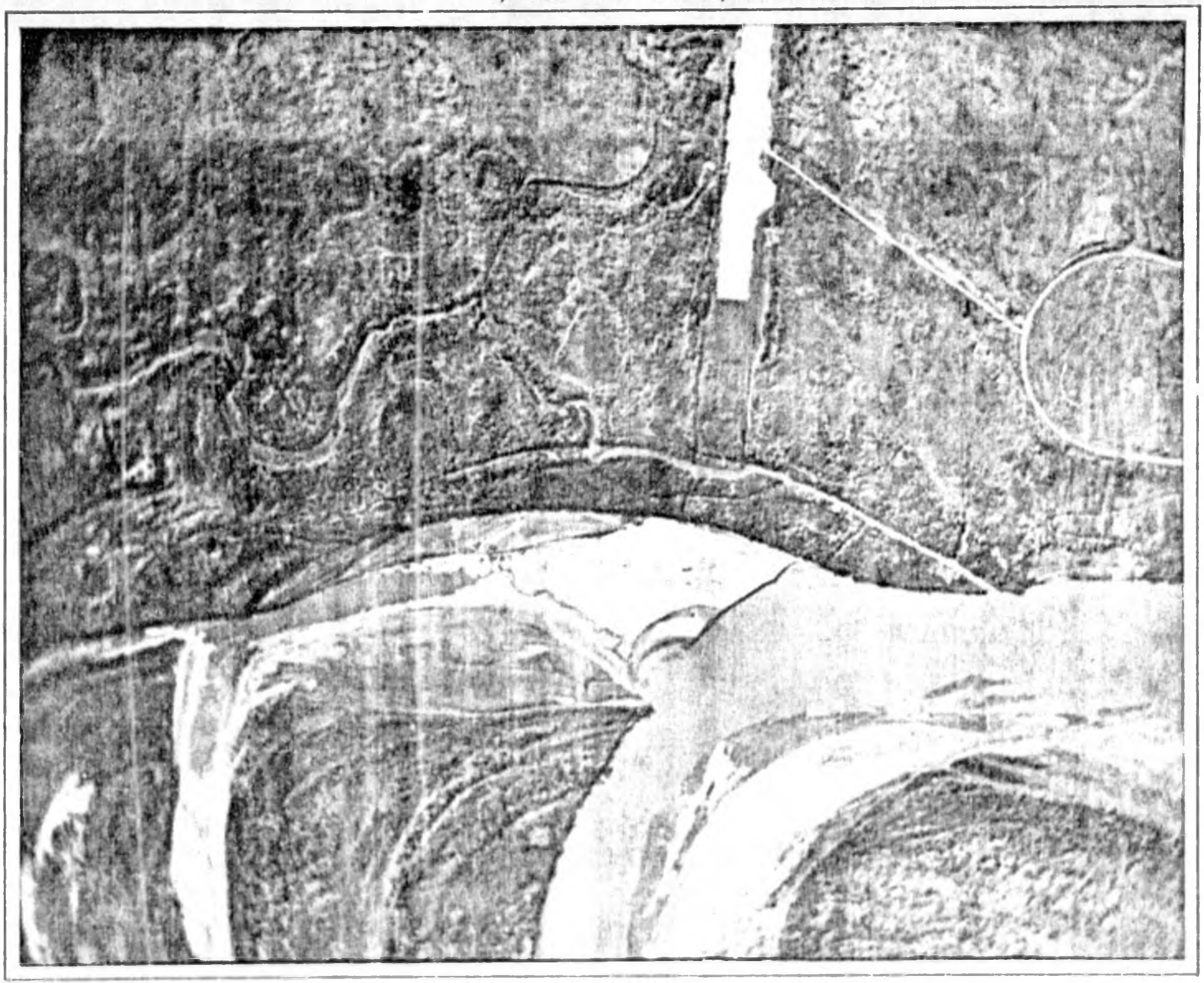
MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

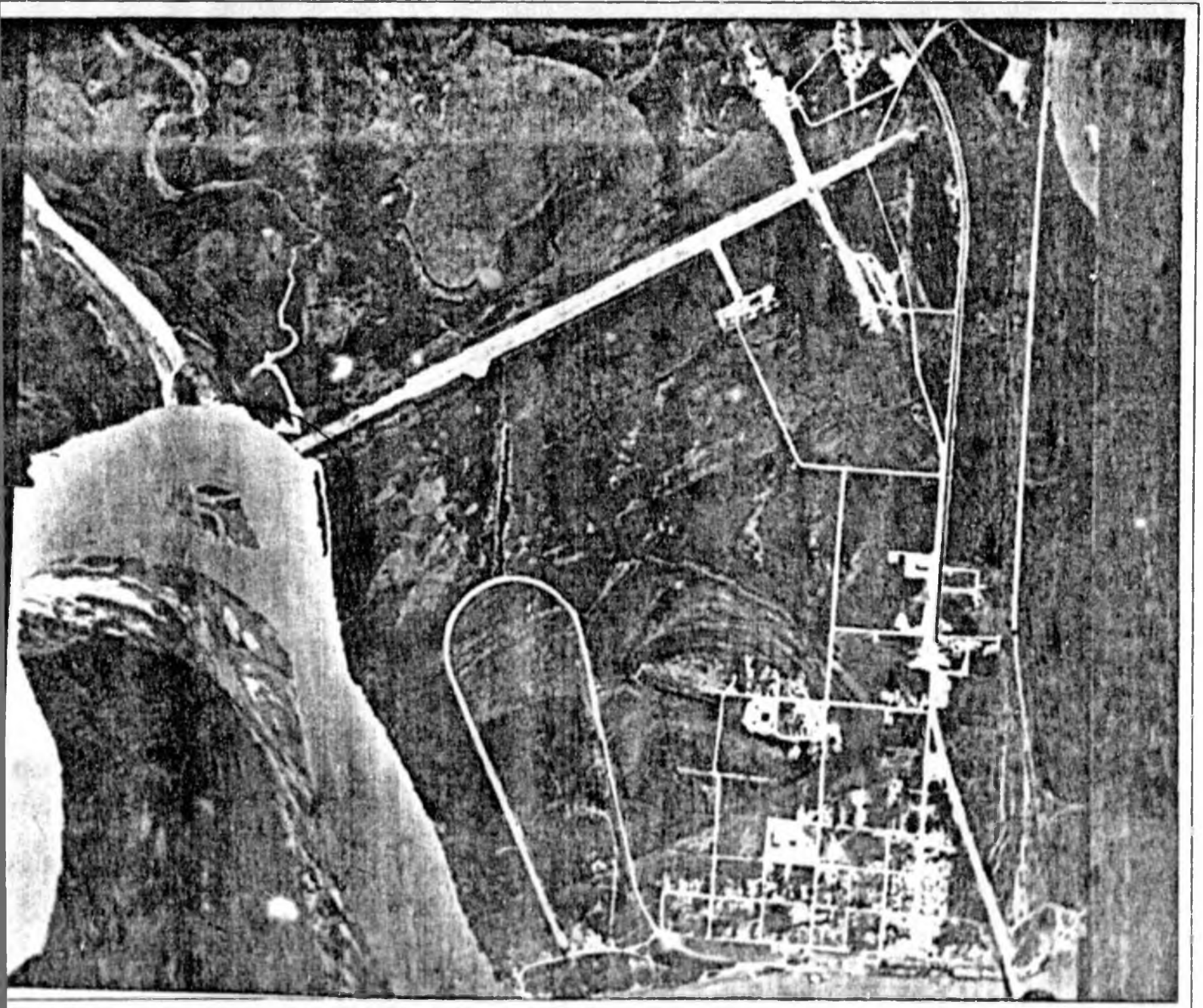
CHAIRMAN

H 60 (Rev. 12/78)

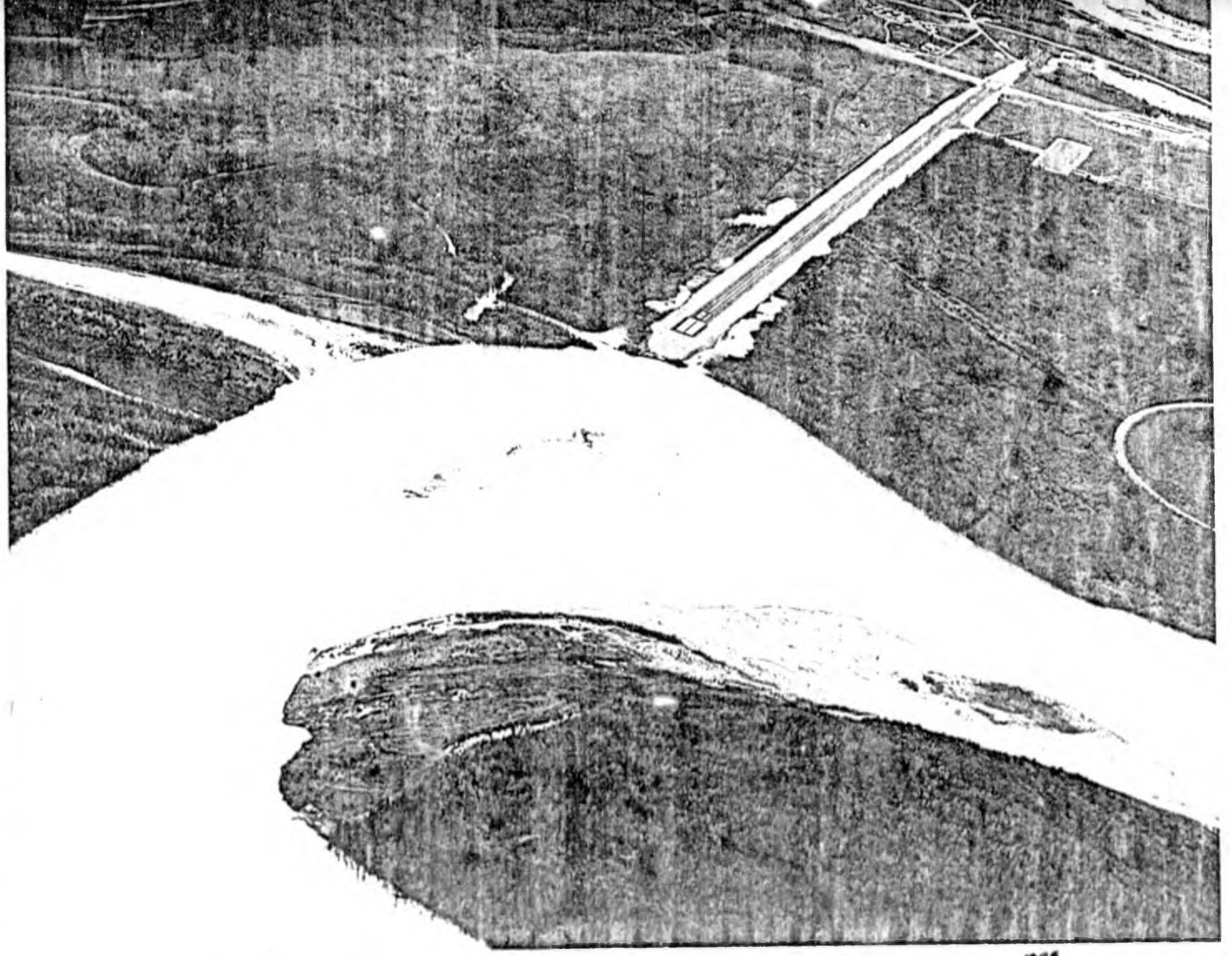
Fall 8-27-69



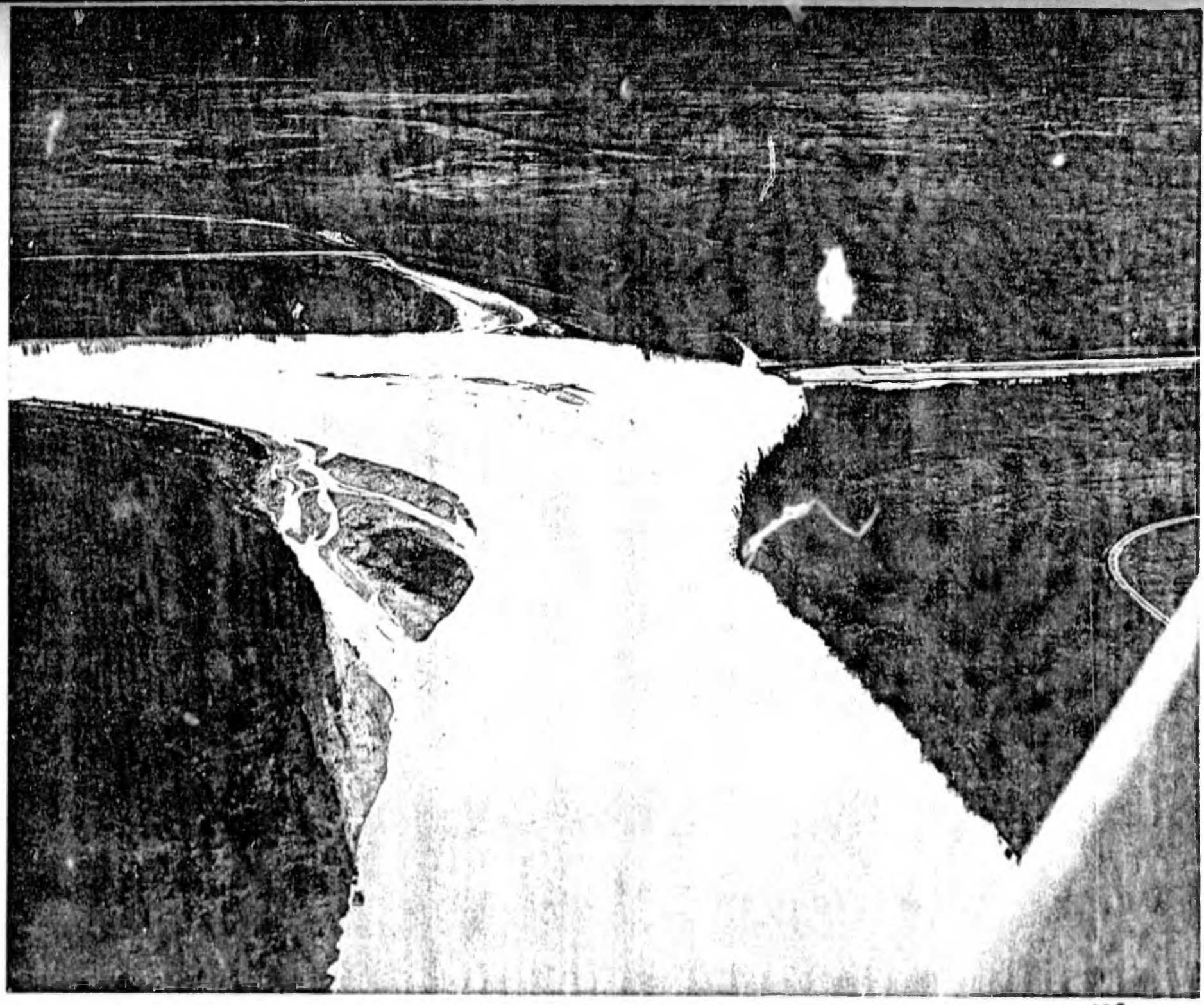
7-29-77



1979 photo



1977



1979

WARREN G. MAGNUSON, WASH., CHAIRMAN
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JAMES R. CALLOWAY
CHIEF COUNSEL AND STAFF DIRECTOR

United States Senate
COMMITTEE ON APPROPRIATIONS
WASHINGTON, D.C. 20510

December 20, 1978

Mr. Herb Hinman
Office of the City Clerk
City of Nenana
Nenana, Alaska 99760

Dear Mr. Hinman:

As a follow-up to our letter of November 21st, enclosed is a copy of a letter from the Corps of Engineers in further reference the erosion problem in Nenana.

If our office may be of additional assistance, please feel free to contact us.

With best wishes,

Cordially,

Linda L. Richardson
Assistant to
TED STEVENS
United States Senator

Enclosure

P.S. Kathie Bridenbaugh is still handling Corps matters, but is out of the office for the holidays.

WARREN G. MAGNUSON, WASH., CHAIRMAN
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HENRY BELLMON, OKLA.
LOWELL P. WEICKER, JR., CONN.

United States Senate

COMMITTEE ON APPROPRIATIONS
WASHINGTON, D.C. 20510

November 21, 1978

Mr. Herb Hinman
Office of the City Clerk
City of Nenana
Nenana, Alaska 99760

Dear Mr. Hinman:

Senator Stevens is currently away from his Washington, D.C. office during this non-legislative period. In his absence, please allow me to thank you for your letter of November 13, 1978.

As you are no doubt aware, the Senator was contacted earlier this year by Mayor John Coghill and he related to the Senator's mobile office staff the erosion problem caused by the Tanana River. The Corps of Engineers was contacted and for your information, I have attached a copy of their March 3, 1978 response.

As I understand your letter, the airport runway has now been extended to 5,000 feet which now places it within 400 feet of the Tanana River. Because of the direct and imminent danger to the runway, this office has again contacted the Corps of Engineers and requested a review of the erosion problem to determine whether any assistance can now be provided.

With best wishes,

Cordially,

Kathie Bridenbaugh

Kathie Bridenbaugh
Staff Assistant to
TED STEVENS
United States Senator

Enclosure

DEPARTMENT OF THE ARMY
ALASKA DISTRICT, CORPS OF ENGINEERS
P.O. BOX 7002
ANCHORAGE, ALASKA 99510

REPLY TO
ATTENTION OF:

NPACO-RF

JAN 15 1979

Honorable John B. Coghill
City of Nenana
Box 177
Nenana, Alaska 99760

Dear Mayor Coghill:

During a recent field trip by Mr. Mervin E. Mullins of our Construction Division we learned that the City of Nenana was experiencing difficulty with erosion problems near the city's airstrip.

Your conversation with Mr. Mullins indicates that you may attempt some form of erosion control measures in the Nenana River. It is our understanding that you may use old railroad hopper cars filled with riprap material to construct goins or dikes.

The Nenana River is navigable to the city dock and is subject to Department of the Army jurisdiction under Section 10 of the River and Harbor Act of 1899 up to that point. Any work conducted below the ordinary high water line requires Department of the Army authorization. Under Section 404 of the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, a permit is also required if there is a discharge of dredged or fill material. Railroad cars are considered fill material when used to construct erosion control structures.

Inclosed for your information are copies of two pamphlets. One is entitled "Help Yourself" which discusses critical erosion problems and alternative methods of shore protection and the other is information for making application for a Department of the Army permit for activities in waterways.

HB

563

(7)

COMMITTEE REPORT

HOUSE

1/18/80

FURTHER: FINANCE

Date: 2-1-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 563
"An Act providing for the issuance of general obligation bonds in the amount of $145,473,900 for the purpose of paying the cost of highway, ferry, airport, harbor, port, local service roads, and trails construction; constructing and equipping maintenance facilities; public transportation; and planning various transportation projects; 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

[X] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

— AMENDMENT — to HB 563

Page 2, line 11:

strike: 24,698,000

insert: 26,202,000 (add $1,504,000 for Mt View Drive between E 5th Ave and Commercial Drive)

Backup attached

February 27, 1980

M E M O R A N D U M

TO: Russ Meekins, Chairman
House Finance Committee

FROM: Mike Miller, Chairman
House State Affairs Committee

As the attached letter from Commissioner Bob Ward indicates the local service roads and trails act was created by the seventh legislature and bonds for service roads have been included in every even-year bond election since. As you can see in past years the local service road portion of the transportation bonds package has amounted to as much as 40 per cent of the total. The administration proposal for the current transportation bond program is set at $10,000,000 This is far too little to budget for one of the most successful and popular transportation programs in the state. Therefore the State Affairs Committee voted to raise the bonding for local service roads from 10 to 14.7 million dollars. Upon reflection I believe that even this is too small and would strongly recommend that additional bonding for this purpose be considered by the Finance Committee.

ALASKA STATE LEGISLATURE - HOUSE OF REPRESENTATIVES

REPRESENTATIVE RICHARD I. ELIASON
P.O. BOX 143
SITKA, ALASKA 99835

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811

COMMITTEES
RESOURCES
STATE AFFAIRS

February 21, 1980
Juneau, Alaska

To: State Affairs Committee

From: Rep. Dick Eliason

Subject : Paving of Halibut road in Sitka

The Department of Transportation estimates the cost to pave the road from Davidoff street to the ferry terminal is $2.4 million dollars. This covers the cost of paving, replacing guardrails and plastic striping. The length of road to be paved is 5.4 miles long, 2 inches thick and 36 feet wide, with an A.D.T. (average daily travel) rate of 1,800 people from the ferry terminal and 6,000 from the city limits.

PROJECT TITLE:

Mt. View Drive - East 5th Avenue to Commercial Drive

PROJECT COST:

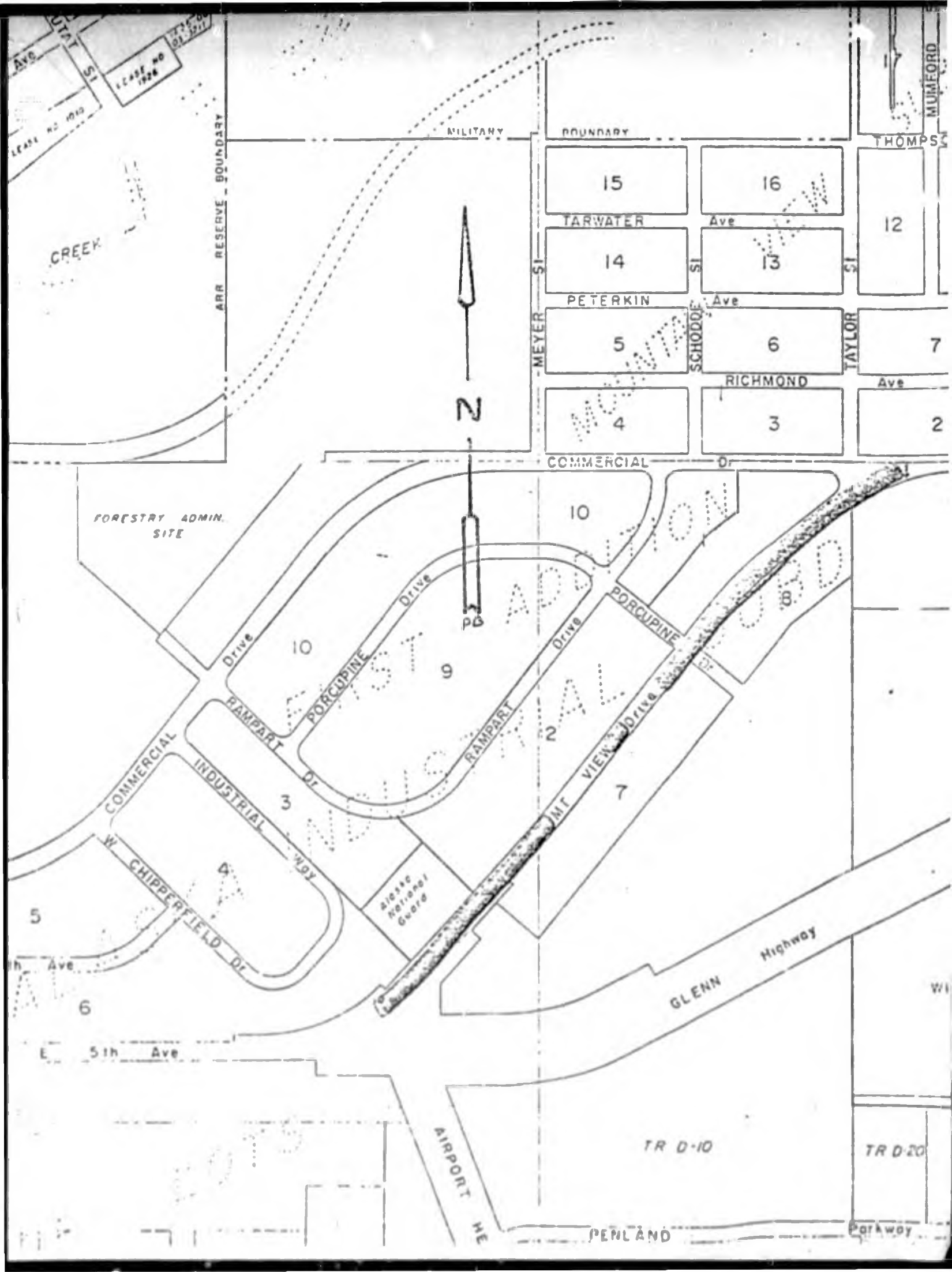
$1,504,000

HOUSE REPRESENTATIVES: Sam Cotten, Rick Halford, Randy Phillips, Terry Martin

SENATOR: Tim Kelly, Brad Bradley

PROJECT DESCRIPTION AND JUSTIFICATION:

This project will reconstruct Mt. View Drive from East 5th Avenue to Commercial Drive and upgrade to two lane collector standards including channelization and other intersection improvements. The improvement will provide adequate capacity for current and projected traffic levels.


MILITARY
BOUNDARY
ARR RESERVE BOUNDARY
CREEK
THOMPS
MUMFORD
15
16
12
TARWATER
Ave
14
13
PETERKIN
Ave
MEYER
St
SCHODDE
St
TAYLOR
St
5
6
7
RICHMOND
Ave
4
3
2
N
COMMERCIAL
Dr
FORESTRY ADMIN. SITE
10
Drive
PORCUPINE
RAMPART
Dr
9
8
2
7
3
4
INDUSTRIAL
Way
COMMERCIAL
W CHIPPERFIELD Dr
Alaska National Guard
MT VIEW
Drive
GLENN
Highway
5
6
E 5th Ave
AIRPORT
TR D-10
TR D-20
PENLAND
Parkway

2 Sell $50,000,000 at beginning of FY83 — 7% Interest — 1st Principal pmt 12 mo. After

FY		Sale 1 Principal	Sale 1 Interest		Sale 2 Principal	Sale 2 Interest
82	1		1,745,205	1		1,745,205
83	2	5,000,000	1,754,795	2	5,000,000	1,754,795
	3		1,570,685	3		1,570,685
84	4	5,000,000	1,579,315	4	5,000,000	1,579,315
	5		1,316,164	5		1,316,164
85	6	5,000,000	1,192,725	6	5,000,000	1,192,725
	7		1,221,643	7		1,221,643
86	8	5,000,000	1,228,357	8	5,000,000	1,228,357
	9		1,047,123	9		1,047,123
87	10	5,000,000	1,052,877	10	5,000,000	1,052,877
	11		884,722	11		884,722
88	12	5,000,000	889,584	12	5,000,000	889,584
	13		698,082	13		698,082
89	14	5,000,000	701,918	14	5,000,000	701,918
	15		523,562	15		523,562
90	16	5,000,000	526,938	16	5,000,000	526,938
	17		349,041	17		349,041
91	18	5,000,000	350,959	18	5,000,000	350,959
	19		174,521	19		174,521
12	20	5,000,000	175,479	20	5,000,000	175,479
93						
		50,000,000			50,000,000	

FY	Total Debt Svc.	
82	1 745,205	x 1.455 =
83	10070,685	x 1.455 =
84	16 300,959	x 1.455 =
85	15639,847	x 1.455 =
86	14939,848	x 1.455 =
87	14 213,079	x 1.455 =
88	13525,265	
89	12913,146	
90	12,100,959	
91	11 400,959	
92	10700,959	
93	5 175,479	
	138676,390	

This schedule shows bond Retirement using above assumptions on $100.000.0

1.1.22

(1) LSRT to 15 NM

(2) 1,504 NM

add to underwood

(3) 4 NM for ENA harbor

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

House
FINANCE

BACK-up FOR HB563

TRIBAL COUNCIL

LOWER YUKON RIVER
EMMONAK, ALASKA 99581

December 11, 1973

Senator John A. Hackett
Room F
Juneau, Alaska 99811

Dear John,

It has been the main problem within the rural areas of the condition in which the roads are, to elected representatives to work for us our needs, and problems in our community. Emmonak has a problem both the airport and roads. Our roads is the main problem in the summer because of the activities with vehicles and heavy equipment which produces ponds of water in which we call roads. Without a solid ground we live around ponds of water in which the vehicles and heavy equipment have mated. I am sure you know what I am talking about after a heavy rain fall. We the Tradition Council of Emmonak fill out a form from BIA for road construction which will increase better access to markets, school, and activities of the community. We have an Island that is growing near the store and the barges will not be able to dock infront any more and what will become of our roads, without a solid ground we will have ponds of water on the tracks of the heavy equipment that is being used to move the merchandise to the store.

Airport: Our airport which was State funded is in a bad shape and the Flight Statistics show that in FY'74 July 1, 1973 to June 30, 1974 there operated between 1st and 2nd Qtr. 270 flights and 17 flights on Charter Lines which costs them $1,500.00 fuel, due to the bad and unsafe runway conditions. Will the State wait till something occurs or seriously injurey happens to it before the airport. There is alot of freight that comes in this area although 90% of that comes out of Anch. or the lower States.

TRIBAL COUNCIL

LOWER YUKON RIVER
EMMONAK, ALASKA 99581

As you fly in you will notice the trash around the city and that it's our problem also, under Emergency Project P.L. 93-638 of Indian Act , do the tribal council ask for a road and dump with a fence around it due to the floods that occrue here a the Delta. If we get our roads in I am sure that these problems will be eliminated.

Let me run down what we have available here in Emmonak.

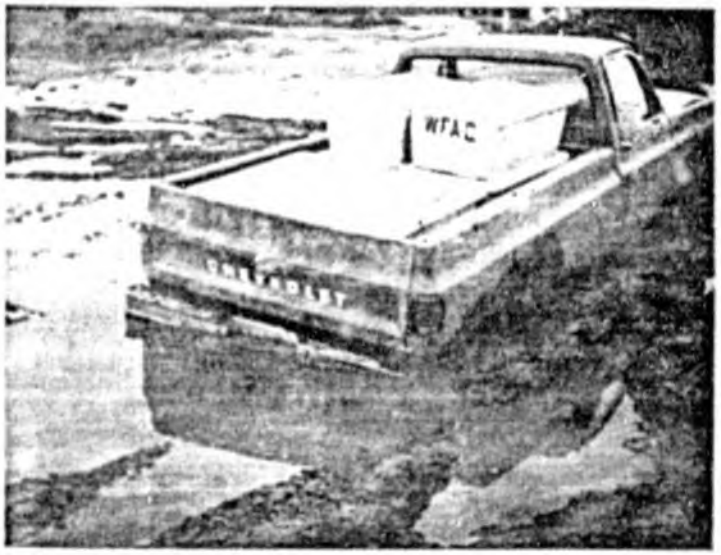
1. Provide you with a map of proposed road.
2. Barges available from the Corporation.
3. ICG's to push the barges.
4. Heavy Equipment: loaders , Truckers, and Trucks with the approvel of the owners.
5. Equipment at St. Marys under the State to be used to haul gravel down to barges.
6. Pit Permit from BIA to get gravel or rocks from St. Marys.

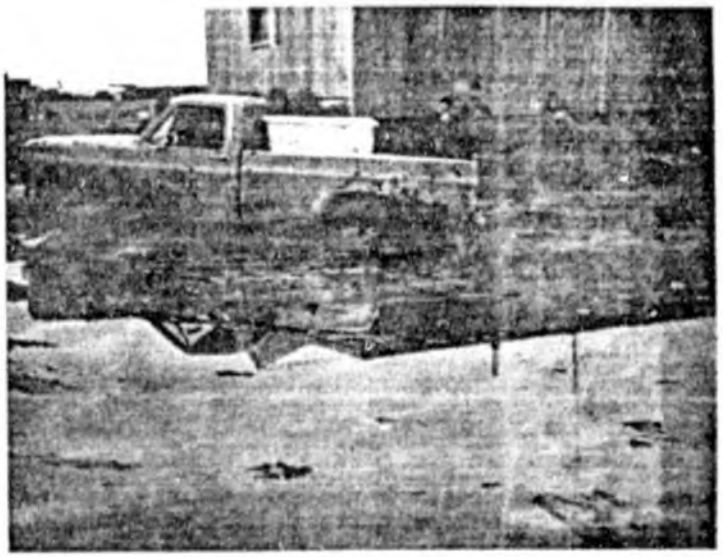
I am not really impressing you with the urgency of the Problem we face here at Emmonak, But to operate in a safety manner under the State laws,we need the help of the State to upgrade to standerded position which the State will provide funds to meet these laws.

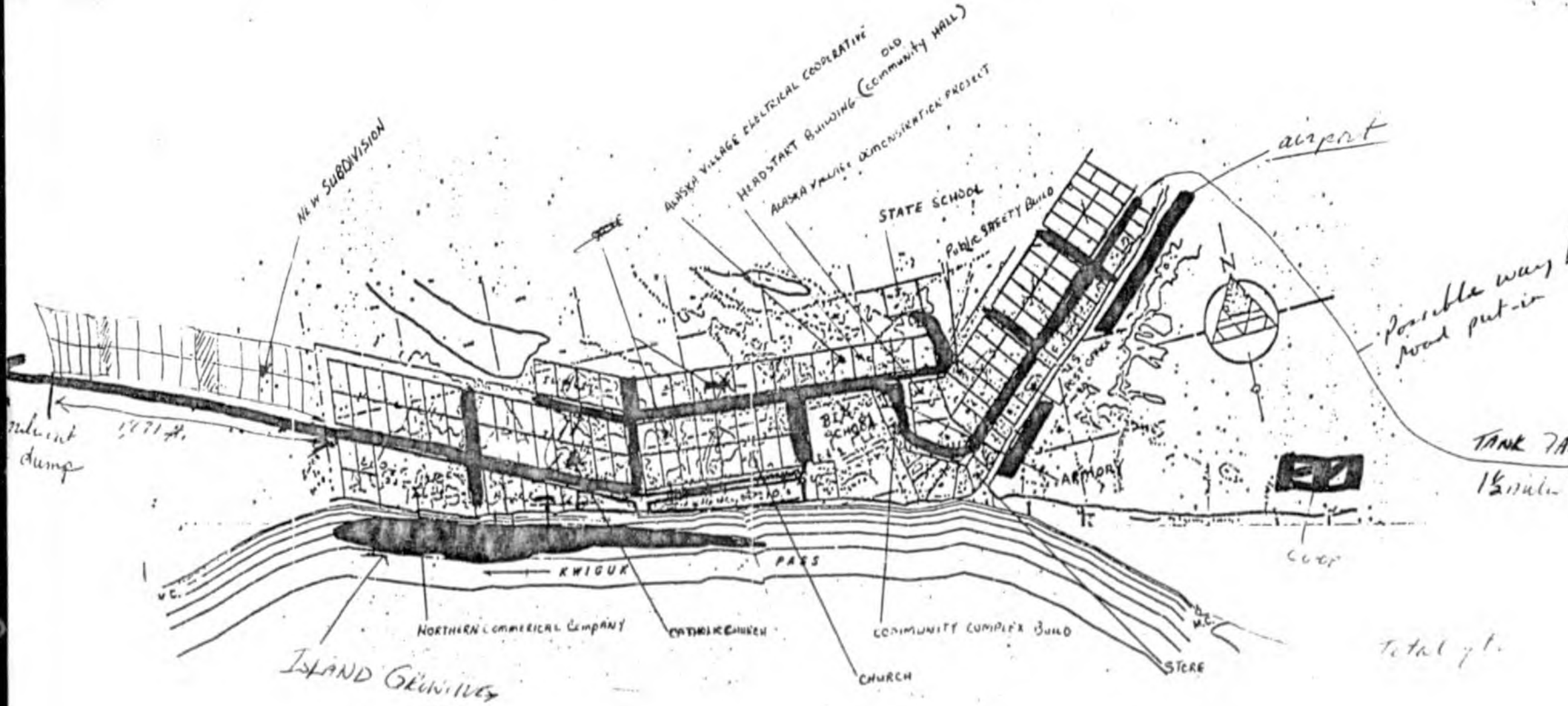
Respectfully,

Simon P. Moses
Tribal Director

cc: [illegible]
[illegible]


WFAC




NEW SUBDIVISION
ALASKA VILLAGE ELECTRICAL COOPERATIVE
HEADSTART BUILDING (OLD COMMUNITY HALL)
ALASKA VILLAGE DEMONSTRATION PROJECT
STATE SCHOOL
PUBLIC SAFETY BLDG
airport
N
Possible way
road put-in
1471 ft.
dump
BLK SCHOOL
ARMORY
TANK FAR
1½ mile
KWIGUK PASS
NORTHERN COMMERICAL COMPANY
CATHOLIC CHURCH
COMMUNITY COMPLEX BLDG
CHURCH
STORE
Coop
ISLAND GENERAL
Total pt.

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

2 Sell $50,000,000 at beginning of FY83 — 7% Interest — 1st Principal pmt 12 mo. after

FY	Sale 1 Principal	Sale 1 Interest	Sale 2 Principal	Sale 2 Interest	Total Debt Se.
82		1,745,205			1 745,205 x 1.455 =
83	5,000,000	1,724,175		1,745,205	10070.685 x 1.455 =
84	5,000,000	1,579,315	5,000,000	1,724,175	16 300.959 x 1.455 =
85	5,000,000	1,443,725	5,000,000	1,579,315	15 639,847 x 1.455 =
86	5,000,000	1,328,357	5,000,000	1,443,725	14 939,848 x 1.455 =
87	5,000,000	1,052,877	5,000,000	1,328,357	14 213,079 x 1.455 =
88	5,000,000	889,584	5,000,000	1,052,877	13575,265
89	5,000,000	701,918	5,000,000	889,584	12 913,146
90	5,000,000	526,938	5,000,000	701,918	12 100,959
91	5,000,000	350,959	5,000,000	526,938	11 400,959
92	5,000,000	175,979	5,000,000	350,959	10700,959
93			5,000,000	175,979	5 175,979
	50,000,000		50,000,000		138626,390

This schedule shows bond retirement using above assumptions on #100.000.0

ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 563

Title AN ACT PROVIDING FOR THE ISSUANCE OF G.O. BONDS, $145,473,800, FOR TRANSPORTATION PR

Requested by HOUSE STATE AFFAIRS Date 1/25/80

II. FISCAL DETAIL

Agency Affected DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

Program Category Affected TRANSPORTATION

BRU, Program, or Subprogram(s) Affected MAINTENANCE AND OPERATIONS

(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						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS CLAIMS, ETC.						
TOTAL		0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
GENERAL OBLIGATION BONDS						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Since the aim of this transportation program is to reconstruct, rehabilitate or replace existing transportation facilities, there should be no noticable impact directly on the maintenance and operations of the facilities. For example, the costs of patching, blading, and crack sealing will decrease and thereby balance out the increased costs of plowing additional road surfaces being constructed.

The Governor's operating budget provides for the debt service on transportation general obligation bond packages.

IV. DATE January 31, 1980 PREPARED BY Davis Haarvik

AGENCY Department of Transportation & Public Facilities

PHONE

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

38-031 (Rev. 12/79)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 563
Title AN ACT PROVIDING FOR THE ISSUANCE OF G.O. BONDS $145,473,800, FOR TRANSPORTATION PR
Requested by HOUSE STATE AFFAIRS Date 1/25/80

II. FISCAL DETAIL
Agency Affected DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
Program Category Affected TRANSPORTATION
BRU, Program, or Subprogram(s) Affected MAINTENANCE AND OPERATIONS
(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						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
GENERAL OBLIGATION BONDS						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Since the aim of this transportation program is to reconstruct, rehabilitate or replace existing transportation facilities, there should be no noticable impact directly on the maintenance and operations of the facilities. For example, the costs of patching, blading, and crack sealing will decrease and thereby balance out the increased costs of plowing additional road surfaces being constructed.

The Governor's operating budget provides for the debt service on transportation general obligation bond packages.

DATE January 31, 1980 PREPARED BY Mavis Mourvik
AGENCY Department of Transportation & Public Facilities
PHONE

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

33 901 (Rev 12/79)

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. _____
Title _____
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Department of Transportation & Public Facilities
Program Category Affected State Bond Committee
Budget Request Unit(s) Affected Transportation Debt Service

EXPENDITURES (Thousands of Dollars)

		FY82	FY83	FY 84	FY 85	FY86	FY 87
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	Miscellaneous	2,539.3	14,652.8	23,717.9	22,755.9	21,737.5	20,680.0
	TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND	2,539.3	14,652.8	23,717.9	22,755.9	21,737.5	20,680.0
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The attached worksheet shows debt service retirement for $100,000,000. Using the following assumptions these figures were arrived at by taking the DOTPF portion of sale, $145,473,800 (1.455 x yearly figures on schedule for $100,000,000).

1. Two bond sales (50% sold in FY 82+50% sold in FY 83).
2. First interest payment due 6 months after sale.
3. First principal payment due 12 months after sale.
4. 10 year bond retirement.
5. 7% interest.

IV. DATE 2-1-80 PREPARED BY Mike Maher
AGENCY Budget & Management
PHONE 465-2295

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

33-001 (Rev. 12/77)

Alaska State Legislature

House of Representatives

POUCH V
JUNEAU ALASKA 99811

RAY METCALFE

P.O. BOX 4-2765
ANCHORAGE ALASKA 99509

March 20, 1980

MEMORANDUM

TO: Representative Mike Miller, Chairman, House State Affairs Committee

FROM: Rep. Ray Metcalfe

Re: Proposed elements of a bill requiring the Department of Transportation and Public Facilities to develop an Official Transportation Map of the State of Alaska and municipal capital improvements maps for municipalities with local planning authority.

(a) Included in the annual comprehensive, intermodal, long-range transportation plan for the state shall be a state transportation map showing all roads and highways receiving state funds directly or indirectly for planning, maintenance or construction. The map shall depict all transportation modes including roads, highways, bicycle and recreational paths, railroads, and navigable waterways so as to reflect accurately the total intermodal Alaska transportation system. The map shall be updated every four years by the Department of Transportation and included with budget submissions for capital improvements to the state legislature. Additional copies of the map hereafter to be called the "Official Transportation Map of the State of Alaska" shall be provided to the public based on anticipated demand.

(b) The Department of Transportation shall also produce as an integral part of its capital improvements budget request to the legislature maps of every municipality with local planning authority showing all existing state owned or funded capital improvements including transportation facilities and structure The municipal capital improvements maps shall outline proposed capital improvements projected or anticipated by the state (those projects utilizing state funds or partial state finan-

cial participation, and projects the state participates in by contributions to a federal matching funds formula) and indicate in some manner projected completion dates. If state-municipal, state-borough, or state federal coordination on a specific project is involved, it should be indicated on the map. Projects can be numerically and/or color coded to indicate applicable explanatory notes appended on the reverse side of the map or in some other convenient location. Municipal capital improvements maps shall be updated biennially to provide timely and accurate information to the legislature and the public, thereby facilitating the planning process.

HB
573

(7)

COMMITTEE REPORT

HOUSE

1/18/80

FURTHER: FINANCE

Date: 3-11-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 573

"An Act making a special appropriation to the Department of Transportation and Public Facilities for airport runway reconstruction; and providing for an effective date."

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

[X] 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

John Ziegler

Terry Gardiner

MEMBERS HAVING
OTHER RECOMMENDATIONS:

McGuire "send to finance"

Pay Fee if with HB 140 chapter

Terry Martin

John Ziegler

CHAIRMAN

H 60 (Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 573
Title Special appropriation to DOT/PF for airport runway reconstruction
Requested by House State Affairs (K. Buchanan) Date 3/7/80

II. FISCAL DETAIL
Agency Affected DOT/PF
Program Category Affected Design & Construction
BRU, Program, or Subprogram(s) Affected Aviation
(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						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES		5,009.5				
700	GRANTS, CLAIMS, ETC.						
	TOTAL		5,009.5				

FUNDING (Thousands of Dollars)

GENERAL FUND		5,009.5				
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The cost estimates for each of these 7 projects reflects our latest information; however, an additional 5% should be added to cover unanticipated project costs.

Project	Estimated $ X 1000
1. Stevens Village	$ 504.0
2. Chalkyitsik	$ 480.0
3. Fort Yukon	$ 800.0
4. Northway	$1,650.0
5. Rampart	$ 453.0
6. Beaver	$ 523.0
7. Manley Hot Springs	$ 361.0
Subtotal	$4,771.0
Contingencies @ 5%	238.5
Total	$5,009.5

IV. DATE 3/10/80 PREPARED BY J. W. Scribner
AGENCY DOT/PF
PHONE 465-3900

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

33-001 (Rev. 12/79)

PROJECT TITLE	LOCATION(S)	AREA SERVED	ELECTION DISTRICT(S)
Stevens Village Runway Reconstruction	Stevens Village, Alaska	Stevens Village	19

OBJ. NO(S)	OPERATING BUDGET BRU(S)	NAME(S)	BUDGET COMPONENT NUMBERS	START DATE	COMPLETION DATE
1, 3, 4				1982	1985

PROJECT NARRATIVE

1. Project Need Statement

Stevens Village has 78 people according to the 1978 census, is located 90 air miles northwest of Fairbanks on the Yukon River. Two major modes of transportation serve Stevens Village. Most of the cargo comes in via barge; however passenger travel, mail and small cargo is almost exclusively delivered by air. Since o statistics are available for Stevens Village, the following are combined totals from Rampart and Stevens: 6 scheduled flights/average week, which carried 142 passengers/average month and 14,382 pounds/average month according to the air carrier serving these communities.

Frequent charter flights and summer fire fighting Bureau of Land Management equipment utilize this 2,170' x60' runway. The runway is uneven, rough and extremely hazardous to aircraft in wet periods because of soft spots and mud holes attributed to the sod surface. The last major project was completed in July 1971 and consisted of clearing, reconstruction of runway embankment and apron, seeding of the runway, and equipment shed.

PROJECT TYPE

- ☐ Building Construction (C)
- ☒ Other Improvement (I)
- ☐ Equipment (E)
- ☐ Land (L)
- ☐ Professional Services (P)
- ☐ Other (O)

PROJECT CHARACTERISTICS

- ☐ Totally New Facility
- ☐ Addition to Existing Facility
- ☒ Renovation of Existing Facility
- ☒ Major Maintenance or Repair
- ☐ Supplement Previously Authorized Funds to Enable Completion
- ☐ One of Several Phases
- ☒ Major External Funding Source
- ☐ Other

SITE FEATURES

NO	YES	
☐	☒	Site Currently Owned?
☐	☐	All Utilities Available?
☐	☐	Access Already Available?

APPROPRIATION REQUEST

1002	FED. RCPTS.	
1003	G/F MATCH	
1004	GEN. FUND	504.0
1005	I/A RCPTS.	
	G.O. BONDS	
	TOTAL	504.0

GOVERNOR'S RECOMMENDATION

APPROVED ☒ DEFERRED ☐ DISAPPROVED ☐

1002	FED. RCPTS.	453.6
1003	G/F MATCH	
1004	GEN. FUND	
1005	I/A RCPTS.	
	G.O. BONDS	50.4
	TOTAL	504.0

01-1036a (12/79)

OPERATIONAL COST & NO. PERSONNEL INCREASE (DECREASE)		FIRST OPERATING YEAR ____	ULTIMATE ANNUAL YEAR ____	PREVIOUS YR–PRIORITY
FUNDING SOURCE	FED. RCPTS.			AGENCY PRIORITY A1-12
	GEN. FUND			
				GOVERNOR'S PRIORITY
TOTAL ANNUAL OPERATIONAL COST		-0-	-0-	
POSITION (FTE)				

CATEGORY Transportation AGENCY DOT/PF PROGRAM Aviation - REGION II

01-1036a (7/79)

35a PROPOSED CAPITAL PROJECT

REVISED DATE ____

00433

PROJECT TITLE	LOCATION(S)	AREA SERVED	ELECTION DISTRICT(S)
Chalkyitsik - Runway Rehabilitation	Chalkyitsik, AK	Chalkyitsik	19

OBJ. NO(S)	OPERATING BUDGET BRU(S) NAME(S)	BUDGET COMPONENT NUMBERS	START DATE	COMPLETION DATE
1, 3			1981	1983

PROJECT NARRATIVE

I. Project Need Statement

Chalkyitsik is a native village consisting of 99 people (from 1978 census). It has 2 major forms of transportation; a barge service 1-2 times a season (as needed) with primary passenger service being supplied by aviation. Chalkyitsik is served by a scheduled air carrier 5 times a week which carried an average of 73 passengers/average month, and 2,046 pounds/ average month in the past year according to air carrier records. This village is 170 air miles northeast of Fairbanks, and located at the end of the carrier's service route. The runway is currently 2500' X 100' dirt/gravel and is very soft and muddy during break-up and wet weather.

The last major project in 1971 was clearing, reconstructing, and lengthening the apron, and installing a storage shed.

II. Project Description

This project would rehabilitate the runway and provide with gravel surfacing. This project would also provide adequate drainage so as to prevent further reoccurance and deterioration of the runway, and provide an adequate apron area.

PROJECT TYPE

- ☐ Building Construction (C)
- ☒ Other Improvement (I)
- ☐ Equipment (E)
- ☐ Land (L)
- ☐ Professional Services (P)
- ☐ Other (O)

PROJECT CHARACTERISTICS

- ☐ Totally New Facility
- ☐ Addition to Existing Facility
- ☐ Renovation of Existing Facility
- ☒ Major Maintenance or Repair
- ☐ Supplement Previously Authorized Funds to Enable Completion
- ☐ One of Several Phases
- ☒ Major External Funding Source
- ☐ Other

SITE FEATURES

NO	YES	
☐	☒	Site Currently ~~Owned~~ Leased
☐	☐	All Utilities Available?
☐	☐	Access Already Available?

APPROPRIATION REQUEST

1002	FED. RCPTS.	436.8
1003	G/F MATCH	
1004	GEN. FUND	
1005	I/A RCPTS.	
	G.O. BONDS	43.2
	TOTAL	480.0

GOVERNOR'S RECOMMENDATION

APPROVED ☒ DEFERRED ☐ DISAPPROVED ☐

1002	FED. RCPTS.	432.0
1003	G/F MATCH	
1004	GEN. FUND	
1005	I/A RCPTS.	
	G.O. BONDS	48.0
	TOTAL	480.0

01-1035a (12/79)

OPERATIONAL COST & NO. PERSONNEL INCREASE (DECREASE)		FIRST OPERATING YEAR ____	ULTIMATE ANNUAL YEAR ____
FUNDING SOURCE	FED. RCPTS.		
	GEN. FUND		
TOTAL ANNUAL OPERATIONAL COST		0	0
POSITION (FTE)			

PREVIOUS YR-PRIORITY: IR 79-2

AGENCY PRIORITY: 81 - 1

GOVERNOR'S PRIORITY:

CATEGORY Transportation AGENCY DOT/PF PROGRAM Aviation - REGION II

01-1035a (7/79)

35a PROPOSED CAPITAL PROJECT

REVISED DATE ____

00403

PROJECT TITLE	LOCATION(S)	AREA SERVED	ELECTION DISTRICT(S)
Ft. Yukon Runway Surfacing	Ft. Yukon	Yukon River Valley	19

OBJ. NO(S)	OPERATING BUDGET BRU(S)	NAME(S)	BUDGET COMPONENT NUMBERS	START DATE	COMPLETION DATE
1, 2, 3, 4				1981	1982

PROJECT NARRATIVE

1. Project Need Statement:

Ft. Yukon airport serves as a hub airport for the entire Upper Yukon Valley. As such, it is the transfer point for both freight and passengers comming from Fairbanks and going to remote bush communities. A trial use of Jet Aircraft (737's with gravel deflectors) was made several years ago. The community was unable to sustain support and the service was discontinued. Community growth points to resumption of jet service of some sort in the forseeable future. In addition, operators of high performance aircraft with minimal prop clearance prefer hard surface runways to reduce prop damage. The BLM currently operates heavy fire bombers from this airport throughout the fire season. Such operations lead to runway deterioration that affects all operation and ultimately all residents since air is the only mode available to Fairbanks. Hard surfacing would virtually eliminate this situation.

2. Discription of Project:

Pave existing runway 5000' X 170', 1 1/2" thick.

3. Documentation of Estimated Capital Cost:

Based on $50,000/mile for 12' lane (current Hwy. cost).

PROJECT TYPE

- ☐ Building Construction (C)
- ☐ Other Improvement (I)
- ☐ Equipment (E)
- ☐ Land (L)
- ☐ Professional Services (P)
- ☒ Other (O)

PROJECT CHARACTERISTICS

- ☐ Totally New Facility
- ☒ Addition to Existing Facility
- ☐ Renovation of Existing Facility
- ☐ Major Maintenance or Repair
- ☐ Supplement Previously Authorized Funds to Enable Completion
- ☐ One of Several Phases
- ☐ Major External Funding Source
- ☐ Other

NO	YES	SITE FEATURES
☐	☒	Site Currently Owned?
☐	☐	All Utilities Available?
☐	☐	Access Already Available?

APPROPRIATION REQUEST

1002	FED. RCPTS	728.0
1003	G/F MATCH	
1004	GEN. FUND	
1005	I/A RCPTS.	
	G.O. BONDS	72.0
	TOTAL	800.0

GOVERNOR'S RECOMMENDATION

APPROVED	DEFERRED	DISAPPROVED
X		

1002	FED. RCPTS:	720.0
1003	G/F MATCH	
1004	GEN FUND	
1005	I/A RCPTS.	
	G.O. BONDS	80.0
	TOTAL	800.0

01-1035a (12/79)

OPERATIONAL COST & NO. PERSONNEL INCREASE (DECREASE)		FIRST OPERATING YEAR ____	ULTIMATE ANNUAL YEAR ____
FUNDING SOURCE	FED. RCPTS.		
	GEN. FUND		
TOTAL ANNUAL OPERATIONAL COST		0	0
POSITION (FTE)			

PREVIOUS YR-PRIORITY: IR 79-2

AGENCY PRIORITY: 81- 2

GOVERNOR'S PRIORITY:

CATEGORY Transportation AGENCY DOT/PF PROGRAM REGION II - Aviation

01-1035a (7/79)

35a PROPOSED CAPITAL PROJECT

REVISED DATE ____

03407

PROJECT TITLE	LOCATION(S)	AREA SERVED	ELECTION DISTRICT(S)
Northway - Runway Resurfacing	Northway Ak	Northway	19

OBJ. NO(S)	OPERATING BUDGET BRU(S)	NAME(S)	BUDGET COMPONENT NUMBERS	START DATE	COMPLETION DATE
1				1981	1983

PROJECT NARRATIVE

1. Project Need Statement:

Northway is located 256 road miles southeast of Fairbanks on the Alaska Highway and has a population of 361 according to the 1978 census. There are 10 based aircraft and 1 scheduled flights/average week with an average of 18.2 aircraft per day (according to Northway FSS) utilizing the 5147' X 150' runway. Northway has an existing FSS and customs facilities and for this reason, the primary use of this airport is by small aircraft (light twins and smaller) for clearing customs entering Alaska and frequent use by recreational hunters etc.

The last major project in Northway was in 1973 which was a seal coat project to resurface the original sand asphalt runway. The runway is badly deteriorated from normal use and further attempts to mask the major problem seem fruitless.

2. Project Description:

This project would resurface 3500' X 75' of runway with approximately 3" of asphalt. Also to be included would be work on the ramp area for transient parking.

3. Documentation of Estimated Capital Costs:

The cost estimate for this project was developed by the Division of Aviation Design and Construction and adjusted to reflect the current scope of work.

PROJECT TYPE

- ☐ Building Construction (C)
- ☒ Other Improvement (I)
- ☐ Equipment (E)
- ☐ Land (L)
- ☐ Professional Services (P)
- ☐ Other (O)

PROJECT CHARACTERISTICS

- ☐ Totally New Facility
- ☐ Addition to Existing Facility
- ☒ Renovation of Existing Facility
- ☐ Major Maintenance or Rep'r
- ☐ Supplement Previously Authorized Funds to Enable Completion
- ☐ One of Several Phases
- ☒ Major External Funding Source
- ☐ Other

NO	YES	SITE FEATURES
☐	☒	Site Currently Owned?
☐	☐	All Utilities Available?
☐	☐	Access Already Available?

APPROPRIATION REQUEST

1002	FED. RCPTS.	1501.5
1003	G/F MATCH	
1004	GEN. FUND	
1005	I/A RCPTS.	
	G.O. BONDS	148.5
	TOTAL	1650.0

GOVERNOR'S RECOMMENDATION

APPROVED ☒ DEFERRED ☐ DISAPPROVED ☐

1002	FED. RCPTS:	1485.0
1003	G/F MATCH	
1004	GEN. FUND	
1005	I/A RCPTS.	
	G.O. BONDS	165.0
	TOTAL	1650.0

01-1035a (12/79)

OPERATIONAL COST & NO. PERSONNEL INCREASE (DECREASE)		FIRST OPERATING YEAR ____	ULTIMATE ANNUAL YEAR ____	PREVIOUS YR-PRIORITY
FUNDING SOURCE	FED RCPTS			AGENCY PRIORITY 81-5
	GEN FUND			
				GOVERNOR'S PRIORITY
TOTAL ANNUAL OPERATIONAL COST		0	0	
POSITION (FTE)				

CATEGORY Transportation AGENCY DOT/PF PROGRAM REGION II - Aviation

01-1035a (7/79)

35a PROPOSED CAPITAL PROJECT

REVISED DATE ____

0041.8

PROJECT TITLE	LOCATION(S)	AREA SERVED	ELECTION DISTRICT(S)
Rampart Runway Resurfacing	Rampart, AK.	Rampart	19

OBJ. NO(S)	OPERATING BUDGET BR(S)	NAME(S)	BUDGET COMPONENT NUMBERS	START DATE	COMPLETION DATE
1,3				1982	1984

PROJECT NARRATIVE

1. Project Need Statement:

Rampart Village is on the south bank of the Yukon River 85 air miles Northwest of Fairbanks, 58 people as of 1978 census. Two barge companies provide service - one company 5 times a year and the other as needed. The other major form of transportation is by aircraft of which the 2500' X 70' runway plays a vital part. Air service is provided to Rampart via 6 scheduled flights per week which in a combined total last year (6-78 / 6-79) carried 142 passengers/average month, and 14,382 pounds cargo/ average month to the combined villages of Rampart and Stevens. The last major project was in Sept. 1970 and consisted of clearing, ditching, and reconstructing with pit run gravel.

2. Project Description:

The Rampart Runway currently is deteriorating from normal usage and climatic conditions. This project is to resurface the runway ith gravel, widen to 100' and build up the north end approximately 5' to level the runway, and to provide proper drainage and parking aprons.

3. Documentation of Estimated Capital Costs:

The cost estimate for this project was deve' ed by the Planning Division from historical information on similar projects.

PROJECT TYPE

- ☐ Building Construction (C)
- ☒ Other Improvement (I)
- ☐ Equipment (E)
- ☐ Land (L)
- ☐ Professional Services (P)
- ☐ Other (O)

PROJECT CHARACTERISTICS

- ☐ Totally New Facility
- ☒ Addition to Existing Facility
- ☐ Renovation of Existing Facility
- ☒ Major Maintenance or Repair
- ☐ Supplement Previously Authorized Funds to Enable Completion
- ☐ One of Several Phases
- ☒ Major External Funding Source
- ☐ Other

NO	YES	SITE FEATURES
☐	☒	Site Currently Owned? Lease Pending
☐	☐	All Utilities Available?
☐	☐	Access Already Available?

APPROPRIATION REQUEST

1002	FED. RCPTS.	412.3
1003	G/F MATCH	
1004	GEN. FUND	
1005	I/A RCPTS.	
	G.O. BONDS	40.7
	TOTAL	553.0

GOVERNOR'S RECOMMENDATION

APPROVED ☒ DEFERRED ☐ DISAPPROVED ☐

1002	FED. RCPTS:	407.7
1003	G/F MATCH	
1004	GEN. FUND	
1005	I/A RCPTS.	
	G.O. BONDS	45.3
	TOTAL	453.0

01-1038a (12/79)

OPERATIONAL COST & NO. PERSONNEL INCREASE (DECREASE)		FIRST OPERATING YEAR ____	ULTIMATE ANNUAL YEAR ____	PREVIOUS YR-PRIORITY
FUNDING SOURCE	FED. RCPTS.			AGENCY PRIORITY 6
	GEN. FUND			
				GOVERNOR'S PRIORITY
TOTAL ANNUAL OPERATIONAL COST		0	0	
POSITION (FTE)				

CATEGORY Transportation AGENCY DOT/PF PROGRAM Aviation - Region II

01-1039a (7/79)

35a PROPOSED CAPITAL PROJECT

REVISED DATE ____

00422

PROJECT TITLE	LOCATION(S)	AREA SERVED	ELECTION DISTRICT(S)
Beaver - Resurface Runway	Beaver Ak	Beaver	19

OBJ. NO(S)	OPERATING BUDGET BRU(S)	NAME(S)	BUDGET COMPONENT NUMBERS	START DATE	COMPLETION DATE
1,3				1982	1985

PROJECT NARRATIVE

1. Project Need Statement:

There are 83 people currently residing in Beaver Village which has barge service 4 times a year and a 4550' X 150' gravel runway to serve its passenger and cargo needs. In the past year there was an average of 5 scheduled flight/week which carried 95 passengers/ average month. Beaver is located 60 miles Southwest of Fort Yukon on the north bank of the Yukon River.

Due to climatic deterioration and normal useage, this runway is in need of major repair.

The last major project here was in 1966.

2. Project Description:

Recommendations are to resurface the center 100' X 4550" section of the runway with gravel, provide an adequate apron for aircraft parking, and install appropriate drainage to prevent further reoccurrence in the deterioration of the runway.

3. Documentation of Estimated Capital Cost:

The cost estimate for this project was developed by the Planning Division from historical information on similar projects.

PROJECT TYPE

- ☐ Building Construction (C)
- ☒ Other Improvement (I)
- ☐ Equipment (E)
- ☐ Land (L)
- ☐ Professional Services (P)
- ☐ Other (O)

PROJECT CHARACTERISTICS

- ☐ Totally New Facility
- ☐ Addition to Existing Facility
- ☐ Renovation of Existing Facility
- ☒ Major Maintenance or Repair
- ☐ Supplement Previously Authorized Funds to Enable Completion
- ☐ One of Several Phases
- ☒ Major External Funding Source
- ☐ Other

NO	YES	SITE FEATURES
☐	☒	Site Currently Owned?
☐	☐	All Utilities Available?
☐	☐	Access Already Available?

APPROPRIATION REQUEST

1002	FED. RCPTS.	476.0
1003	G/F MATCH	
1004	GEN. FUND	
1005	I/A RCPTS.	
	G.O. BONDS	47.0
	TOTAL	523.0

GOVERNOR'S RECOMMENDATION

APPROVED ☒ DEFERRED ☐ DISAPPROVED ☐

1002	FED. RCPTS.	470.7
1003	G/F MATCH	
1004	GEN. FUND	
1005	I/A RCPTS.	
	G.O. BONDS	52.3
	TOTAL	523.0

01-1035a (12/79)

OPERATIONAL COST & NO. PERSONNEL INCREASE (DECREASE)		FIRST OPERATING YEAR ____	ULTIMATE ANNUAL YEAR ____	PREVIOUS YR-PRIORITY
FUNDING SOURCE	FED. RCPTS.			AGENCY PRIORITY 7
	GEN. FUND			
				GOVERNOR'S PRIORITY
TOTAL ANNUAL OPERATIONAL COST		0	0	
POSITION (FTE)				

CATEGORY Transportation AGENCY DOT/PF PROGRAM Aviation - Region II

01-1035a (7/79)

35a PROPOSED CAPITAL PROJECT

REVISED DATE ____

00426

PROJECT TITLE	LOCATION(S)	AREA SERVED	ELECTION DISTRICT(S)
Manley - Runway Clearing and Resurfacing	Manley Hot Springs, Ak.	Manley Hot Springs	19

OBJ. NO(S)	OPERATING BUDGET BRU(S)	NAME(S)	BUDGET COMPONENT NUMBERS	START DATE	COMPLETION DATE
1,3				1982	1984

PROJECT NARRATIVE

1. Project Need Statement:

Manley Hot Springs is located 85 air miles west of Fairbanks and has 74 people according to the 1978 census. There are 3 major modes of transportation: by road (open) year round), by barge - 1 barge comes weekly in the summer and the other comes as needed, and the third form has 13 scheduled flights/average month, 11 passengers/average month, 3700 pounds of mail/average month. The runway is 75' X 3000'. It has 13 based aircraft.

The last major construction project was in 1966.

2. Project Description:

This project would clear encroaching brush and resurface the existing 75' X 3000' runway with gravel and provide for designated appropriate parking and tie-down areas for based and transient aircraft.

3. Documentation of Estimated Capital Cost:

The cost estimate for this project was developed by the Division of Aviation Design & Construction from historical information on similar projects.

PROJECT TYPE

- ☐ Building Construction (C)
- ☒ Other Improvement (I)
- ☐ Equipment (E)
- ☐ Land (L)
- ☐ Professional Services (P)
- ☐ Other (O)

PROJECT CHARACTERISTICS

- ☐ Totally New Facility
- ☒ Addition to Existing Facility
- ☐ Renovation of Existing Facility
- ☒ Major Maintenance or Repair
- ☐ Supplement Previously Authorized Funds to Enable Completion
- ☐ One of Several Phases
- ☒ Major External Funding Source
- ☐ Other

SITE FEATURES

NO	YES	
☐	☒	Site Currently Owned?
☐	☐	All Utilities Available?
☐	☐	Access Already Available?

APPROPRIATION REQUEST

1002	FED. RCPTS.	328.6
1003	G/F MATCH	
1004	GEN. FUND	
1005	I/A RCPTS.	
	G.O. BONDS	32.4
	TOTAL	361.0

GOVERNOR'S RECOMMENDATION

APPROVED	DEFERRED	DISAPPROVED
X		

1002	FED. RCPTS.	3249
1003	G/F MATCH	
1004	GEN. FUND	
1005	I/A RCPTS.	
	G.O. BONDS	36.1
	TOTAL	361.0

01-1035a (12/79)

OPERATIONAL COST & NO. PERSONNEL INCREASE (DECREASE)		FIRST OPERATING YEAR ____	ULTIMATE ANNUAL YEAR ____	PREVIOUS YR-PRIORITY
FUNDING SOURCE	FED. RCPTS.			AGENCY PRIORITY 8
	GEN. FUND			
				GOVERNOR'S PRIORITY
TOTAL ANNUAL OPERATIONAL COST				
POSITION (FTE)				

CATEGORY Transportation AGENCY DOT/PF PROGRAM Aviation - Region II

01-1035a (12/79)

35a PROPOSED CAPITAL PROJECT

REVISED DATE ____

00420

HB
575

(7)

COMMITTEE REPORT

HOUSE

1/18/80

FURTHER: FINANCE

Date: 2-5-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 575

"An Act making a special appropriation to the Department of Transportation and Public Facilities for construction of Yukon River barge docking facilities; 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

PROJECT TITLE	LOCATION(S)	AREA SERVED	ELECTION DISTRICT(S)
Barge Dock Facilities	Ft. Yukon, Tanana, Yukon R. Bridge	Interior	19

OBJ. NO(S)	OPERATING BUDGET BRU(S)	NAME(S)	BUDGET COMPONENT NUMBERS	START DATE	COMPLETION DATE
				1991	1992

PROJECT NARRATIVE

1. Project Need Statement:

River transportation is an important element of the transportation system in interior Alaska, especially for bulk commodities and fuel. Barge docking facilities at major river ports will greatly enhance the economics of this mode. At present, barges must be loaded and unloaded on the bank, creating problems in finding sufficiant draft for vessels and in moving goods up and down the river banks, especially during wet and muddy conditions.

2. Project Description:

This project is to provide barge docking facilities, including piling, riprap and access where needed at the following locations: Fort Yukon, Yukon River Bridge, Tanana.

3. Documentation of Estimated Capital Cost:

The estimate for this project was provided by the Division of Ports & Harbors from historical data on similar past projec s.

4. Analysis of Impact on Operating Budget:

These docking facilities should not require any major maintenance after initial construction..

PROJECT TYPE

- ☐ Building Construction (C)
- ☒ Other Improvement (I)
- ☐ Equipment (E)
- ☐ Land (L)
- ☐ Professional Services (P)
- ☐ Other (O)

APPROPRIATION REQUEST

1002	FED. RCPTS.	
1003	G/F MATCH	
1004	GEN. FUND	1500.0
1005	I/A RCPTS	
	G/O BONDS	
	TOTAL	1500.0

PROJECT CHARACTERISTICS

- ☒ Totally New Facility
- ☐ Addition to Existing Facility
- ☐ Renovation of Existing Facility
- ☐ Major Maintenance or Repair
- ☐ Supplement Previously Authorized Funds to Enable Completion
- ☐ One of Several Phases
- ☐ Major External Funding Source
- ☐ Other

PROJECT PURPOSES

- ☐ Protect Human Health & Safety
- ☐ Protect Capital Assets
- ☐ Protect Natural Resources or Natural Environment
- ☐ Improve Efficiency & Economy of State Government
- ☒ Improve Services or Accommodate Increased Demand for Services
- ☐ Accommodate New Program Requirements
- ☐ Respond to Legal or Policy Mandate
- ☒ Improve Efficiency & Economy of Alaskan Infrastructure
- ☐ Other

NO	YES	SITE FEATURES
☐	☐	Site Currently Owned?
☐	☐	All Utilities Available?
☐	☐	Access Already Available?

OPERATIONAL COST & NO. PERSONNEL INCREASE (DECREASE)		FIRST OPERATING YEAR	ULTIMATE ANNUAL YEAR	PREVIOUS YR-PRIORITY
FUNDING SOURCE	FED. RCPTS.			AGENCY PRIORITY 1
	GEN. FUND			
				GOVERNOR'S PRIORITY
TOTAL ANNUAL OPERATIONAL COST		0	0	
POSITION (FTE)				

CATEGORY Transportation AGENCY DOT/PF PROGRAM

01-1036a (7/79)

CAPITAL PROJECT EXPENDITURES (CASH FLOW)	TOTAL	BUDGET YEAR	BUDGET YEAR Plus 1	BUDGET YEAR Plus 2	BUDGET YEAR Plus 3	BUDGET YEAR Plus 4	REMAINING COST
Planning and Engineering							
Land							
Construction							
Equipment							
Administration and Other							
Total Annual Expenditure (Capital Cost)	1500.0	1500.0					

CONTINUATION OF NARRATIVE

5. Identification of Alternatives Considered:

Do Nothing - This was rejected because it would discourage use of the most economical transportation mode for moving freight.

Install Lesser Facilities: Because of the nature of freight which could be barged to these locations, docks are preferable because they ease loading and unloading.

CATEGORY Transportation AGENCY DOT/PF PROGRAM

PROJECT TITLE Barge Dock Facilities

35b PROPOSED PROJECT ANALYSIS

REVISED DATE

REGION: Interior FY81 82 CIP Page 1 of 1

MODE: Waters and Harbors

PRIORITY	PROJECT NAME	GOALS	GEN. FUND	G.O.	FEDERAL	OTHER	TOTAL
1	Barge Docking Facilities						1,560
2	Barge Ramps						2,250
3	Small Boat Launching Facil.						100

PROJECT TITLE	LOCATION(S)	AREA SERVED	ELECTION DISTRICT(S)
Barge Landing Ramps	Interior Region	Interior	18,19 & 20

OBJ NO(S)	OPERATING BUDGET BRU(S)	NAME(S)	BUDGET COMPONENT NUMBERS	START DATE	COMPLETION DATE
				7/1/1981	6/30/1982

PROJECT NARRATIVE

I. Project Need Statement

Villages on the Yukon River and major tributaries rely heavily on barge transportation to move bulk commodities and fuel. At present there are no facilities at most locations and very inadequate facilities at others.

II. Project Description

A program for improving barge landing at all river communities in the region which are on barge lines, to include gravel ramps, access and deadheads.

III. Documentation of Estimated Capital Cost

The cost estimate for this program is approximate, based on an average estimated cost per facility, of $150,000. Individual estimates are not available, however the funding level proposed will be sufficient to cover a two year program.

IV. Analysis of Impact on Operating Budget

These projects are not expected to require any regular maintenance by the State.

V. Identification of Alternatives Considered

Delay or do nothing - this was rejected because of the economics of water transportation are much more favorable than for the other modes encouraging water transport will result in energy savings to the nation and cost savings to the consumers.

PROJECT TYPE

- ☐ Building Construction (C)
- ☒ Other Improvement (I)
- ☐ Equipment (E)
- ☐ Land (L)
- ☐ Professional Services (P)
- ☐ Other (O)

APPROPRIATION REQUEST

1002	FED. RCPTS.	
1003	G/F MATCH	
1004	GEN. FUND	2250.0
1005	I/A RCPTS.	
	G.O. BONDS	
	TOTAL	2250.0

PROJECT CHARACTERISTICS

- ☐ Totally New Facility
- ☐ Addition to Existing Facility
- ☒ Renovation of Existing Facility
- ☐ Major Maintenance or Repair
- ☐ Supplement Previously Authorized Funds to Enable Completion
- ☐ One of Several Phases
- ☐ Major External Funding Source
- ☐ Other

PROJECT PURPOSES

- ☐ Protect Human Health & Safety
- ☐ Protect Capital Asset
- ☐ Protect Natural Resources or Natural Environment
- ☐ Improve Efficiency & Economy of State Government
- ☒ Improve Services or Accommodate Increased Demand for Services
- ☐ Accommodate New Program Requirements
- ☐ Respond to Legal or Policy Mandate
- ☒ Improve Efficiency & Economy of Alaskan Infrastructure
- ☐ Other

SITE FEATURES

NO	YES	
☐	☒	Site Currently Owned?
☐	☐	All Utilities Available?
☐	☐	Access Already Available?

OPERATIONAL COST & NO. PERSONNEL INCREASE (DECREASE)		FIRST OPERATING YEAR ____	ULTIMATE ANNUAL YEAR ____	PREVIOUS YR-PRIORITY
FUNDING SOURCE	FED. RCPTS			AGENCY PRIORITY 2
	GEN. FUND			
				GOVERNOR'S PRIORITY
TOTAL ANNUAL OPERATIONAL COST		0	0	
POSITION (FTE)				

CATEGORY Transportation AGENCY DOT/PF PROGRAM

PROPOSED CAPITAL PROJECT

ENVIRONMENTAL ISSUE MATRIX FORM

PROJECT NAME: Cargo Landing Ramps

PROJECT NUMBER

Determinants	Definition	Impact			
Natural Environment		None	Minor	Moderate	Ma
Earth	The physical properties of earth and earth movement: geology/erosion	____	X	____	____
Water	Water movement and properties as support of all life & plant forms	____	X	____	____
Air	Ambient air quality standards	X	____	____	____
Flora & Fauna	Species of vegetation and wildlife (behavior, food source, breeding)	X	____	____	____
Natural Resources	Renewable & non-renewable resource	____	X	____	____
Human Environment					
Population	Growth distribution and density	X	____	____	____
Noise	Levels of tolerance and safety	X	____	____	____
Energy	Consumption reduction	____	____	X	____
Historical/ Archeologian	Cultural features and structures	X	____	____	____

COMMENTS: _____

_____

_____

_____

ENVIRONMENTAL ISSUE MATRIX
FORM

PROJECT NAME: Barge Docking Facilities

PROJECT NUMBER:

Determinants	Definition	Impact			
Natural Environment		None	Minor	Moderate	High
Earth	The physical properties of earth and earth movement: geology/erosion			↘	
Water	Water movement and properties as support of all life and plant forms		↘		
Air	Ambient air quality standards	↘			
Flora and Fauna	Species of vegeration and wildlife (behavior, food source, breeding)	↘			
Natural Resources	Renewable and non-renewable resources		↘		
Human Environment					
Population	Growth distribution and density		↘		
Noise	Levels of tolerance and safety	↘			
Energy	Consumption reduction			↘	
Historical/ Archeological	Cultural features and structures	↘			

COMMENTS:

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 575
Title An act relating to construction of Yukon River barge docking facilities
Requested by House State Affiars - Christine Harder Date 3/4/80

II. FISCAL DETAIL
Agency Affected Transportation & Public Facilities
Program Category Affected
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						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES	1,500					
700	GRANTS, CLAIMS, ETC.						
	TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND	1,500					
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

IV. DATE 3/4/80 PREPARED BY John Bates, Deputy Commissioner
AGENCY DOT/PF
PHONE 465-3900

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

33-001 (Rev. 12/79)

HB
576

(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

1/18/80

Date: 1-24-~~80~~ 80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 576

"An Act making a special appropriation to the Legislative Council for a feasibility study on resettlement of refugees from Indochina in Alaska; and providing for an effective date."

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

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[~~X~~] replace with CS for ~~HB~~ [ ] 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

M. M. Cole
Jane Marks
Ken Whitaker
Terry Gardiner

MEMBERS HAVING
OTHER RECOMMENDATIONS:

V. M. Cole
CHAIRMAN

H 60 (Rev. 12/78)

DAILY NEWS-MINER, Fairbanks, Alaska, Saturday, March 22, 1980

Can Alaska say 'no' to everyone?

Steve Cowper

Rep. Mike Miller of Juneau is pushing a bill through the state Legislature which would study the possibility of bringing a community of Laotian Hmong (formerly we called them Meo) to Alaska. Miller, a good and decent man, is being helped in his effort by the Valley Rotary Club in Juneau. What they are doing is very important to us, both as Americans and as Alaskans.

Not so many years ago, this nation was seriously engaged in keeping the communists out of Indochina. Many of those we came to save were unable to fully understand what we were doing there, but the Hmong understood. They hated the communists.

Laos is not a country in any traditional sense. For centuries, assorted conquerors—the Chinese, the Khmer, the Vietnamese, the Thai—swept across what is now Laos, but they paid little heed to the fiercely independent hill tribes, who in any event repaid unwelcome attention with violence. The French were unwilling to abide such a lack of structure; they imposed the present boundaries of Laos upon the tribes for the sake of administrative convenience. After the French went away, the princes and mystics down in the sleepy river capital of Vientiane exercised little jurisdiction over the Hmong; in fact, until fairly recent times many Hmong had never heard of Vientiane.

Soon after the U.S. came striding into Southeast Asia, many of our "allies" began to absent themselves from combat situations. Anywhere in the field you could hear people below the rank of E-5 asking aloud: If they don't care enough about this to fight, then what are we doing here? (I have, of course, cleaned up the language). But the Hmong cared. Directed mostly by CIA spooks, they fought the Pathet Lao bravely and successfully, and sometimes they even harassed the North Vietnamese Army.

But for all their valor, the Hmong were not crazy. They knew that if we got out, the communists would take over Vientiane, the cities, and the river country, and then attend to the liquidation of the Hmong. So the Hmong asked the Americans to take care of them if things reached such a pass; and the evidence is that our people promised help, even though it was later asserted that these statements did not bind the U.S.

We didn't take care of them, of course: we left Laos, in much the same secretive manner in which we had arrived. Sure enough, the Pathet Lao and their Vietnamese friends did exactly what the Hmong had predicted. Many Hmong died; others were imprisoned or treated in ways calculated to break their spirit; the rest live in refugee camps in Thailand, wretchedly attended.

I believe we gave our word to the Hmong, and that we ought to stand by them. Mike Miller's bill seeks to redeem a part of the national honor in a way that also honors Alaska.

It is an appropriate time for Alaskans to make a gesture through which we can take a measure of public pride. Maybe it has something to do with the savaging of our people by the national press; or maybe we have, in recent years, witnessed the damage caused by greed and wastefulness to simple civility. We are not a mean and selfish people; historically Alaskans have identified themselves with compassion and generosity.

According to legislative staffers, the Hmong have been passed over for resettlement because of their lack of a written language and their difficulty in adjusting to urban living after so many centuries of a simple agricultural existence. But a group in Minnesota has successfully adapted itself to rural and small town life and, incidentally, to the cold.

Mike Miller's bill is important in yet another aspect: it causes people to think about the refugee problem in a general sense. The persecution of the Hmong was politically inspired, as was the case with the Cubans, the Vietnamese, the Afghans and, in another decade, the Hungarians. Americans empathize with people who are escaping oppressive governments, even though our response is often hesitant.

There is another class of refugees that we had better address in an intelligent manner: economic refugees. The poor countries, especially those hooked on petroleum-based fertilizer and energy, are sinking into a sea of debt paper in order to keep their rapidly-increasing populations from starving.

Some of the poor countries are cursed with both political turmoil and economic disaster: indeed, it is difficult at times to tell which is cause and which is effect. Even if political stability could be conferred by a magic wand, a great deal remains to be done quickly in the poor countries to resolve questions of energy use, wasteful allocation of resources, and population control.

The international bankers, who recognize the magnitude of the problem, are keeping the poor nations afloat right now through generous loan practices. They know that if those economies are allowed to collapse, the present trickle of economic refugees will become a flood. In the event of mass starvation, it does not take a great stretch of the imagination to envision hordes of refugees on the shores of the prosperous nations. If that happens, the alternatives will be to take them in—all of them—or to allow them to die. There will be no escaping that stark decision.

For those who think this last is idle paranoia, Haitians are arriving every day along the Florida coast. They are not running from the ministrations of the dictator "Baby Doc" Duvalier or the hated Tonton Macout, although they could be excused for doing so; they are instead economic refugees who look into the future and see the Grim Reaper.

The great American civil rights leader Bayard Rustin once said that we who believe in democracy must take chances. Mike Miller thinks we should be willing to take a chance that the Hmong settlement in Alaska will be successful and mutually beneficial to us all.

In the midst of all the scrambling over the oil money, those impulses seem worth pondering. Serious and dangerous things are taking place in this world, and it befits Alaska to assume a part of the responsibility for resolving them.

January 24, 1980

We support House Bill No. 576 and House Concurrent Resolution No. 41.

There are 13.2 million refugees worldwide due to oppression by governments, Communism, wars, and disasters. It has been estimated that only one of every two persons survives the long and dangerous journey to resettlement camps. Benjamin Rosenthal (D-NY), returning from a tour which investigated nine refugee camps in S. E. Asia, described them as "hellholes" where living conditions were "the most atrocious and grotesque that a human being can be in". (The previous information is from the Lutheran Immigration and Refugee Service.

The United States has pledged to take a large number of refugees now in camps. Most will die unless they are accepted into a country. They cannot remain where they are and live.

We believe that Alaska can play an important part in the resettlement of refugees. With over 20 million acres of prime farm land and over 100 million acres of grazing land, Alaska can be a leader in alleviating human suffering by providing an opportunity for subsistence farming.

Several subsistance farms currently exist in such areas as Hoonah, Haines and Delta Junction. Also there is a Russian settlement on the Kenai Peninsula. The research has been done to provide a basis for successful farming techniques in Alaska. It is now just a matter of applying what has been learned.

We would like to see Alaska take the leadership in providing a sign to the rest of the United States and the world that our government is responsive to the desires of the people in providing opportunity and freedom. In these difficult times, America needs acts of human compassion to rebuild lost confidence caused by charges of imperialism.

Verdell Jackson
Linda Jackson

Verdell and Linda Jackson
390 Jackson Way
Box 164
Douglas, Alaska 99824

January 24, 1980

At its January 22, 1980 meeting, the Organization to Assist Refugees (OARS) passed a motion supporting House Bill No. 576 and House Concurrent Resolution No. 41.

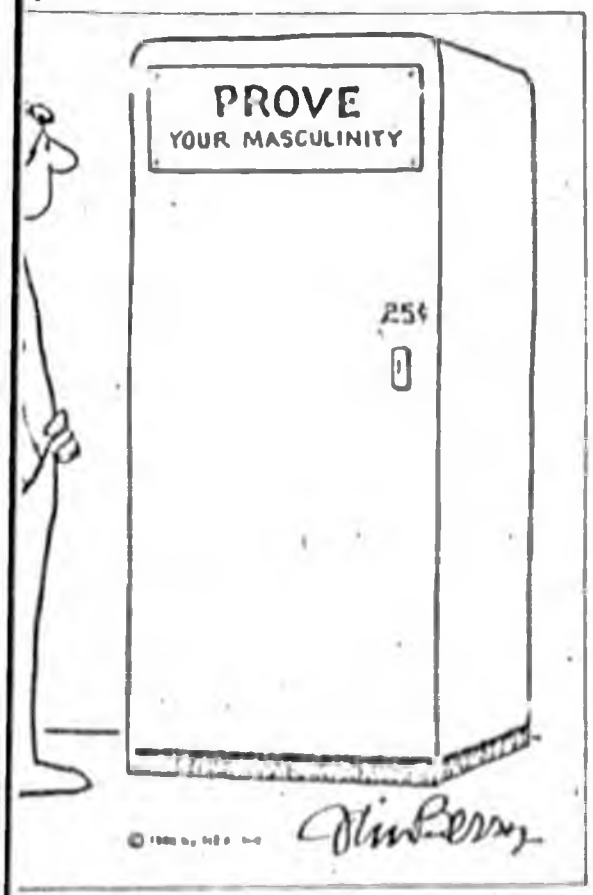
OARS recognizes the potential of the bills to make a significant impact in alleviating human suffering and regards this action as a sign to the rest of the world that the American Government is sensitive to needs of people around the world.

Verdell Jackson

g along with them?

point, though, the capital movers will acquainted with reality. In the real ems, people and issues as crucial as the ve cannot be bought and sold like so handise. In the real world, issues with mpact such as the capital move must be a responsible manner, not by "horse

y's World



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My Turn

Refugees and Alaska

By DAVID M. BEAUME

Late last summer, Alaskans learned that higher oil prices would create a huge continuing surplus in the State government budget (estimated at between $300 million and $600 million for the present fiscal year). Since that time the Press has documented a grand outpouring of ideas as to how the money could be spent to better our lives and to increase our standard of living. To my knowledge, there has not been even one public suggestion as to how we might use a small part of our new wealth to benefit others.

Our apparent eagerness to indulge ourselves has not gone unnoticed by the rest of the world. The distasteful biblical spectacle of the rich man refusing to give Lazarus even the crumbs from his table fits too well what has become a growing public perception of Alaskans. We are viewed as the blue-eyed Arabs of the North greedily toting up ways to spend our new found riches while the single greatest human tragedy since the holocaust plays itself out in Southeast Asia. Even our gestures appear selfish. We talk of selling or giving salmon to starving Cambodians, not because they are desperately in need, but because we fear a glut on the market and a sharp fall in prices.

Personally, I am convinced that the image of Alaskans as insensitive and greedy is warped. We do not lack concern, only an idea. We are not unwilling to share with others; just unable to see how an influx of unskilled labor into our already weak urban job markets can much help anyone. If a way could be found, I believe Alaskans would move to the forefront in the effort to assist the Indochinese refugees.

As it happens, a way may be at hand. A bill will soon be pre-filed in the Alaska Legislature to appropriate $50,000 to study the feasibility of relocating up to five hundred (Laotian) Hmong refugee farmers in a self-sustaining agricultural community here in Alaska. Through the use of innovative technology and local building materials, it may be possible to better at least a few lives. In addition to examining alternative technologies and appropriate building techniques, the study would consider what combination of State, federal and private aid can best finance the project. One possibility (that could even be mandated for consideration) is that a minimum percentage of the project be financed by the new farmers themselves out of contributions raised in a national fund raising drive. Some key Hmong leaders presently live in Billings, Montana and, conceivably, could help to coordinate such an effort.

The Hmong are Laotian mountain people of Chinese extraction who fought against the Communist takeover in Laos. In so doing, they lost their arms, many of their people, and most of their possessions. Since their defeat, they have learned just how quickly American promises can slip into the unremembered past. Despite official assurances of American resettlement aid and assistance, tens of thousands of Hmong people are presently living in Thai refugee camps, and have been for several years.

Although the Hmong were among the first refugees to enter Thailand's camps, they may well be among the last to leave. The attention and assistance given earlier to the Vietnamese boat people, and now to the Cambodians has come partly at their expense. Resettlement of some Hmong in their own farming community here in Alaska could dramatically improve matters for those [illegible] to be resettled, even given the rigors of the rural Alaska lifestyle. More importantly, an Alaskan effort aimed at assisting the Hmong could refocus international attention on their needs. Life on a farm in Alaska is no picnic, but then neither is life in a refugee camp. Compared to the alternative of continued incarceration or death, a chance to begin again in Alaska comes off as a rare opportunity indeed.

Westerners are certifiably incompetent at determining how best to assist persons from other cultures. For this reason, we must not jump to conclusions as to the potential success or the potential cost of the project. One important feature of the proposed study is consultation with the Hmong themselves. Helping them in accord with their own standards and their own expectations may prove to be considerably more "do-able" than one might initially suppose.

Even so, it must be admitted that many potential problems do come to mind when one begins to think about this idea. Not the least of these is the problem of land availability. Unless the federal government fulfills its D2 and Statehood Act obligations, it is hard to see how room for the Laotians could be found in Alaska. On the other hand, Laotion resettlement could be the wedge that pries free the State's full land entitlement from the federal government.

Because there are potential problems, no one is yet asking Alaskans to support resettlement, only to keep an open mind on the subject. Refugee resettlement has been declared the issue of the year by Rotary International.

The bill to fund the proposed feasibility study was drafted in response to a resolution passed in October by the Glacier Valley Rotary Club of Juneau. As President of the Glacier Valley Rotary Club, I can say that our members and other willing to consider this effort are not yet convinced that refugee farms will work, only that their establishment should be given careful consideration. I would hate to think that we foreclosed a chance to help others, to increase our own self-respect and to enhance our own self image without so much as a careful look at the possibilities.

Precendent exists. Self sustaining agricultural farms have been part of the Alaskan landscape for many years. Physically, it can be done. The questions are: "At what cost?" and "In what manner?" We need to make a serious effort to find the answers.

Alaska's willingness to explore new and innovative solutions to the refugee problem could help lead to the problem's successful resolution, even if resettlement in Alaska is found to be totally unreasonable. One idea can give birth to another. The proposed study gives this process a chance to work. We ought to be willing to do at least that. In the words of Pope John Paul II:

"We cannot stand idly by, enjoying our own riches and freedom, if in any place, the Lazarus of the twentieth century stands at our doors...Riches and freedom create a special obligation. The poor of the United States and the world are your brothers and sisters. You must never be content to leave them just the crumbs from the feast. You must take of your substance and not just of your abundance, in order to help them. And you must treat them like guests at your family table."

Note: David Beaume is the principle economist for the Alaska Department of Commerce and Economic Development and president of the Glacier Valley Rotary Club in Juneau.

Outdoors

Craig Medred

Empire Staff Writer

A word of warning

No one can ever forget the sound.

It starts with a dull, rumbling roar that builds and builds until the valley walls echo, and when it stops there is a deadly silence.

Such is the sound of an avalanche.

It should rightly send shivers down the back of anyone who skis or snowshoes the backcountry in the winter or spring. No one challenges an avalanche and wins.

They are overpowering.

Count your days on your fingers ye who do not fear them.

There are ways to survive avalanches, yes. It has been done. There are people who have been hit and lived to tell about it, and because of that it is only wise to know what to do when caught up in a snowslide.

The best advise, though, is to stay far away from them.

Stay to the heavy timber or the ridge tops. Stay out of the barren valleys. It does not take a genius to spot an avalanche slope, especially in this country.

The will usually be bare as a baby's bottom, having been scoured clean by regular winter slides. Near the valley floor, they will, at best, be a maze of alders and small evergreens.

Avoid that. It is called a runout area, and if anything lets go above, it is the wrong place to be.

A better route is in the trees below it, protected from a sliding mass of snow.

There is much to learn about avalanches. This is not meant to be a primer on either how to avoid them or how survive them. That takes more information than can be printed here, and more common sense than any column can instill.

This column is meant, instead, as a warning.

People die in avalanches in Alaska every year. Many of them die needlessly.

It has been a long time since anyone died under a pile of snow in the Juneau area. Whether to call it luck or knowledge, I do not know.

What I do know is that Southeast Alaska is a prime place to be buried by an avalanche unless you're always watching for it.

Avalanche

Blasting snow to save lives

One is all it takes.

Avalanches drop with stunning swiftness. They catch people up in a raging torrent of flowing snow. Often, they kill.

More people died in avalanches in Alaska in the 1970s than in any other state, according to statistics. That is not a per capita figure.

In actual numbers, Alaska, the least populace state in the union, led the nation in avalanche deaths.

Skiers, snowshoers and others still go into the mountains unaware of the dangers, Norm Wilson, an avalanche expert said.

Wilson was in Juneau this week to conduct avalanche training sessions at the Eaglecrest Ski Area. A four-day field seminar, which ended Thursday, was designed to teach ski area personnel and others the fine points of avalanche control.

Blasting and other methods are used throughout the winter at Eaglecrest to keep the slopes safe from avalanches.

"You have to see it, feel it, hear it, work with it," Wilson said. "It (avalanche control) is not a science. It's an art, a well-defined art, but an art.

"The variables are endless."

The effectiveness of dynamiting avalanches is "very, very high," Wilson said, but "it's not 100 percent.

"Once in a while, bec... we're working with mother nature, we're going to be fooled," he said.

Still, he said, skiing in an area where avalanche slopes are regularly monitored is safer than driving in Los Angeles or any other large city.

The greatest avalanche danger exists in back-country areas, he said.

People going into the mountains in the winter need to be aware of the danger and what to look for, or avoid.

"The public awarene... along with the public need is growing," he added.

Seminars like the one at Eaglecrest help foster that public knowledge. In addition to Phase II seminars, such as those held at Eaglecrest, the National Avalanche Schools, under which Wilson runs the program, conducts a Phase I seminar "to give the student the best understanding of avalanche...phenomenon...control fundamentals...(and) avalanche rescue." There is also a Phase III seminar for specialized avalanche-control training.

Wilson has worked in avalanche areas and taught avalanche-control througnout the West. He teaches a dozen seminars every year. Each attracts 10 to 15 students, he said.

The Eaglecrest school, sponsored by the U.S. Forest Service, drew 18 participants from Eaglecrest, the Forest Service, the city-borough and the state Department of Transportation.

Dynamiting snow

Norm Wilson

GOVERNOR, MRS. QUIE HOST REFUGEE MEETING

Mrs. Albert H. Quie, a member of the ARC advisory committee in Minnesota, recently invited business, labor, religious and civic leaders to a lunch meeting in the Governor's Residence to hear a report from ARC's chairman and to ask their support of Indochinese refugees. Stormy Greener, photographer-writer of the Minneapolis Star and a member of the Minneapolis/St. Paul ARC steering committee, reported on her trip to "boat people" camps. Her photographs, which have received nationwide attention, will be the basis of an ARC slide presentation for sponsor development.

FUNDS URGENTLY NEEDED

ARC's efforts to help resolve a rapidly worsening crisis require contributions. The America Refugee Committee depends entirely upon private support and receives no Federal funds. Three offices now are in operation, and others are being planned. The approximate cost of recruiting, evaluating and following through on each sponsor is $50. Thus $50,000 is urgently needed for the current sponsor campaign as well as funds for medical programs and transportation projects being planned. ARC is incorporated as a not-for-profit corporation and contributions are tax deductible by IRS ruling.

While several foundation and corporation requests are pending, immediate needs urgently require contributions. Please do help now.

* * * *

American Refugee Committee
310 Fourth Avenue South, Room 410
Minneapolis, MN 55415

American Refugee Committee
317 Howard Street, Room 201
Evanston, IL 60202

American Refugee Committee
1630 Crescent Place, N. W.
Washington, D. C. 20009

Neal Ball
One American Plaza
Evanston, IL 60201

HB
589

(7)

COMMITTEE REPORT

HOUSE

1/22/80

FURTHER: FINANCE

Date: 31 Jan 80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 589

"An Act making a special appropriation to the Department of Transportation and Public Facilities for construction of the Near Island bridge; and providing for an effective date."

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

[X] 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

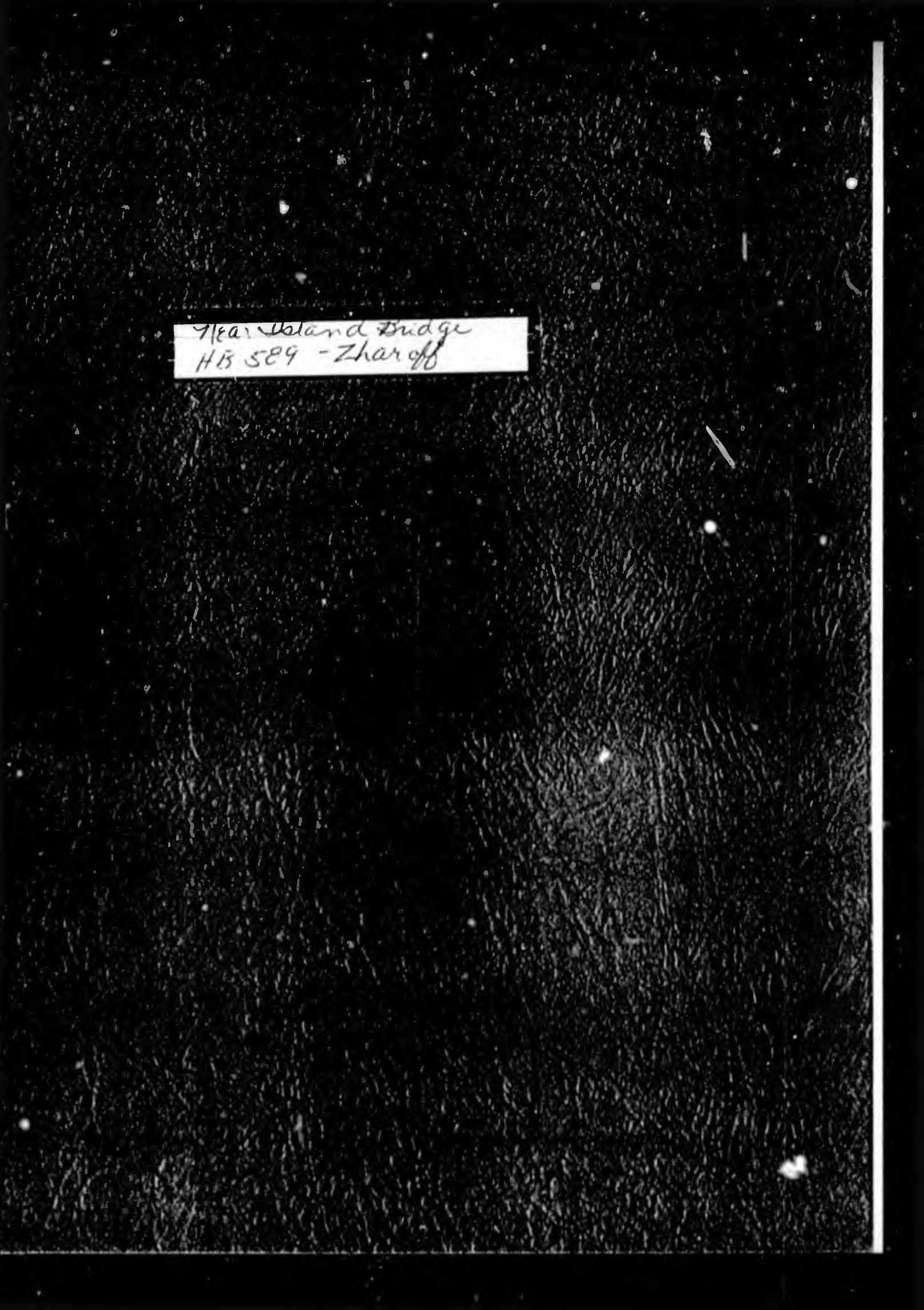
MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.


Near Boland Bridge
HB 589 - Zharoff

HOUSE BILL 589

ZHAROFF

House Bill 589 would make a special appropriation to the Department of Transportation in the amount of $12,600,000 and would provide for the construction of a bridge from Kodiak Island to Near Island. The construction of the bridge would provide access to two (2) badly needed harbor sites: Dog Bay and Trident Basin. Not only would the avenue for access be provided, but it would open Near Island to residential, recreational, and industrial developement.

Funding Information

General Fund	$12,600,000
Other Funds	-0-
	$12,600,000

Introduced: 1/22/80
Referred: State Affairs and Finance

IN THE HOUSE BY ZHAROFF

HOUSE BILL NO. 589

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Transportation and Public Facilities for construction of the Near Island bridge; and providing for an effective date."

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

* Section 1. The sum of $12,600,000 is appropriated from the general fund to the Department of Transportation and Public Facilities for construction of the Near Island bridge.

* Sec. 2. The appropriation made by this Act is for a capital project and is subject to the provisions of AS 37.25.020.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-070(c).

GOALS AND OBJECTIVES

Following is a delineation of goals and objectives to be considered by the community as a basis for this plan and use a means for determining proper methods of implementing the plan. The goals presented herein generally apply to the community as a whole and are designed to represent methods by which the citizens and local governments can improve their community and its components. The objectives should be viewed as statements of intent, and the direction towards which efforts will be expended in trying to achieve the goals. A presented below, the goals are not arranged in any particular order of importance of priorities. The objectives apply those goals to possible methods of development of Near Island, in other words, how can the community achieve its goals, either in part or in total, through the development of Near Island. It should be remembered that these goals do not represent hard and fast rules but rather they should act as general of guidelines in helping the community to determine the direction of their efforts in trying to improve the quality of the community.

GOAL: To provide adequate accessory facilities needed to help maintain and foster the growth of the fishing industry in the Kodiak area.

OBJECTIVE: Provide a small boat harbor and ancillary facilities on Near Island at Dog Bay adequate to handle the existing and future harbor facility demands generated in the Kodiak area.

GOAL: To protect and strengthen the business core of the City of Kodiak.

OBJECTIVE: Restrict general commercial development on Near Island that might compete with the position of downtown area of Kodiak as the commercial center of the community with the exception of those uses needed to serve development on the Island.

GOAL: To foster the logical, controlled development of the tourism industry in the Kodiak area.

OBJECTIVE: To provide tourist-oriented facilities that will take advantage of the natural amenities provided by Near Island and the Kodiak area.

GOAL: To protect and enhance the aesthetic qualities of the Kodiak community.

OBJECTIVE: To provide park land and open space on Near Island that will contribute to its desirability as a place to live and visit and that will preserve the natural beauty of the Island as it is viewed from the developed portions of the City of Kodiak.

GOAL: To insure that development and land use in the Kodiak community is of such quality that it will enhance rather than detract from the quality of life in Kodiak.

OBJECTIVE: To enact and administer land use controls on the development of Near Island that will insure the quality of development is such that the entire community will benefit from it.

These goals and objectives are presented as a part of the plan. They should be carefully considered in order to determine the degree to which they conform to the community's desires to determine whether or not they can be realistically implemented.

There are a variety of means available to the community for accomplishing the goals and objectives as well as the specific land use recommendations proposed herein. First the City is in an excellent position to help realize the maximum benefits from the planning process due to the municipal ownership of Near Island. Obviously there is no more direct control of land than ownership. Through this authority, attention should be paid to how and in whom future control of the land involved is vested. Of equal importance is the purpose for which the land is likely to be used. Also, through ownership of the land, there are several land use controls that most municipalities do not have an opportunity to exercise. Through the sale of the land, subdivision covenants and deed restrictions can be placed upon it that can determine the type of quality of development placed thereon. If portions of the land are disposed of through the use of long-term leases, conditions can be included in such a lease that will again give the community

a certain amount of control over the ensuing land use patterns.

There is, of course, the conventional land use controls that are vested in any Alaskan municipality or local government that exercises planning and zoning powers. Zoning controls placed on the land will obviously restrict the use of the land to those developments allowed within the specific zoning district utilized. If portions of the land are subdivided prior to its disposal by the City, the design of that subdivision can help dictate the way in which the property is used. Other land use controls such as special exceptions, conditional use permits, and planned unit developments can also be utilized. These types of controls will be discussed later and should be given careful consideration as to their ability and applicability in this instance. Finally, priorities set within the community is Capital Improvements Program which can have a great and lasting effect upon the development pattern that takes place on the Island.

All of these controls should be considered. Many of them or combinations thereof will undoubtedly be appropriate for use in helping to implement the goals and objectives described above.

CITY OF KODIAK
RESOLUTION NUMBER 5-80

A RESOLUTION OF THE CITY OF KODIAK REQUESTING GOVERNOR JAY HAMMOND AND THE ALASKA STATE LEGISLATURE TO FUND BOAT HARBOR EXPANSION (DOG BAY OR TRIDENT BASIN) AND THE NEAR ISLAND BRIDGE AND FURTHER PLACING THESE PROJECTS AS THE CITY'S TOP PRIORITY CAPITAL CONSTRUCTION PROJECTS.

WHEREAS, the Kodiak Boat Harbor has been greatly overcrowded for many years, making it extremely frustrating, time consuming, dangerous, expensive and often impossible for commercial fishermen to safely moor their vessels; and,

WHEREAS, Kodiak is one of the nation's principal sources of seafood and boat harbor facilities are woefully inadequate to accommodate this ever expanding growth; and,

WHEREAS, Kodiak has been identified as a prime center for bottom-fish development; and,

WHEREAS, many fishermen have to waste expensive fuel running auxiliary engines because of lack of access to electrical shore power; and,

WHEREAS, oversized vessels (such as 108 footers in 75 foot stalls) are repeatedly causing expensive damage to the floats and pilings in the present harbor; and,

WHEREAS, vessels tied many deep outside cannery docks because of lack of space in the boat harbor have done extensive damage to cannery docks and pilings, and made normal loading and unloading operations extremely time consuming, frustrating and expensive for both vessel and cannery personnel; and,

WHEREAS, over the past Christmas holidays the inevitable happened during a windstorm and three vessels with a total value well over one million dollars were tied abreast at King Crab, Inc. dock and broke loose, drifting along the waterfront and damaging vessels moored at other cannery docks before finally hitting the harbor breakwater; and,

WHEREAS, the Kodiak fishing fleet has been paying large and increasing amounts of Motor Marine Fuel Tax and Raw Fish Tax dollars to the State of Alaska coffers and some of those revenues are dedicated to boat harbors; and,

WHEREAS, the City of Kodiak increased the sales tax last fall by two percent with these additional revenues dedicated to harbor development and roads, thereby showing a financial commitment of our community; and,

WHEREAS, the voters of the Kodiak Island Borough recently passed a twenty-nine million dollar bond issue to improve schools throughout our island, making it particularly important that our economy not stagnate or decline; and,

WHEREAS, the Kodiak City Council recognizes Dog Bay is the larger of two prime alternative boat harbor sites and it will accommodate in a greater capacity larger vessels as projected for the future in bottomfish development; and,

WHEREAS, alternative consideration must be given to Trident Basin if it will, in fact, accommodate the projected fleet and be substantially faster to build; and,

WHEREAS, any development of boat harbors on Near Island will be more cost effective through the early construction of a bridge; and,

WHEREAS, this bridge will provide the essential links for municipal services which will accommodate Dog Bay or Trident Basin boat harbors, from fire protection to utilities,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kodiak, Alaska, that Governor Jay Hammond and the Alaska State Legislature be strongly urged to assist in the immediate develoomment of Kodiak harbors to accommodate fleets necessary for fishery expansion.

FURTHER BE IT RESOLVED that the State planning and construction of a bridge and road system for Near Island are essential to the City of Kodiak and the development of expanded fishery resources.

PASSED AND APPROVED this 29th day of January, 1980.

CITY OF KODIAK

By: Alan J Boardsley
MAYOR

ATTEST:

Ray M Baker
CITY CLERK

CITY OF KODIAK

RESOLUTION NUMBER 29-75

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF KODIAK REQUESTING THE STATE OF ALASKA, DEPARTMENT OF HIGHWAYS TO CONSTRUCT A VEHICLE AND PEDESTRIAN BRIDGE ACROSS NEAR ISLAND CHANNEL

WHEREAS, the existing Kodiak Small Boat Harbor was originally designed to accommodate 210 boats and is now attempting to handle over 500 boats and there are 350 vessels on the waiting list for additional mooring space, and

WHEREAS, the City of Kodiak desires to expand its small boat mooring capabilities to serve the rapidly expanding fishing industry in the Kodiak area, and

WHEREAS, a comprehensive development plan has been prepared under the authority of the State of Alaska, Office of the Governor, Division of Pla g and Research under Comprehensive Planning Contract Number Ak-CPA-10-19-100 , and

WHEREAS, the Anchorage District, United States Corps of Engineers has held public hearings in Kodiak on the development of the Near Island Dog Bay Small Boat Harbor, and

WHEREAS, the Department of the Army, North Pacific Division Corps of Engineers has issued a Notice of Completion of Feasibility Report on Kodiak Harbor Alaska, Small Boat Harbor Improvement on October 8, 1975 for the development of Dog Bay Harbor in Kodiak, and

WHEREAS, the adoption of the project is subject to the provision that prior to construction local interests furnish assurances satisfactory to the Secretary of the Army that they will provide and maintain, without cost to the United States, adequate means of access between the Harbor and Community open to all on equal terms, and

WHEREAS, the City of Kodiak expects the construction phase of this project to commence sometime in the period 1978 to 1979;

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the City of Kodiak hereby requests the State of Alaska, Department of Highways construct a vehicle and pedestrian access bridge across Near Island Channel connecting Near Island and the Dog Bay Small Boat Harbor with the State Highway system within the City of Kodiak, thereby establishing Near Island as origin and destination points within the Community.

PASSED AND APPROVED this 24th day of November, 1975

Mayor

ATTEST:

CITY CLERK

Telegram
City of Kodiak
October 11, 1979

TO: Senator Mike Gravel
3121 Dirksen Senate Office Bldg.
Washington, D. C. 20510

Senator Ted Stevens
260 Russell Building
Washington, D. C. 20510

The City of Kodiak is awaiting immediate congressional action on Dog Bay. The City Council understands that the bill is being held up in the Senate Water Resources Committee. Your help is needed.

Kodiak is behind this project 100%, as evidenced by 1,500 signatures on petitions in support of Dog Bay which have been forwarded to your office, plus City implementation of additional sales tax to pay our share of harbor development.

This is a vital economic and political issue for Kodiak.

Alan Beardsley
City Mayor

cc: Representative Young
Governor Hammond
State Senator Mulcahy
State Representative Zharoff
Anchorage Times
Kodiak Daily Mirror
Kadiak Times
Radio Station KMXT
Radio Station KVOK

DOG BAY HARBOR

STATUS

1/30/80

Representative Zharoff's office received a telephone call from Phylis Myrte in Senator Ted Steven's Juneau office 1/29/80 informing us that the U.S. Senate had passed 5872, a public works project bill for California to which the Dog Bay Harbor had been attached in the amount of $8,597,000. It now goes back to the House for final approval.

Muggs. Leg. file

CITY OF KODIAK ALASKA

October 10, 1979

Representative Fred Zharoff
P.O. Box 405
Kodiak, AK 99615

Dear Fred:

Per your request of the Kodiak City Council, I am setting forth the City's legislative priorities. Some of the items have received attention with back up information in the past and, of course, we will want to expand on each one as time goes on.

PILLAR MOUNTAIN/PORT EXPANSION. Pillar Mountain remains a critical issue facing the City of Kodiak. Of course, through your good offices as well as Senator Mulcahy's, we have received half a million dollars to study the mountain. However, we are now looking not only at the solution of the Pillar Mountain slide problem but more positively at new port expansion and development.

Lois Kramer of Community and Regional Affairs is currently working on a draft report of which you have received, concerning the major fishing ports in Alaska with recommendations of where the State might concentrate port development monies. We suggest that with the Pillar Mountain situation being resolved through the expansion of port facilities (beneath the slide area) that Kodiak's viability as a major port in her analysis ranks strongly with Dutch Harbor.

The sketch rendering of Pillar Mountain and new dock facilities (forwarded to your office in earlier correspondence) shows how 800,000 cubic yards of material can be removed from the surface of Pillar Mt. with half of that material going as fill borrow material creating an eight acre expanded container storage area with a complimentary addition of two docks and one full scale container crane. As it is, our container storage areas are now over crowded with APL and Sea-Land vans. Under our arrangements with Alaska Terminal and Stevedoring (Bob Washburn) there has been some interest shown by Foss Tug and Barge to bring in domestic freight also in competition with Sea-Land.

All projections for growth in Kodiak, plus the above evidenced competitive activity between shipping carriers, substantiates the need for expanded port facilities.

POST OFFICE BOX 1397 KODIAK ALASKA 99615 PHONE (907) 486-3224

Alaska's renewable resources should be paramount in State concern. These Kodiak dock expansions will emphasize the needed attention to developing and adequately handling the renewable fisheries resources, and accommodate potential oil development.

We are not advocating development of oil resources, but are fully aware of the impact this sort of development will have on our port facilities should the 1980 oil leases at Chiniak go through. Just the exploratory drilling done a few years ago, I am told, tied up existing docks substantially and conflicted with the adequate and timely shipment of fish product, the life blood of this port.

WATER RESOURCES. The City Council asked that adequate money be available for expanded water resources. As you know, the Monashka Dam was designed as a temporary dam with plans to develop a larger dam at that site which would provide for an additional 488,776,500 gallon storage capacity. Because of the delays caused by the Native Settlement Act, which now may be in the process of settlement through the Udahl Bill, costs have substantially risen so that a dam that was funded for $900,000 would now cost 1.5 million. The City needs an additional $600,000 to build the same dam at the end of next year.

Also, the City will be looking to develop backup systems to avoid potential break downs such as the collapse of the water system a few weeks ago. That was a particularly minor problem brought about by an unusual blossoming of algae which we can take care of through an annual inspection system. But, it does demonstrate that water can be cut off, even when it is there, by various means. We are looking to develop bypass systems at the upper reservoir so Monashka and Pillar Creek water can continue to come over the hill, as well as new and larger water mains servicing primarily our industry. We also hope to be able to install generator systems at Monashka and electronic pump signalling circuits to provide protection against loss of power at those sites and as a hedge against a system which currently relies on daily manual turn-on of those pumping stations.

TRAFFIC. Already the Director of Transportation has begun implementation of some of the City's request for traffic improvement. We are awaiting his exact written correspondence regarding the matter which we will forward to your office. The priorities that the City has established include the following: 1) traffic signals at Center and Benson and at Benson and Marine Way; 2) stop signs at Birch and Mill Bay; 3) State maintenance of the Pillar Mountain road; 4) flashing red light in front of the Fire Station; 5) upgrading of Mill Bay with widening considerations between Center and Birch; 6) greater emphasis on dust control through use of oil additives and/or calcium chloride treatments.

SEWER TREATMENT PLANT. There are approximately $450,000 of modifications needed for the sewer treatment plant. We are currently dealing with DEC for more grant money to accomplish these. Currently we have made application before the deadline to convert the plant from a secondary to a primary plant. This will have the effect of eliminating some of the steps now employed in the plant and thus reduce the need for some expanded modifications. We are also in litigation with designers, Kramer, Chin and Mayo, and we may receive some relief. Your continued interest in this program will be greatly appreciated as the sewer treatment plant is designed to handle the needs of not only the City but the surrounding area which was encompassed within the proposed legislative annexation a year ago.

NEAR ISLAND. The City is extremely anxious to develop a new boat harbor on Near Island whether it be Dog Bay and/or Trident Basin. However, it is of primary concern in either case that access be provided through State bonding of a high suspension bridge and primary road system for the island.

We would hope that this project could be added to a State bond election and/or funded from current State surpluses. We will be forwarding to your office a copy of the Trident Basin Feasibility Study under progress which should wrap all these costs together.

Kodiak has a lot of need, but we suspect part of the answer is that Kodiak has traditionally been bypassed in past years by many State appropriations which other cities have enjoyed. With the large surplus of State revenue this year we hope Kodiak will substantially benefit through these public works programs and therefore affect the future health of the State in the proper development of renewable resources.

Most sincerely,

CITY OF KODIAK

Clair W. Harmony
City Manager

CWH:k

cc: Senator Bob Mulcahy
Kodiak City Council

STATE OF ALASKA

J. S HAMMOND, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

DEPUTY COMMISSIONER – DESIGN AND CONSTRUCTION

POUCH Z
JUNEAU, ALASKA 99811

January 18, 1980

RE: Kodiak to Near
Island Bridge

Senator Bob Mulcahy
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

As requested, I am attaching a breakdown of the presently estimated 1980 costs for a bridge from Kodiak to Near Island. Since no detailed foundation investigations or right-of-way appraisals have been done, the estimates must be considered quite preliminary. Depending on these and other unknown variables, I would expect that the actual cost in 1980 dollars could vary up or down by $2,000,000 or so. Please note that the Supplemental Capital Program submitted by the Governor includes $400,000 for Planning and Preliminary Engineering.

Please let me know if you have further questions.

Sincerely,

R. D. Shumway, P. E.
Deputy Commissioner

Attachment

January 18, 1980

Preliminary Cost Estimate For

Bridge from Near Islard to Kodiak

Note: All costs are in 1980 dollars.
To cover costs of inflation, add 10% per year, Compounded annually, for costs incurred after 1980.

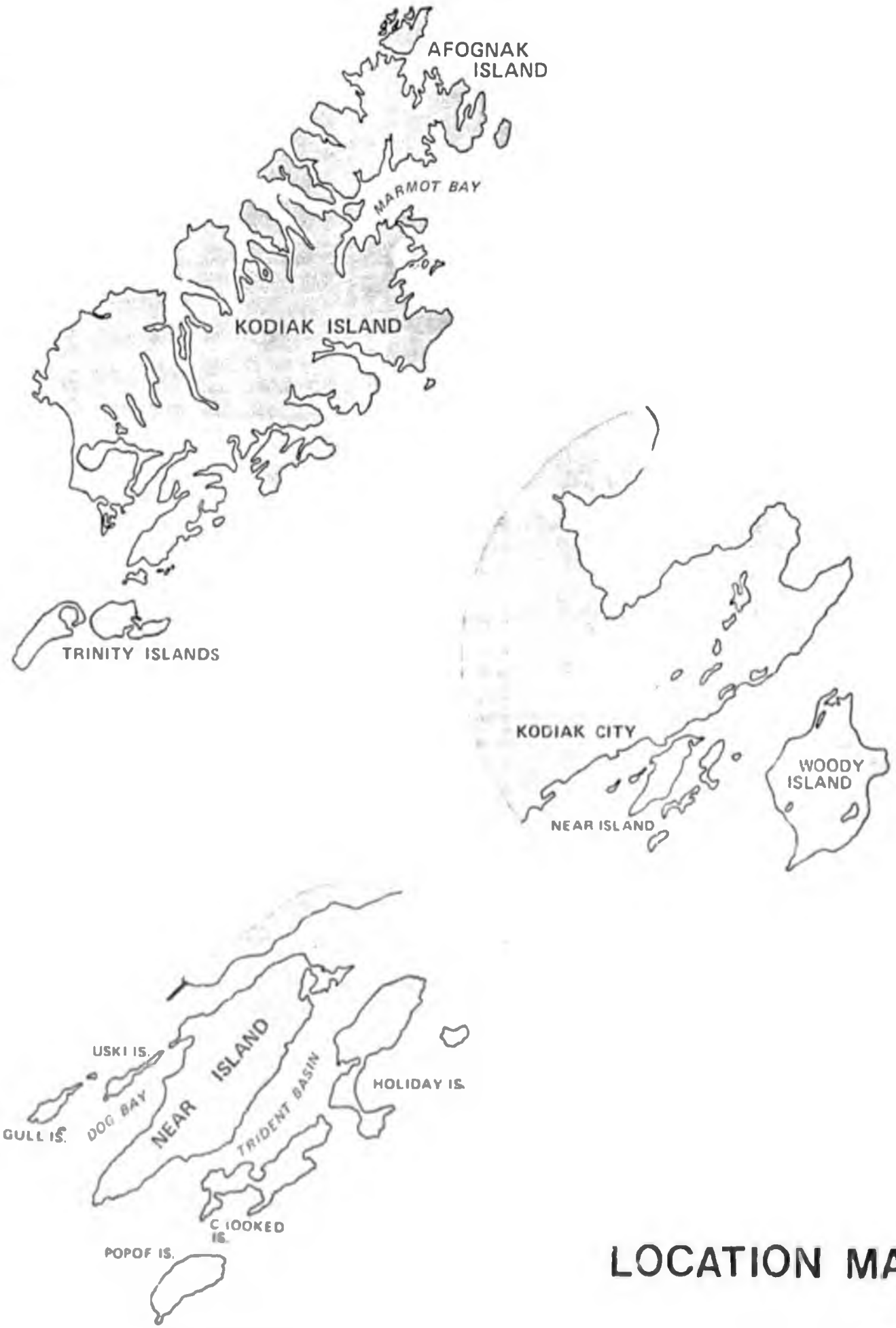
Preliminary Engineering, Studies & Permits		$ 400,000
Right of Way and Utilities		$ 500,000
Construction		$ 9,000,000
Construction Supervision @ 12%		$ 1,080,000
	Subtotal	$10,980,000
Plus 15% Contingencies		$ 1,647,000
	TOTAL (1980 dollars)	$12,627,000

Near Island Bridge costs -
current DOT Figures -
Roy Shumway

13.2 million

breakdown costs -

engineering	400,000
right-way + clearance	500,000
construction costs	9,000,000
Constructual engineering	1,080,000
contingencies	1,700,000
	12,680,000
	13,200,000
	12.6



LOCATION MAP

MAP 1

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

HB
593

(7)

COMMITTEE REPORT

HOUSE

1/22/80

FURTHER: FINANCE

Date: _____

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 593

"An Act making a special appropriation for a grant to the City of Delta Junction for various projects; 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____

CHAIRMAN

H 60 (Rev. 12/78)

City of Delta Junction

Box 229

Delta Junction, Alaska 99737

The North End of the Alaska Highway

January 14, 1980

Representative Pappy Moss
District 19
Pouch V
Juneau, Alaska 99811

Dear Pappy;

Per our telephone conversation of today (January 14, 1980) the city is submitting the following list for consideration for FY81.

Multi-purpose facility $75,000.00
Senior/youth activities

1. addition 20x40 to house crisis center store room (this is for persons who are burnt out and other disasters.
2. garage for 2 vehicles, plus tool stall and arctic enterance.
3. vehicle for seniors (van for transportation of persons) plus radio (CB/VHF) and storage fuel tank.

Library $10,000.00

1. arctic enterance and replace front door.
2. storm windows and storm door for back.
3. repair railing on back door.
4. insulate underneath building and wrap pipes.
5. pressure check all pipes and plumbing and repair leaks.
6. antifreeze in heating system.
7. alarm system for low temperatures.
8. library book shelving.
9. typewriter.

Park $50,000.00

1. fencing (900 ft).

2. bleachers (2 sets)
3. back stop (baseball) 2 each.
4. maintenance equipment (mower, bush cutters etc.).
5. construction of restrooms.
6. cement slab for concession stand (14x60).
7. clearing.
8. baseball diamond, hockey rink, picnic area and exercise path.

Streets $100,000.00

1. new construction.
2. upgrading and improvements
3. streets signs (name).

Sanitary landfill site $30,000.00

1. fencing (state requires fencing around new site) for 40 acres.

Cemetery $20,000.00

1. clearing and improving.

The total the city is requesting is $300,000.00. Your help in these areas would be greatly appreciated. We all know how much you have helped us to date and thank you.

Sincerely

Estelle Schrumpf
city clerk

ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 593

Title Special Appropriation to the City of Delta Junction for Various Projects

Requested by H. Pappy Moss Date

II. FISCAL DETAIL

Agency Affected N/A

Program Category Affected N/A

Budget Request Unit(s) Affected N/A

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
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

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

No administrative cost would be charged by the Department of Community & Regional Affairs.

IV. DATE January 25, 1980 PREPARED BY Mary Foster

AGENCY Community & Regional Affairs

PHONE: 465-4734

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 10/78)

HB
605

CS- 605

Resolutions to get with

1) Strong resolution of legislature to insure Postal Employees will get out of SS that they be removed after they conduct a vote to get opinion of opting out before they opt out

Williams - first right to remind

Unless other provisions allow for use of legal employees

Also to have stamps provide annual employee with statement of SS

(7)

COMMITTEE REPORT

HOUSE

1/23/80

FURTHER: FINANCE

Date: 2-9-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 605

"An Act authorizing municipalities to participate in the program of supplementary employee benefits; 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)

[X] replace with CS for HB 605 [ ] 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

John B Hall

Ken McCrate

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Jane Hunter-Adams

CHAIRMAN

H 60 (Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE
(REVISED)

I. REQUEST
Bill/Resolution No. CSHB 605
Title An Act Relating to Participation in the State Supplemental Employee Benefits
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Administration - Division of Retirement and Benefits
Program Category Affected Labor Services
BRU, Program, or Subprogram(s) Affected 02-96-8-01-02-00 (OTHER BENEFITS)
(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		68.1	72.9	78.0	83.5	89.3
200	TRAVEL		2.0	2.2	2.4	2.7	2.9
300	CONTRACTUAL		75.5	21.1	23.2	25.5	28.1
400	COMMODITIES		.4	.4	.5	.5	.6
500	EQUIPMENT		4.5	5.0	5.5	6.1	6.7
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL		150.5	101.6	109.6	118.3	127.6

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
SUPPLEMENTAL BENEFITS	150.5	101.6	109.6	118.3	127.6	

POSITIONS

FULL TIME	2	2	2	2	2	
PART TIME						
TEMPORARY						

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

1. Estimate that there are approximately 20,000 employees and 150 employers under the current FICA program.

2. Estimate that 15 employers (2,500 employees) will join the SBS program in FY 81.

3. Assume all cost will be borne by the Supplemental Benefits Plan.

4. Administrative costs per attachment.

5. This fiscal note revises the fiscal note to CSHB 605 dated 2/20/80 by removing the position of deputy director.

IV. DATE 3/11/80 PREPARED BY Paul B. Arnoldt, Director
AGENCY Division of Retirement and Benefits
PHONE 465-4460

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) Representative Mike Miller
Office of the Governor (Keith Specking)

33 (01 (Rev. 12/79)

Attachment for CSHB 605

Personal Services FY 81 -- Assume 7% inflation on personal services.

Accounting Tech. I, Range 12B	Salary $1,814 x 12 =	$21,768
	Benefits	3,298
	FICA	1,448
	Health	1,524
		$28,038
Retirement & Benfits Specialist III, Range 18A	Salary $2,640 x 12 =	$31,680
	Benefits	4,800
	Supplemental Benefits	2,107
	Health	1,524
		$40,111

Travel FY 81

(3) trips to political subdivisions	$ 2,000

Contractual FY 81

Printing and Advertising	$ 5,000
Data Processing Design and Implementation Cost	70,000
Telephone ($250 x 2 positions)	500
	$75,500

Contractual FY 82 -- Assume 10% inflation.

Printing and Advertising	$ 5,500
Data Processing Maintenance Cost	15,000
Telephone ($275 x 2 positions)	550
	$21,050

Equipment FY 81

(2)	Work Stations @ $900.00 each	$ 1,800
(2)	Calculators @ $240.00 (printing)	480
(1)	Side Chairs @ $185.00	185
(1)	Microfilm Viewer @ $2,000	2,000
		$ 4,465

	POSITION TITLE			RANGE/STEP	BARG. UNIT.	LOCATION	GOV	APPROV.	DISAPP
1	Accounting Technician I			12B	C	Juneau			
2	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG.		

	TYPE OF EXPENDITURE	1	2	AMOUNT 3
4	PERSONAL SERVICES: SALARY 1814/Month		21,768	
5	BENEFITS		3,298	
6	FICA		1,448	
7	HEALTH INS.		1,524	
8	TOTAL PERSONAL SERVICES			28,038
9	TRAVEL			
10	CONTRACTUAL			250
11	COMMODITIES			200
12	EQUIPMENT			1,050
13	OTHER			
14	TOTAL COST			29,538

	CODE	FUNDING SOURCE	
15		FED RCPTS.	
16		GF MATCH.	
17		GEN FUND	
18		I-A RCPTS.	
19		PGM RCPTS Suppl. Benefits	29,538
20		OTHER	
21	CONTINUATION		
22	ADDITION		

FOR B&M USE ONLY

AA KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

In accordance with personnel guidelines, an Accounting Technician I is needed to prepare source documents to be input into the system and to adjust or correct dollar amounts. This position will review the computer transaction journals and error reports, making the necessary corrections. Twice a year this position will audit employee statements. The Accounting Technician I will work closely with State payroll. This position will additionally work with the carriers to reconcile premium amounts. We are estimating 2,500 new accounts in FY 81 which will necessitate this addition of a position.

AGENCY Administration PROGRAM AREA Labor Services

BRU Retirement & Benefits

COMPONENT Other-Supplemental Benefits

13 REQUEST FOR NEW POSITION.

FY 81

REVISED

	POSITION TITLE			RANGE/STEP	BARG. UNIT	LOCATION	GOV	APPROV.	DISAPP.
1	Retirement and Benefits Specialist III			18A	G	Juneau			
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG		
2	PFT	12							

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES: SALARY 2,640/Month	31,680	
5	BENEFITS	4,800	
6	FICA	2,107	
7	HEALTH INS.	1,524	
8	TOTAL PERSONAL SERVICES		40,111
9	TRAVEL		2,000
10	CONTRACTUAL		250
11	COMMODITIES		200
12	EQUIPMENT		1,325
13	OTHER		
14	TOTAL COST		43,886

	CODE	FUNDING SOURCE	
15		FED RCPTS.	
16		GF MATCH.	
17		GEN. FUND	
18		I-A RCPTS.	
19		PGM RCPTS Supple. Ben.	43,886
20		OTHER	
21	CONTINUATION		
22	ADDITION	XXX	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

This position is responsible for establishing, implementing and maintaining the Supplemental Benefits Program for the political subdivisions. This position interfaces with the consultants for the program, the carrier(s), Data Processing and State payroll. This position explains all laws, regulations and benefits provisions to the municipality participants and employers. Travel throughout the State to the respective municipalities has necessitated the addition of a specialist for increased services to the participants.

AGENCY Administration PROGRAM AREA Labor Services

BRU Retirement & Benefits

COMPONENT Other-Supplement Benefits

FY 81

13 REQUEST FOR NEW POSITION

REVISED DATE _____

02-313 (Rev. 7/79)

STATE OF ALASKA

Inter-Department Route Slip

Cap 102

TO:
MAIL STATION NUMBER 3100

DEPARTMENT Alaska State Legislature

ATTENTION Representative Miller

☐ 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:
MAIL STATION NUMBER 0208

DEPARTMENT Admin/Admin Services

BY Judy Crondahl DATE 2/21

02-002 (REV.10/73)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 505
Title An Act Authorizing Municipalities to Participate in the Program of Supplemental Benefits
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Administration - Division of Retirement & Benefits
Program Category Affected Labor Services
BRU, Program, or Subprogram(s) Affected 02-96-8-01-02-00 (OTHER BENEFITS)
(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		125.3	134.1	143.5	153.5	164.3
200 TRAVEL		2.0	2.2	2.4	2.7	2.9
300 CONTRACTUAL		75.8	21.3	23.4	25.7	28.3
400 COMMODITIES		.6	.7	.7	.8	.9
500 EQUIPMENT		5.7	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES						
700 STATE TRS MATCHING						
100 BENEFITS						
TOTAL		209.4	158.3	170.0	182.7	196.4

FUNDING (Thousands of Dollars)

GENERAL FUND (Health)		2.9	3.1	3.3	3.6	3.8
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
~~HIGHWAY FUND~~ Deferred Comp.		2.9	3.1	3.3	3.6	3.8
~~AIRPORT FUND~~						
~~CAPITAL FUND~~ Supple. Benefits		175.0	121.5	130.6	140.5	151.4
PERS		14.3	15.3	16.4	17.5	18.7
TRS		14.3	15.3	16.4	17.5	18.7

POSITIONS

FULL TIME		3.0	3.0	3.0	3.0	3.0
PART TIME						
TEMPORARY						

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

1. Estimate that there are approximately 20,000 employees and 150 employers under the current FICA program.

2. Estimate that 15 employers (2,500 employees) will join the SBS program in FY 81.

3. Assume all cost will be borne by the Supplemental Benefits Plan with the exception of the costs of the Deputy Director that are transferred to PERS, TRS and Deferred Compensation and Health Insurance under the Other Benefits categories.

4. Administrative costs per attachment.

Paul B. Arnoldt

IV. DATE 02/07/80 PREPARED BY Paul B. Arnoldt, Director
AGENCY Division of Retirement & Benefits
PHONE 465-4460

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) Representative Miller
Office of the Governor (Keith Specking)

Personal Services FY 81 - Assume 7% inflation on personal services

Deputy Director, Range 23A	Salary $3,809 x 12 =	$45,708
	Benefits	6,925
	FICA	3,040
	Health	1,524
		57,197
Accounting Tech. I, Range 12B	Salary $1,814 x 12 =	$21,768
	Benefits	3,298
	FICA	1,448
	Health	1,524
		$28,038
Retirement & Benefits Specialist III, Range 18A	Salary $2,640 x 12 =	$31,680
	Benefits	4,800
	Supplemental Benefits	2,107
	Health	1,524
		$40,111

Travel FY 81

(3) trips to political subdivisions	$ 2,000

Contractual FY 81

Printing and Advertising	$ 5,000
Data Processing	70,000
Telephone ($250 x 3 positions)	750
	$75,750

Contractual FY 82 - Cost with 10% inflation excepting:

Data Processing Maintenance Cost	$15,000

Equipment FY 81

(3) Work Stations @ $900.00 each	$ 2,700
(1) Calculator @ $150.00	150
(2) Calculator @ $240.00 (printing)	480
(2) Side Chairs @ $185.00	370
(1) Microfilm Viewer @ $2,000	2,000
	$ 5,700

	POSITION TITLE			RANGE/STEP	BARG. UNIT	LOCATION		APPROV.	DISAPP.
1	Deputy Director			23A	G	Juneau	GOV		
2	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG.		

	TYPE OF EXPENDITURE	1	2	AMOUNT 3
4	PERSONAL SERVICES SALARY 3809/mo.		45,708	
5	BENEFITS		6,925	
6	FICA		3,040	
7	HEALTH INS		1,524	
8	TOTAL PERSONAL SERVICES			57,197
9	TRAVEL			
10	CONTRACTUAL			250
11	COMMODITIES			200
12	EQUIPMENT			1,235
13	OTHER			
14	TOTAL COST			58,882

	CODE	FUNDING SOURCE		
15		FED PROGS DC	4.8	2,826
16		OF MATCH FICA	4.8	2,826
17		GEN FUND		
18		FED PROGS PERS	24.1	14,191
19		PGM MATCH TRS	24.1	14,191
20		OTHER SBS	42.2	24,84
21	CONTINUATION			
22	ADDITION			

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

This position is requested with intent of dividing the vastly expanding Division of Retirement and Benefits under the management of two deputies. One will handle the Teachers' Retirement System (TRS) and the Public Employees' Retirement Sections. The other deputy director will manage the Research Unit and the Benefits Section including programs such as health and life insurance, deferred compensation, FICA, EPORS, and supplemental benefits. Duties will include maintaining liaisons with employers and carriers, making recommendations on statutory and regulatory changes, analyzing collective bargaining agreements and supervising dissemination of benefit information. The need for this position is in partly due to increased time needed by the director to testify on legislation and attend regularly scheduled board meetings.

AGENCY _____ PROGRAM AREA _____

BRU _____

COMPONENT _____

13 REQUEST FOR NEW POSITION

FY 81

REVISED DATE _____

	POSITION TITLE	RANGE/STEP	BARG. UNIT	LOCATION		APPROV.	DISAPP.
1	Accounting Technician I	12B	G	Juneau	GOV		
2	TYPE OF POSITION: PFT; STAFF MONTHS: 12; RP No.:	PRIORITY		FORM 12 PAGE/LINE	LEG		

	TYPE OF EXPENDITURE	1	2	AMOUNT 3
4	PERSONAL SERVICES: SALARY 1814/Month		21,768	
5	BENEFITS		3,298	
6	FICA		1,448	
7	HEALTH INS		1,524	
8	TOTAL PERSONAL SERVICES			28,038
9	TRAVEL			
10	CONTRACTUAL			250
11	COMMODITIES			200
12	EQUIPMENT			1,050
13	OTHER			
14	TOTAL COST			29,538

	CODE	FUNDING SOURCE	
15		FED RCPTS	
16		GF MATCH	
17		GEN FUND	
18		I-A RCPTS	
19		PGM RCPTS Suppl. Benefits	29,538
20		OTHER	
21	CONTINUATION		
22	ADDITION		

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

In accordance with personnel guidelines, an Accounting Technician I is needed to prepare source documents to be input into the system and to adjust or correct dollar amounts. This position will review the computer transaction journals and error reports, making the necessary corrections. Twice a year this position will audit employee statements. The Accounting Technician I will work closely with State payroll. This position will additionally work with the carriers to reconcile premium amounts. We are estimating 2,500 new accounts in FY 81 which will necessitate this addition of a position.

AGENCY Administration PROGRAM AREA Labor Services

BRU Retirement & Benefits

COMPONENT Other-Supplemental Benefits

13 REQUEST FOR NEW POSITION

FY 81

REVISED DATE _____

	POSITION TITLE				RANGE/STEP	BARG. UNIT	LOCATION		APPROV.	DISAPP.
1	Retirement and Benefits Specialist III				18A	G	Juneau	GOV.		
2	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP No.	PCN No.	PRIORITY		FORM 12 PAGE/LINE	LEG.		

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES:		
4	SALARY 2,640/Month	31,680	
5	BENEFITS	4,800	
6	FICA	2,107	
7	HEALTH INS.	1,524	
8	TOTAL PERSONAL SERVICES		40,111
9	TRAVEL		2,000
10	CONTRACTUAL		250
11	COMMODITIES		200
12	EQUIPMENT		1,325
13	OTHER		
14	TOTAL COST		43,886

	CODE	FUNDING SOURCE	
15		FED RCPTS	
16		GF MATCH	
17		GEN FUND	
18		I-A RCPTS	
19		PGM RCPTS Supple. Ben.	43,886
20		OTHER	
21	CONTINUATION		
22	ADDITION	XXX	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

This position is responsible for establishing, implementing and maintaining the Supplemental Benefits Program for the political subdivisions. This position interfaces with the consultants for the program, the carrier(s), Data Processing and State payroll. This position explains all laws, regulation and benefits provisions to the municipality participants and employers. Travel throughout the State to the respective municipalities has necessitated the addition of a specialist fo increased services to the participants.

AGENCY Administration PROGRAM AREA Labor Services

BRU Retirement & Benefits

COMPONENT Other-Supplement Benefits

13 REQUEST FOR NEW POSITION

REVISED DATE _____

FY 81

HB

606

(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

1/23/80

Date: 2-1-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 606

"An Act making a supplemental appropriation to the Alaska Council on Science and Technology for the northern technology grants program; and providing for an effective date."

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

[X] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

ACST
THE ALASKA COUNCIL ON SCIENCE AND TECHNOLOGY

January 17, 1980

Representative Mike Miller
Alaska State House of
Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Miller:

Although the Council's annual report will be out shortly, I thought you would be interested in the details of the Northern Technology Grants Program. Therefore, I have enclosed a listing of this year's grant "winners" accompanied by a short description of what technologies they intend to demonstrate in 1980.

The Council expects most of the projects to be completed by Fall and will forward the results of the entire program or individual projects to persons or groups on request.

Please call if I may answer any question about the program.

Sincerely,

Christopher Noah

Christopher Noah
Executive Director

Enclosure

CN. jm

Christopher Noah, Executive Director Pouch AV, Juneau, Alaska 99811

for use on or after
SEP 2 0 1979

NORTHERN TECHNOLOGY GRANTS PROGRAM

The purpose of the Northern Technology Grants Program is to help develop and encourage the use of low-cost and small-scale technologies appropriate to Alaska.

In July, 1979, $50,000 in grant funds was appropriated by Alaska's state government to be awarded by the Alaska Council on Science and Technology (ACST) in grants of up to $5,000 each.

Proposals were solicited in the areas of "energy generation, waste disposal, recycling, food production, transportation, building design, or any residential or industrial enterprise which might be more efficient, less costly or less energy-intensive than methods now in use." Appropriateness to the Alaskan environment was required. The first year's program closed for receipt of applications on August 15, 1979.

The Alaska Council on Science and Technology received 178 proposals and selection of winning proposals was made in mid-September. Proposals were judged on innovativeness, potential benefit to Alaskans, and soundness of use of funds. Grant awards ranged from $200 to $5,000. Results will be published as projects are completed.

For more information on the program, please contact:

Alaska Council on Science & Technology
Pouch AV
Juneau, Alaska 99811
(907) 4653510

ACST

SUMMARY OF PROJECTS

#0011 REGENERATIVE FREEZER — Keven McDougal, Delta, Alaska — $3,100

Mr. McDougal will build a multi-family freezer which will store the winter's cold for summer use. It will maintain freezing temperatures for 3,000 pounds of meat or fish year-round without need of any power source whatsoever. The freezer will be a buried 14'x14' room housing a 10 foot high, 10 foot diameter brine-filled tank. A fluid-filled convection loop will be installed in the tank and project above ground When the outside air is colder than the brine, the convection loop will continuously remove heat from the freezer and dissipate it above ground. The freezer will be insulated well enough to keep heat out during the summer.

#0107 JUICE BOTTLING PLANT — M. Michael Rowcroft, Juneau, Alaska — $3,250

M. Michael Rowcroft will set up a juice processing, bottling and distributing center in Juneau. Overripe produce purchased from local markets and wholesale distributors will be processed, bottled in recycleable containers and sold to the public at a reasonable cost. All processing will be performed according to the state Division of Public Health regulations -- Mr. Rowcroft is the Juneau District Sanitarian.

#0146 HYDRAULIC-POWERED AUTO — Bert Bingham, Ken Kunkel, Don Luterbach, Fairbanks, Alaska — $4,045

This grant will help finance the building of an automobile with a hydraulic propulsion system. A volkswagen chassis and running gear with a sleek fiberglass body will house the low-fuel/high-energy system. The system starts with a 16 h.p. Briggs and Stratton engine. This drives a hydraulic pump. The hydraulic pump supplies charge pressure to two 5000 psi accumulators, and drive pressure to a Sunstrand hydraulic motor. The small gas engine operates at full power until the accumulators are fully charged. At that point the engine drops back to idle and the accumulator takes over. The sequence repeats automatically when the accumulators are drained to a certain level. The propulsion system, which has been previously demonstrated elsewhere, is expected to develop 75 mpg while cruising at 55 mph to 75 mph.

#0162 TIDAL/CURRENT HYDRAULIC SUCTION DREDGE — O. Alexander Hoke, Juneau, Alaska — $5,000

Mr. Hoke will design and develop a working model of a tidal/current hydraulic suction dredge. A tide or current powered low velocity hydraulic turbine will drive a centrifugal water pump after the high-torque, low-RPM turbine energy has been translated into low-torque, high-RPM energy by a water tight gear box. The high-velocity discharge of water will be injected through a reduction nozzle and create a vacuum at the suction head. This vacuum will lift sand and gravel through a flexible hose to a sediment stockpile on the bank. Mr. Hoke will also consider methods of achieving a regular, automatic sweep of a channel by the dredge.

#0139 SOLAR GREENHOUSE — Steve and Cyndie Tack, Fairbanks, Alaska — $5,000

Steve and Cyndie Tack will build a greenhouse which combines several of the better greenhouse construction and energy conservation principles now in use. The structure will be similar to a large cold frame with solar storage in the back wall and in the soil. Some of the features expected to make the greenhouse free of dependence on fuel heat from mid-April to late September include:

a) Burying the north wall and parts of the other three walls to moderate the effect of very cold and very hot weather;

b) Using solar collectors and an underground array of pipes to heat the soil;

c) Using a massive north wall to store heat during the day and radiate heat at night;

d) Glazing the greenhouse with a twin-wall stressed material;

e) Making an easily-used blanket to cover the glazed surfaces at night.

#0083 BEE-OVERWINTERING BUILDING — David W. Stoops, Kasilof, Alaska — $3,775

Mr. Stoops will construct a building in which he will over-winter bees in a controlled environment. Presently the state's 250 beekeepers have no alternative but to kill their bees each fall and face the difficulty and expense of shipping in new bees each spring.

#0029 WASTE-HEAT-CLAIMING GREENHOUSE — Galena Regional Learning Center, Galena, Alaska — $2,570

GRLC is a rural extension of the University of Alaska involved in facilitating subsistence gardening programs in 17 villages along the Yukon and Koyukuk Rivers. The group will use grant money to build a 1,500 square foot greenhouse heated by waste heat from the local power plant. The Galena Air Force Site will provide access to the glycol solution in the plant's cooling system. The hot glycol will be piped to a unit heater inside the greenhouse as well as through the soil bed of a garden behind the power plant.

#0089 SOLAR HOT WATER HEATER — Julie Scott, Camp Bingle, Alaska — $1,200

Camp Bingl Harding Lake Camp is a non-profit camp operating at Harding Lake, a recreational area 40 miles east of Fairbanks. The camp is used by various children's groups and its program is educational in nature. The staff will build a solar collector into the camp's hot water system to help offset operating expenses and incorporate energy awareness into the camp's educational program.

#0144 INSULATED SHUTTERS — Rob Walton, Fairbanks, Alaska — $1,100

Mr. Walton will design and construct insulating shutters that can be used to cover large window areas to reduce heat loss. The shutters will take advantage of garage door technology and photoelectric or temperature sensing switches to achieve ease of operation.

#0098 ELECTRIC CAR — David Grove, Fairbanks, Alaska — $5,000

Mr. Grove will build and test an electric car for operation in cold climates. The plans for the vehicle will be purchased, but modifications will be incorporated, such as the use of light weight aircraft steel, an insulated battery compartment, and solid state devices for startup. Mr. Grove expects to demonstrate that the electric car is uniquely suited to Alaska for three reasons: first, gasoline is generally priced higher here; second, because pollution, especially ice fog, is a serious problem; and finally, because much of Alaska's road system is disconnected, the auto's 60-mile range per charge will not be a serious limitation.

#0074 SOLAR GREENHOUSE — Jeremy and Linda Weld, Gakona, Alaska — $5,000

The Welds will build an add-on solar greenhouse which will utilize a thick gravel pad to store heat from the greenhouse for later use in the greeenhouse and in the attached cabin. The gravel pad will be insulated from the ground around it and a heat collector at the greenhouse ridge will pump warm air into it. In addition, a rain water collection system will be incorporated into the greenhouse such that the stored water will also bank heat.

#0027 AMBULANCE SPLINT — Steven J. Carney, Fairbanks, Alaska — $200

Mr. Carney will build a modification of the long spine board used by ambulances which he expects to be an improvement. His patient stabilization system will utilize vacuum "bean bags" in conjunction with conventional straps. The vacuum bags would rely on the same principal as the vacuum splints, be adjustable, and would attach to the board with velcro.

#0129 HYDROELECTRIC GENERATOR — Ted Neville, Fairbanks, Alaska — $350

Mr. Neville will build a small-scale water-powered electric generator to be powered by a river. A paddle wheel's rotation will be translated by a 2:1 ratio gearbox, and then drive an electric motor. The electric motor, when driven, produces current. Mr. Neville hopes to produce enough current to run small power tools.

#0145 OIL-FIRED CLOTHES DRYER — Mike Potter, Fairbanks, Alaska — $500

Mr. Potter will convert a standard household dryer from electric to oil-fired hot water heat to take advantage of the oil-fired boiler which heats his house. Hot water will be piped to a radiator core which will be mounted on the rear of the dryer; air forced across the radiator will dry the clothes. The energy requirements and cost of drying clothes with an electric dryer will be measured before the conversion; when the oil-fired system is installed, its heat requirements will also be tested. Mr. Potter says the high cost of electricity and gas, and the fact that a large number of Alaskan homes use hot water heat suggest significant potential savings.

#0165 METHYL-FUEL PLANT — Douglas R. Grimm, Auke Bay, Alaska — $5,000

Mr. Grimm will build a scale model of a system capable of accomodating the electrical and automotive energy needs of a typical urban or rural residence in southeast Alaska. The methyl-fuel plant will produce approximately one gallon of methyl-fuel for every 20 pounds of waste material. This project will make use of the large quantity of sawmill wood chips available in southeast Alaska. Experimentation will also be done with many other forms of "garbage." The fuel produced will then be applied to a modified 4 H.P. internal combustion engine driving an 1800 watt generator. This scale model should supply about 1/10 of the electrical energy requirement of a typical residence.

#0155 HYDROELECTRIC GENERATOR — Richard V. Ford, Copper Center, Alaska — $2,500

Mr. Ford will build a small-scale hydroelectric system to reduce his family's dependence on a diesel generator. The system will be mounted on a raft in the Copper River and provide enough electricity to the residence for 8 months of the year.

#0136 WOOD FURNACE — Donald M. Ruef, Palmer, Alaska — $2,109

Mr. Ruef will build, instrument and test a wood-coal furnace with a fluid-filled jacket. The fluid tube will store heat and be controlled to produce a low-pressure hot fluid and not vapor. Mr. Ruef expects the furnace to deliver 100,000 BTU/H, provide long-term even heat, require no electricity, and be marketable at less than $1,500 each.

LIST OF GRANT RECIPIENTS

#0011	$3,100	Kevin McDougall (Regenerative Freezer) P. O. Box 503 Delta, Alaska 99737
#0027	$200	Steven J. Carney (Ambulance Stretcher) University of Alaska Fire Department Fairbanks, Alaska 99701
#0029	$2,570	Galena Regional Learning Center (Waste-heat-claiming-greenhouse) P. O. Box 181 Galena, Alaska 99741
#0065	$600	Chris Johansen (Solar Heater) P. O. Box 81162 College, Alaska 99708
#0074	$5,000	Jeremy & Linda Weld (Solar Greenhouse) P. O. Box 165 Mile 128 Richardson Highway Gakona, Alaska 99586
#0083	$3,775	David W. Stoops (Winter Beehouse) Mile 2.8 Kalifonsky Loop S.R. 2 Box 707 Kasilof, Alaska 99610
#0089	$1,200	Julie Scott (Solar Water Heater) Camp Property Committee c/o Box 80435 College, Alaska 99708
#0098	$5,000	David Grove (Electric Car) 214 Harwood Hall University of Alaska Fairbanks, Alaska 99701
#0106	$250	Donald C. Pendergrast (Waste-oil Heater) S.R. Box 50342 Fairbanks, Alaska 99701
#0107	$3,250	M. Michael Rowcroft (Juice Bottling) R. 3 Box 3323 Juneau, Alaska 99801
#0129	$350	Ted Neville (Hydroelectric Generator) 313 Lakeview Trailer Court Fairbanks, Alaska 99701
#0136	$2,109	Donald M. Ruef (Wood Furnace) P. O. Box 1906 Palmer, Alaska 99645

#0065 SOLAR HEATER — Chris Johansen, Fairbanks, Alaska — $600

Mr. Johansen will use grant money to build a simple solar air heater which could be placed in window openings. The heater would consist of a plastic panel which would admit fresh cold air from outside, allow the sun to heat it as it rises toward the window opening, and have a simple thermostatic device at the top to allow air to pass in only when it is warmer than the ambient room temperature.

#0106 WASTE-OIL HEATER — Donald C. Pendergrast, Fairbanks, Alaska — $250

Mr. Pendergrast will build a stove that burns waste crankcase oil. The stove will provide a more complete use of a scarce resource and an efficient method of waste disposal. The design utilizes a discarded electric water heater, several frying pans, and generally available and inexpensive hardware.

#0180 EXPERIMENTAL GREENHOUSES — Jim Donally, Anchorage, Alaska — $1,000

Mr. Donally will build three greenhouses to test the efficiency of a plastic product, called ACPS, as a greenhouse wall material. ACPS is commercially available in long sheets or on rolls. Its common purpose is as a packing stock for fragile merchandise. It is a clear plastic film with little bubbles in it which, Mr. Donally notes, when squeezed "give a satisfying little pop." But, the bubbles also seem ideally suited to provide insulating dead air space for greenhouse walls. The first greenhouse built will have only a 6-mill visqueen covering. The second greenhouse will have ACPS, and the third, ACPS plus an insulated north wall. Maximum-minimum thermometers will be installed in each greenhouse and daily readings taken to determine the length of frost-free season.

#0139	$5,000	Cyndie & Steve Tack (Experimental Greenhouse) S.R. Box 51113 Mile 24 Chena Hot Springs Road Fairbanks, Alaska 99701
#0144	$1,100	Rob Walton (Insulated Shutters) P. O. Box 1480 Fairbanks, Alaska 99707
#0145	$500	Mike Potter (Oil-fired Clothes Dryer) P. O. Box 80293 Fairbanks, Alaska 99708
#0146	$4,045	Bert Bingham (Hydraulic-powered Auto) 1650 Beaver Road Fairbanks, Alaska 99701
#0155	$2,500	Richard V. Ford (Hydroelectric Generator) P. O. Box 158 Copper Center, Alaska 99573
#0162	$5,000	O. Alexander Hoke (Tidal-powered Dredge) P. O. Box 963 Juneau, Alaska 99802
#0165	$5,000	Douglas R. Grimm (Methyl-fuel Plant) S. E. Applied Electronics P. O. Box 324 Auke Bay, Alaska 99821
#0180	$1,000	Jim Donally (Experimental Greenhouses) 1014 East 11th, #4 Anchorage, Alaska 99501

HB
638

(7)

COMMITTEE REPORT

HOUSE

1/30/80

FURTHER: FINANCE

Date: 2-19-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 638

"An Act relating to transportation planning and reports."

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)

[X] replace with CS for HB 638 [ ] same title [ ] new title

and recommends CS/HB 638 DO PASS

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

M. Miller

Jerry Langdon

Lou Wootton

Lane Winston

MEMBERS HAVING
OTHER RECOMMENDATIONS:

M. Miller
CHAIRMAN

H 60 (Rev. 12/78)

ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 638 -- Revision

Title An Act relating to Transportation Planning and Reports

Requested by Special Committee on Roads and Highways Date 1/30/80 (this is date of first request)

II. FISCAL DETAIL

Agency Affected Department of Transportation and Public Facilities

Program Category Affected Transportation

BRU, Program, or Subprogram(s) Affected Planning and Research

(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		25.0				
200	TRAVEL *		30.0				
300	CONTRACTUAL		12.0				
400	COMMODITIES		4.0				
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL		** 71.0				

FUNDING (Thousands of Dollars)

GENERAL FUND		71.0				
FEDERAL FUNDS		0				
OTHER (Specify Fund Source)		0				

POSITIONS

FULL TIME		1				
PART TIME		0				
TEMPORARY		0				

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

This revises Fiscal Note of 2/9.80. Membership on the Council would be increased from five (5) to nine (9) members.

* - Travel based on four (4) meetings per year, nine (9) members for two (2) days.

** - Does not include 1.8 Million needed for Information System.

IV. DATE 5/27/80 PREPARED BY John Umlauf Approved:

AGENCY Planning & Research, DOT/PF

PHONE 465-2470

Original Legis. - Finance

cc Budget and Management

Prime Sponsor (First Legislator Named)

33 001 (Rev. 12/79)

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HOUSE BILL NO. 638 -- Revision
Title An Act relating to Transportation Planning and Reports
Requested by Special Committee on Roads and Highways Date 1/30/80
(this is date of first request)

II. FISCAL DETAIL
Agency Affected Department of Transportation and Public Facilities
Program Category Affected Transportation
BRU, Program, or Subprogram(s) Affected Planning and Research
(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	0.9	1.8	2.7	2.7	2.7	2.7
200	TRAVEL **	8.1	22.5	23.4	23.4	23.4	23.4
300	CONTRACTUAL	1.0	2.0	2.0	2.0	2.0	2.0
400	COMMODITIES	1.0	2.0	2.0	2.0	2.0	2.0
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	11.0	28.3	30.1	30.1	30.1	30.1

FUNDING (Thousands of Dollars)

GENERAL FUND	11.0	28.3	30.1	30.1	30.1	30.1
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	0	0	0	0	0

POSITIONS

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

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

This revises Fiscal Note of 2/9/80. Membership on the Council would be increased from five (5) to nine (9) members.

** Travel based on four (4) meetings per year, nine 9 members for two (2) days.

IV. DATE 3/21/80 PREPARED BY John Umlauf Approved: JB
AGENCY Planning & Research, Dept of Transportation and Public Facilities
PHONE 465-2470

Original. Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Name I)

33-001 (Rev. 12/79)

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF–STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

March 12, 1980

M E M O R A N D U M

TO: Terry D. Gardiner, Speaker
Alaska House of Representatives

FROM: Wallace Miller, Consultant to
Legislative Finance Division

SUBJECT: HB 638 Reporting

I have reviewed Sec. 19.10.155 Quarterly Reports and suggest the following language be substituted. The proposed language has the same intent as currently contained in the bill; however, DOTPF is in the process of developing a Management Information System which will provide the desired project status information "on call" rather than quarterly. I believe this "on call" capability can fully meet legislative information needs.

PROPOSED LANGUAGE

> Sec. 19.10.155. Project Reporting. The department shall through the installation of the proposed management information system provide adequate project status reporting to the first session of the twelfth legislature. Adequate status reporting shall include (1) on call reporting of the current status of construction on the project; (2) a statement of the amount of money spent on the project to date; and (3) an estimate of the amount of money needed to complete the project.

Please refer to the attached memorandum from J. H. Hogan to the Chairman and members of the Budget and Audit Committee which makes the same recommendation regarding project status reporting.

Attachment: 3/4/80 Memo

A M E N D M E N T

Offered in the HOUSE By Miller

TO: HOUSE BILL NO. 638

Page 2, lines 10 - 14

Delete all material and insert the following in its place:

Sec. 44.42.160. DUTIES. The council shall develop recommendations to the governor and legislature regarding:

(1) Policy for the development and implementation of a comprehensive long-range multi-modal state transportation plan. In making the recommendations for the plan the council shall consider alternatives:

(A) for improving existing modes and facilities to ensure safe and efficient transportation services;

(B) of providing transportation in the state, considering the economic costs and benefits and the social and environmental impacts;

(C) to existing modes of transportation in urban areas and the development of plans to improve urban transportation;

(D) for improving transportation for the elderly, handicapped and poor;

(E) for improving the movement of goods and services, including transportation support for resource development;

(F) for energy conservation measures;

(G) for user funding of operational and maintenance costs.

(2) Policy for the development and coordination of regional transportation planning, including development of regional short- and long-range inter-modal transportation plans and systems.

(3) Policy for the development of 6-year facility and construction program plans, including first and lifecycle cost budgets; functional performance criteria; and schedules for completion.

(4) Policy for the provision of effective coordination of state transportation planning with national transportation policy, state and local land use policies, and local and regional transportation plans and programs.

(5) Procedures for effective public involvement in transportation planning and operations, considering the development of regional transportation advisory boards, and, where applicable, the utilization of the Alaska Growth Policy Council/Public Forum.

(6) Procedures for the review and revision of state transportation policies and plans.

(7) Other activities considered necessary by the council or as directed by the governor.

A M E N D M E N T

ered i. the HOUSE By Gardiner

TO: HOUSE BILL NO. 638

e 2, lines 27 - 29 and Page 3, lines 1 - 6:

Delete all material and insert the following in its place:

Sec. 19.10.155. PROJECT REPORTING. The department shall establish an information system to provide current information for each project it undertak s. The information system shall be available to members of the legislature and shall include information on

(1) the status of construction on each project;

(2) the amount of money spent on each project; and

(3) the estimated amount of money needed to complete each project.

ISSUES RAISED BY H.B. 638

---

1. STATEWIDE COUNCIL: The establishment of a statewide council may compound the problems we face by an already overly centralized department. The establishment of regional councils may be more effective(composed of D.O.T., borough and city officals).

2. COUNCIL DUTIES: The duties of the council, to "review and comment on each plan and program," will likely overburden the council and render it useless.

3. STATUTORY RESPONSIBILITY: The legislature should place greater emphasis on the department's statutory responsibilies, i.e. 44.42.050 (develop a comprehensive, long-range transportation plan for the state).

4. PROJECT ACCOUNTING AND REPORTING: A. Any reporting system should include all D.O.T.'s projects(i.e., harbors,airports, docks) not just highways.

   B. Need to adopt a comprehensive project accounting program that would expand the data reported in the monthly state accounting system. The data should include the status of the project, percentage of completion, explanations for delays and cost over-runs, make recommendations to the legislature where appropriate, as well as the funds appropriated and the money spent.

   C. Once this system is established, the time interval for reporting is immaterial, because, entries are made everyday. Relevant data would be available everyday for both the legislature and public review.

5. BOND ACCOUNTING SYSTEM: As recommended by the special committee on roads and highways, there is a need to establish "an accounting system that would accurately assess and tract the

amount of accumulated bond monies." This bill could incorporate such an accounting system.

6. REPORTS: A capital projects and budgetary reporting analysis is presently being prepared, through a contract with legislative finance, by Wally Miller. The department, likewise, has contracted with an accounting firm to review and make recommendations on the departments accounting system.

These individuals, along with their reports(when they are completed), should be brought before the committee for review and questioning.

Alaska State Legislature

House of Representatives

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

SUBJECT TO CHANGE

STATE AFFAIRS COMMITTEE, Room 102, Capitol, 1:30 p.m.

Mar. 17	-	Monday
	HB 931	Transfer Council on Science & Technology/Dept of Administration
	HB 906	Re/Veterans service preference under state personnel system
	HB 907	Re/collective bargaining
Mar. 18	-	Tuesday
	HB 908	Re/merit principle in state employment
	HCR 57	Re/preparation and distribution of personnel procedures manual
Mar. 19	-	Wednesday
	HB 746	Re/Overtime Comp/Flex Time Plan
	HB 787	Establish Alaska Public Forum Governor's Office
	HCR 48	Re/Participation in state progr supplemental employee benefits
	HB 638	Re/transportation planning & reports est Ak Transportation Policy Council
Mar. 20	-	Thursday
	CSSB 2	Re/comprehensive recycling and reduction of litter
Mar. 21	-	Friday
	HB 883	Spec approp/Gov Off/Reapportionment Board
	HB 796	Establish Ak Research Corp

A M E N D M E N T

Offered in the HOUSE By Miller

TO: HOUSE BILL NO. 638

Page 2, lines 10 - 14

Delete all material and insert the following in its place:

Sec. 44.42.160. DUTIES. The council shall develop recommendations to the governor and legislature regarding:

(1) Policy for the development and implementation of a comprehensive long-range multi-modal state transportation plan. In making the recommendations for the plan the council shall consider alternatives:

(A) for improving existing modes and facilities to ensure safe and efficient transportation services;

(B) of providing transportation in the state, considering the economic costs and benefits and the social and environmental impacts;

(C) to existing modes of transportation in urban areas and the development of plans to improve urban transportation;

(D) for improving transportation for the elderly, handicapped and poor;

(E) for improving the movement of goods and services, including transportation support for resource development;

(F) for energy conservation measures;

(G) for user funding of operational and maintenance costs.

(2) Policy for the development and coordination of regional transportation planning, including development of regional short- and long-range inter-modal transportation plans and systems.

(3) Policy for the development of 6-year facility and construction program plans, including first and lifecycle cost budgets; functional performance criteria; and schedules for completion.

(4) Policy for the provision of effective coordination of state transportation planning with national transportation policy, state and local land use policies, and local and regional transportation plans and programs.

(5) Porcedures for effective public involvement in transportation planning and operations, considering the development of regional transportation advisory boards, and, where applicable, the utilization of the Alaska Growth Policy Council/Public Forum.

(6) Procedures for the review and revision of state transportation policies and plans.

(7) Other activities considered necessary by the council or as directed by the governor.

Introduced: 2/12/80
Referred: State Affairs and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL BY REQUEST

IN THE SENATE

SENATE BILL NO. 435

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing advisory transportation councils."

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

* Section 1. AS 44.42 is amended by adding new sections to read:

ARTICLE 2. ADVISORY TRANSPORTATION COUNCILS.

Sec. 44.42.100. REGIONAL ADVISORY TRANSPORTATION COUNCILS. There is established in the Department of Transportation and Public Facilities a regional advisory transportation council for each of the regions described in AS 44.42.105.

Sec. 44 42.105. REGIONS. The regions that have regional advisory transportation councils are:

(1) Southeast Alaska: the Southeast Alaska mainland and islands northward and westward from Dixon Entrance to Cape Suckling;

(2) Southcentral Alaska: the area drained by water flowing into the Gulf of Alaska, Prince William Sound, Cook Inlet, and Shelikof Strait from Cape Suckling westward to Portage Bay on the Alaska Peninsula, including Trinity Islands and all coastal islands north of Trinity Islands, and the area lying south of the rim of the Alaska Range and Wrangell Mountains;

(3) Southwest Alaska: the Alaska Peninsula westward from Portage Bay; Chirikof and Shumagin Islands, and all other adjacent offshore islands; the Aleutian Islands and the Pribilof Islands; the area northward and northwestward from the King Salmon River drainage, including all land drained by water flowing into Bristol Bay and the land within the boundaries of the Calista Regional Corporation; Nunivak

and St. Matthew Islands, and all other islands along the coast;

(4) Northwest Alaska: the area drained by all streams flowing into the Arctic Ocean, Kotzebue Sound, Bering Strait, and Norton Sound from Cape Lisburne to, but not including, the Pastolik River drainage on the south; King, Little Diomede, St. Lawrence, Sledge, Stuart, and adjacent islands;

(5) Interior Alaska: the area drained by all streams and rivers flowing into the Arctic Ocean between Cape Lisburne and the Alaska-Canada boundary; the Firth River drainage lying within Alaska; and the land encompassing the drainages of the Yukon and Kuskokwim Rivers northward from the boundary of the Southcentral Alaska region, eastward from the boundary of the Southwest Alaska region, eastward and southward from the boundary of the Northwest Alaska region, and extending to the United States-Canada border.

Sec. 44.42.115. APPOINTMENT AND QUALIFICATIONS. Each regional advisory transportation council consists of five members appointed by the governor from among residents of the region. Each member must be a resident and qualified voter of Alaska at the time of his appointment and while serving on the council.

Sec. 44.42.120. TERMS OF OFFICE. (a) Members of a regional advisory transportation council shall be appointed for five-year terms. However, of the initial appointments, one member serves for one year, one member serves for two years, one member serves for three years, one member serves for four years, and one member serves for five years.

(b) The governor shall fill a vacancy on a regional advisory transportation council for the balance of an unexpired term.

(c) Each regional advisory transportation council shall select a chairman from among its members. The chairman of each regional advisory transportation council serves a member of the State Advisory Trans-

portation Council established in AS 44.42.125.

Sec. 44.42.125. STATE ADVISORY TRANSPORTATION COUNCIL. There is established in the Department of Transportation and Public Facilities the State Advisory Transportation Council. The State Advisory Transportation Council shall select a chairman from among its members.

Sec. 44.42.130. PER DIEM AND EXPENSES. Members of the regional and state advisory transportation councils receive no salary, but are entitled to per diem and travel expenses authorized by law for other boards and commissions.

Sec. 44.42.135. MEETINGS. The chairman of a regional advisory transportation council or of the State Advisory Transportation Council may call meetings of the council upon at least seven days notice, and must call meetings upon the request of two members.

Sec. 44.42.140. QUORUM AND MAJORITY. Three members of a regional advisory transportation council or of the State Advisory Transportation Council constitute a quorum for the conduct of business. A vote of the majority of members present is required for action by a council.

Sec. 44.42.145. DUTIES OF REGIONAL ADVISORY TRANSPORTATION COUNCILS. Each regional advisory transportation council shall assess (1) the transportation needs of its region, particularly as those needs relate to the development of renewable and nonrenewable resources in the region; and (2) transportation modes which could reduce freight costs in its region. Each regional advisory transportation council shall report its findings at least annually to the State Advisory Transportation Council.

Sec. 44.42.150. DUTIES OF STATE ADVISORY TRANSPORTATION COUNCIL. The State Advisory Transportation Council shall

(1) review the reports of the regional advisory transportation councils; and

(2) review and comment on each plan and program submitted to it under AS 44.42.050 and AS 19.10.140 with regard to whether the plan or program

(A) considers the needs set out in the reports of the regional advisory transportation councils;

(B) should be amended to include the needs set out in the reports of the regional advisory transportation councils.

Sec. 44.42.155. REPORT OF STATE ADVISORY TRANSPORTATION COUNCIL. The state council shall annually prepare a report summarizing the review required by AS 44.42.150. The report shall be submitted annually to the governor, the commissioner of transportation and public facilities, and the legislature.

* Sec. 2. AS 19.10.140 is amended to read:

Sec. 19.10.140. LONG-RANGE PROGRAM FOR HIGHWAY CONSTRUCTION AND MAINTENANCE. The governor shall require the department to establish a continuing, long-range program for highway construction and maintenance. The program shall annually project proposed construction and maintenance of highways for not less than the next succeeding five years. A statement of the program shall be submitted by the governor to the legislature annually, and the long-range program shall include in detail the program prepared under AS 19.10.150. The department shall annually submit a copy of the program to the State Advisory Transportation Council (AS 44.42.125).

* Sec. 3. AS 44.42.050(a) is amended to read:

(a) The commissioner shall develop annually a comprehensive, intermodal, long-range transportation plan for the state. In developing and revising the state plan, the commissioner shall consider means and costs of improving existing modes and facilities, state and federal subsidies, and the costs and benefits of new transportation modes and

facilities. The commissioner shall also consider the recommendation of the Alaska Transportation Planning Council. The plan shall be submitted to the governor for his review and approval and submitted by the governor to the legislature. A copy of the plan shall be submitted to the State Advisory Transportation Council (AS 44.42.125).

Jerry – would Ada
to send this amount
down to State Affairs?
Need like 10 copy
at prior to 1:30pm

OK.

A M E N D M E N T

Offered in the HOUSE By Gardiner

TO: HOUSE BILL NO. 638

Page 2, lines 27 - 29 and Page 3, lines 1 - 6:

Delete all material and insert the following in its place:

Sec. 19.10.155. PROJECT REPORTING. The department shall establish an information system to provide current information for each project it undertakes. The information system shall be available to members of the legislature and shall include information on

(1) the status of construction on each project;

(2) the amount of money spent on each project; and

(3) the estimated amount of money needed to complete each project.

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF–STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

March 12, 1980

M E M O R A N D U M

TO: Terry D. Gardiner, Speaker
Alaska House of Representatives

FROM: Wallace Miller, Consultant to
Legislative Finance Division

SUBJECT: HB 638 Reporting

I have reviewed Sec. 19.10.155 Quarterly Reports and suggest the following language be substituted. The proposed language has the same intent as currently contained in the bill; however, DOTPF is in the process of developing a Management Information System which will provide the desired project status information "on call" rather than quarterly. I believe this "on call" capability can fully meet legislative information needs.

PROPOSED LANGUAGE

> Sec. 19.10.155. Project Reporting. The department shall through the installation of the proposed management information system provide adequate project status reporting to the first session of the twelfth legislature. Adequate status reporting shall include on call reporting of the current status of construction on the project; (2) a statement of the amount of money spent on the project to date; and (3) an estimate of the amount of money needed to complete the project.

Please refer to the attached memorandum from J. H. Hogan to the Chairman and members of the Budget and Audit Committee which makes the same recommendation regarding project status reporting.

Attachment: 3/4/80 Memo

31-Q1LH

Lamy Cattle

3891/3828

Notify when

hearing comes up.

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF–STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

March 4, 1980

M E M O R A N D U M

TO: Chairman and Members
Budget & Audit Committee

FROM: J. M. Hogan, Director
Legislative Finance Division

SUBJECT: Bond Project Status Review

This year, as was the case last, the information on bond fund project status was disorganized and generally unsatisfactory. The reason for this is that one of the large packets was assembled by Budget & Management for state agencies, other than DOTPF, from budget documents prepared last Fall. The other large packet was prepared by DOT for its own projects. Since these were both manually assembled over the last two weeks, there were undoubtedly many errors, some of which were called to our attention in various errata sheets, delivered as late as Monday afternoon, and one was received this morning during preparation of this memorandum. In an effort to improve the quality of project status data given to the Legislature (and to provide the same benefits to management of the departments and the Governor's office) I would suggest the Committee give consideration to an item requested by the Department of Transportation in this year's capital budget. The attached document includes the cover page and conclusions page from a Peat, Marwick, Mitchell & Co. report on a proposed management information system. Their third conclusion reads:

> "The third conclusion, and by far the most important, is that there exists a significant gap in management information pertaining to:
>
> Project status; and
>
> Bond fund status."

Attached to that is the budget request for funding to install portions of the management information system. If the Legislature supports this appropriation, I would suggest that intent language be added calling for the installation of this system in time to provide adequate project status reporting to the first session of the Twelfth Legislature.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill No.638
Title An Act Relating to Transportation Planning and Reports
Requested by Special Committee on Roads and Highways Date 1/30/80

II. FISCAL DETAIL
Agency Affected Department of Transportation & Public Facilities
Program Category Affected Transportation
BRU, Program, or Subprogram(s) Affected Planning & Research
(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	0.5	1.0	1.5	1.5	1.5	1.5
200 TRAVEL **	4.5	12.5	13.0	13.5	14.0	14.5
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	5.0	13.5	14.5	15.0	15.5	16.0

** Travel based on 4 meetings per year, 5 members for 2 days

FUNDING (Thousands of Dollars)

GENERAL FUND	5.0	13.5	14.5	15.0	15.5	16.0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	0	0	0	0	0

POSITIONS

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

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

Administrative Order No.33, as ammended, dated October 8, 1976 established the Alaska Transportation Planning Council within the Division of Policy Development and Planning. It is assumed that this HB 638 will supersede the Administrative Order No.33. The duties described by HB 638 are not as comprehensive as the duties for the Council in AO 33. In HB 638 the duties of the Council are limited to review and comment on the department's plans and programs and providing copies of their comments to the legislative and executive branches. AO 33 required development of recommendations on a variety of transportation policy issues, programs and procedures with at least one report annually detailing the findings, recommendations, and areas of study of the Council. There are no provisions for an Executive Secretary in HB 638 to provide the administrative support for the council. Arranging for meetings, agenda, travel, travel vouchers and payment, correspondence, transcribing meeting minutes, and report preparation are necessary administrative activities that must be provided.

IV. DATE 2/9/80 PREPARED BY John Umlauf
AGENCY Planning & Research, DOTPF
PHONE 465-2470

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

33 (01 (Rev. 12/79)

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HOUSE BILL NO. 638 -- Revision
Title An Act relating to Transportation Planning and Reports
Requested by Special Committee on Roads and Highways Date 1/30/80
(this is date of first request)

II. FISCAL DETAIL
Agency Affected Department of Transportation and Public Facilities
Program Category Affected Transportation
BRU, Program, or Subprogram(s) Affected Planning and Research
(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	0.9	1.8	2.7	2.7	2.7	2.7
200	TRAVEL **	8.1	22.5	23.4	23.4	23.4	23.4
300	CONTRACTUAL	1.0	2.0	2.0	2.0	2.0	2.0
400	COMMODITIES	1.0	2.0	2.0	2.0	2.0	2.0
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	11.0	28.3	30.1	30.1	30.1	30.1

FUNDING (Thousands of Dollars)

GENERAL FUND	11.0	28.3	30.1	30.1	30.1	30.1
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	0	0	0	0	0

POSITIONS

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

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

This revises Fiscal Note of 2/9/80. Membership on the Council would be increased from five (5) to nine (9) members.

** Travel based on four (4) meetings per year, nine 9 members for two (2) days.

IV. DATE 3/21/80 PREPARED BY John Umlauf Approved: JB
AGENCY Planning & Research, Dept of Transportation and Public Facilit
PHONE 465-2470

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

33-001 (Rev. 12/79)

HB
643

(7)

COMMITTEE REPORT

HOUSE

1/30/80

FURTHER: FINANCE

Date: 2-26-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 643

"An Act making a special appropriation to the Department of Transportation and Public Facilities for transportation facilities for cities and villages of Kodiak Island, the Alaska Peninsula, and the Aleutian Islands; 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)

[X] replace with CS for HB 643 [X] same title [ ] new title

and recommends CS HB 643 (FIN) DP 5

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS HB 643

Title Appropriation to DOT/PF for Transportation Facilities for Kodiak Is. AK Penn.

Requested by House State Affairs Date 2/29/80Aleutian I s

II. FISCAL DETAIL

Agency Affected DOT/PF

Program Category Affected Design/Construction

BRU, Program, or Subprogram(s) Affected Aviation, Highways, Harbors

(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						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES		22,325.0				
700 GRANTS, CLAIMS, ETC.						
TOTAL		22,325.0				

FUNDING (Thousands of Dollars)

GENERAL FUND		22,325.0				
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Summary of Projects Included in CS HB 643

Marine Highway System Vessel:

An accurate estimate for this project will be available when a feasibility study, presently underway, is completed in May 1980. Meanwhile, the current (very rough) estimate of $15,000,000 is based on a vessel 256' long, 15' draft, 15-16 lands, 65-70 cars capacity and 50 passengers. This estimate does not include related shore facilities necessary to accommodate this vessel.

IV. DATE 2/29/80 PREPARED BY J. W. Scribner

AGENCY DOT/PF

PHONE 465-3900

Original: Legislative Finance

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

33-001 (Rev. 12/79)

Old Harbor:

Boat Harbor:

The existing boat harbor could be expanded by dredging additional basin area to the limits of the area available and the installation of moorage floats. Because of the restricted area available for expansion the $1.0 million in HB 643 should be considered as maximum.

Preliminary Engineering & Permits	$100,000
Right-of-Way	Unknown
Construction	700,000
Construction Supervision	50,000
Contingencies	50,000
Total (1980 Costs)	$1,000,000

Airport Construction:

Existing 2000' runway on beach line. Subject to erosion. Approach over Village. Village has asked for new airport. Best possible site is about 2 miles from village and would require access road with two bridges. No preliminary studies have been done. Rough estimate of costs is $3.5 million in 1980 costs including engineering, construction & contingencies.

Port Lions:

Airport:

Existing 2650' runway. Proposed project could consist of crushed gravel surface. Estimate $400,000 total costs.

Sand Point:

Access to Red Cove Lake:

This project would be very low budget, simply to provide access to Red Cove Lake by 4-wheel drive vehicles or heavy duty pickup. The $75,000 would probably be adequate only if there are no other costs involved with Right-of-Way, land disturbance fees or material acquisitions.

Road between City & Airport:

The total estimated project cost is $1.6 million, of which about $900,000 is currently programmed and available. Hence, an amount of $700,000 is needed to complete road upgrade project.

Dock equipment:

The City has estimated a cost of $500,000 for a large hoist for boats. There are relatively small tides at Sand Point and it is not feasible to work on boat bottoms without mechanical assistance.

Chignik:

Boat Harbor:

We have no information on this proposal on which to base an estimate. Moreover, policy is needed on who will operate and maintain the facility once completed. Presupposing that a feasible site exists, the extent of development would be in direct proportion to the funding made available assuming that the initial allocations was sufficient for construction of the basic features such as harbor protection and a basic of suitable depth.

False Pass:

Airport:

The $150,000 proposed could be used for added erosion control work on the bridge abutments for the airstrip. However, these would not be sufficient funds for improving the useability of the airstrip.

Funding Summary for projects contained in CS HB 643

Project	Estimated Costs
Marine Vessel	$15,000,000
Old Harbor	
boat harbor	1,000,000
airport	3,500,000
Port Lions	
airport	400,000
Sand Point	
Access to Red Cove Lake	75,000
Road between Airport & City	700,000
Dock equipment	500,000
Chignik	
Boat Harbor	1,000,000
False Pass	
Airport	150,000
Total	$23,325,000

Status of Projects Deleted from HB 643

King Cove Dock Facility - This project is included in the Governor's CIP program for 1983 at a funding level of $1.2 million. Very recent cost estimates reveal that a more realistic figure for a basic dock structure is $2.5 million not including right-of-way costs which are unknown at this time.

Port Lions Boat Harbor Improvements - This project is included in the proposed FY 81 G.O. Bond Issue at a funding level of $1.1 million.

Sand Point Dock Facility - This project is included in the Governor's CIP program for the proposed FY 81 G.O. Bond package for a total cost of $3.5 million, not including right-of-way costs which are unknown at this time.

Unalaska Airport Construction - There is an existing contract to provide a gravel surface for the 4000' runway. Also a feasibility study is underway to extend the runway and the proposed FY 81 G.O. Bond Issue includes a $6.6 million CIP project using federal ADAP funds.

Chignik Road between airport and village	-	A contract was recently let for $664,000 to do this project.
Chignik Lagoon Stream erosion control	-	This work is included in the proposed FY 81 G.O. Bond Issue as part of a runway reconstruction project.
Nikolski Airport Construction	-	This project was deleted by the bill's sponsor since the airport presently belongs to the U.S. Air Force and there is no apparent way for the State to accomplish the desired work.

Total funds deleted from HB 643 = $10,900,000

Funding Information
General Fund $19,525,000
Other Funds - 0 -
$19,525,000

Introduced: 1/30/80
Referred: State Affairs and Finance

IN THE HOUSE BY OSTERBACK

HOUSE BILL NO. 643

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Transportation and Public Facilities for transportation facilities for cities and villages of Kodiak Island, the Alaska Peninsula, and the Aleutian Islands; and providing for an effective date."

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

* Section 1. The sum of ~~$19,525,000~~ $23,625,000 is appropriated from the general fund to the Department of Transportation and Public Facilities for the following transportation facilities in the amounts set out after each:

Marine highway system vessel for service between Kodiak and communities of the Aleutian Islands	~~$ 5,000,000~~ 15,000,000
~~King Cove dock facility~~	~~2,500,000~~ ~~1,500,000~~ add on to Gov's C.I.P. bill ~~to Gov's bill~~
Old Harbor	
boat harbor improvements	1,000,000
airport construction	~~1,000,000~~ 3.5 mil
Port Lions	
boat harbor improvements	~~200,000~~ ingo's C.I.P.
airport construction	~~200,000~~
Sand Point	add road to Sand Pt airport 400,000
dock facility	~~3,500,000~~ 100,000
construction of recreational road, Knoll to Red Cove Lake	access 500,000
	to equipt. fishing & dock 75,000 during fish
Unalaska airport construction	4,000,000
Chignik	

boat harbor improvements 1,000,000

completion of road between village and airport 500,000

~~Chignik Lagoon stream erosion control 200,000~~

False Pass airport erosion control 150,000

~~Nikolski airport construction 200,000~~

in gov's C.P.

* Sec. 2. The appropriations made by this Act are for capital projects and are subject to AS 37.25.020.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-070(c).

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS HB 643

Title Appropriation to DOT/PF for Transportation Facilities for Kodiak Is. AK Penn. Aleutian I s

Requested by House State Affairs Date 2/29/80

II. FISCAL DETAIL

Agency Affected DOT/PF

Program Category Affected Design/Construction

BRU, Program, or Subprogram(s) Affected Aviation, Highways, Harbors

(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						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES		22,325.0				
700	GRANTS, CLAIMS, ETC.						
	TOTAL		22,325.0				

FUNDING (Thousands of Dollars)

GENERAL FUND		22,325.0				
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Summary of Projects Included in CS HB 643

Marine Highway System Vessel:

An accurate estimate for this project will be available when a feasibility study, presently underway, is completed in May 1980. Meanwhile, the current (very rough) estimate of $15,000,000 is based on a vessel 256' long, 15' draft, 15-16 lands, 65-70 cars capacity and 50 passengers. This estimate does not include related shore facilities necessary to accommodate this vessel.

IV. DATE 2/29/80 PREPARED BY J. W. Scribner

AGENCY DOT/PF

PHONE 465-3900

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

33-001 (Rev. 12/79)

Old Harbor:

Boat Harbor:

The existing boat harbor could be expanded by dredging additional basin area to the limits of the area available and the installation of moorage floats. Because of the restricted area available for expansion the $1.0 million in HB 643 should be considered as maximum.

Preliminary Engineering & Permits	$100,000
Right-of-Way	Unknown
Construction	700,000
Construction Supervision	50,000
Contingencies	150,000
Total (1980 Costs)	$1,000,000

Airport Construction:

Existing 2000' runway on beach line. Subject to erosion. Approach over Village. Village has asked for new airport. Best possible site is about 2 miles from village and would require access road with two bridges. No preliminary studies have been done. Rough estimate of costs is $3.5 million in 1980 costs including engineering, construction & contingencies.

Port Lions:

Airport:

Existing 2650' runway. Proposed project could consist of crushed gravel surface. Estimate $400,000 total costs.

Sand Point:

Access to Red Cove Lake:

This project would be very low budget, simply to provide access to Red Cove Lake by 4-wheel drive vehicles or heavy duty pickup. The $75,000 would probably be adequate only if there are no other costs involved with Right-of-Way, land disturbance fees or material acquisitions.

Road between City & Airport:

The total estimated project cost is $1.6 million, of which about $900,000 is currently programmed and available. Hence, an amount of $700,000 is needed to complete road upgrade project.

Dock equipment:

The City has estimated a cost of $500,000 for a large hoist for boats. There are relatively small tides at Sand Point and it is not feasible to work on boat bottoms without mechanical assistance.

Chignik:

Boat Harbor:

We have no information on this proposal on which to base an estimate. Moreover, policy is needed on who will operate and maintain the facility once completed. Presupposing that a feasible site exists, the extent of development would be in direct proportion to the funding made available assuming that the initial allocations was sufficient for construction of the basic features such as harbor protection and a basic of suitable depth.

False Pass:

Airport:

The $150,000 proposed could be used for added erosion control work on the bridge abutments for the airstrip. However, these would not be sufficient funds for improving the useability of the airstrip.

Funding Summary for projects contained in CS HB 643

Project	Estimated Costs
Marine Vessel	$15,000,000
Old Harbor	
boat harbor	1,000,000
airport	3,500,000
Port Lions	
airport	400,000
Sand Point	
Access to Red Cove Lake	75,000
Road between Airport & City	700,000
Dock equipment	500,000
Chignik	
Boat Harbor	1,000,000
False Pass	
Airport	150,000
Total	$28,325,000

Status of Projects Deleted from HB 643

King Cove Dock Facility - This project is included in the Governor's CIP program for 1983 at a funding level of $1.2 million. Very recent cost estimates reveal that a more realistic figure for a basic dock structure is $2.5 million not including right-of-way costs which are unknown at this time.

Port Lions Boat Harbor Improvements - This project is included in the proposed FY 81 G.O. Bond Issue at a funding level of $1.1 million.

Sand Point Dock Facility - This project is included in the Governor's CIP program for the proposed FY 81 G.O. Bond package for a total cost of $3.5 million, not including right-of-way costs which are unknown at this time.

Unalaska Airport Construction - There is an existing contract to provide a gravel surface for the 4000' runway. Also a feasibility study is underway to extend the runway and the proposed FY 81 G.O. Bond Issue includes a $6.6 million CIP project using federal ADAP funds.

Chignik Road between airport and village	-	A contract was recently let for $664,000 to do this project.
Chignik Lagoon Stream erosion control	-	This work is included in the proposed FY 81 G.O. Bond Issue as part of a runway reconstruction project.
Nikolski Airport Construction	-	This project was deleted by the bill's sponsor since the airport presently belongs to the U.S. Air Force and there is no apparent way for the State to accomplish the desired work.

Total funds deleted from HB 643 = $10,900,000

HB
667

(7)

COMMITTEE REPORT

HOUSE

2/4/80

FURTHER: FINANCE

Date: 2-22-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 667

"An Act making a supplemental appropriation to the Department of Transportation and Public Facilities for the North Slope haul road; 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)

[X] replace with CS for HB 667 [X] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill 667

Title An Act making a supplemental appropriation to the DOTPF for the No. Slope Haul Road

Requested by House State Affairs Committee (Christine Harting) Date 2/14/80

II. FISCAL DETAIL

Agency Affected Department of Transportation and Public Facilities

Program Category Affected Transportation

BRU, Program, or Subprogram(s) Affected Interior Region M & O BRU, No. Slope Road Component

(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	86.0					
200 TRAVEL	55.3					
300 CONTRACTUAL	3,400.5					
400 COMMODITIES	143.2					
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	3,685.0					

FUNDING (Thousands of Dollars)

GENERAL FUND	3,685.0					
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The first session of the 11th Legislature appropriated $2,400,000* to the Department of Transportation and Public Facilities for maintenance of the North Slope Haul Road during Fiscal Year 1980. The Governor's original request was for $4,566,100 based on the assumption that the road would be maintained solely by State forces operating from five camp sites. At the present time there are three camps in operation manned by State employees providing maintenance for 182 miles of the Haul Road. The remaining 210 miles of road is being maintained under contract with two private contracting firms. This arrangement for maintenance of the North Slope Haul Road is expected to continue through Fiscal Year 1980.

(Continued on next page)

IV. DATE 2/21/80 PREPARED BY Robert W. Steele

AGENCY Transportation & Public Facilities

PHONE 364-2121 Ext. 258

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/79)

Fiscal Note - HB 667

The cost of maintaining the 182 miles of road with State forces during FY 80 is projected at $1,953,900. The costs of the two presently negotiated contracts total $344,260 per month, or $4,131,100 for the 12 month period of FY 80. The total anticipated expenditures for maintenance of the entire road by both State forces and contracts would then be $6,085,000. The table below indicates the projected shortfall based upon the above narrative.

Maintenance by State forces	$1,953,900
Maintenance by contracts	4,131,100
Total Maintenance Costs	$6,085,000
Less FY 80 appropriation*	(2,400,000)
Supplemental Requirement	$3,685,000

A copy of Deputy Commissioner Ryan's memorandum on this subject is attached. It should be noted the due to an error in calculation, his memorandum requests $3,737,300 of supplemental funds when in actuality only $3,685,000 is required.

The Fiscal Year 1981 Governor's budget request assumes maintenance of the entire haul road utilizing only State forces, resulting in an overall reduction from the amounts required for FY 80.

Note * This assumes passage of HB 577 which appropriates the remaining $360,000 of the North Slope Haul Road budget.

STATE OF ALASKA

MEMORANDUM

RECEIVED
DEC 24 1979
DOT/PF
COMMISSIONER'S OFFICE

ATTACHMENT E

TO: Ron Lind
Deputy Commissioner, Administration
Department of Transportation
and Public Facilities

DATE: December 20, 1979

FILE NO: 400C-0003

TELEPHONE NO.:

FROM: Patrick P. Ryan
Deputy Commissioner, M & O
Department of Transportation
and Public Facilities

P.P.R.

SUBJECT: Supplemental Request - North Slope Haul Road Component

The Free Conference Committee Budget provided for a lump sum appropriation of $2,400,000.00 to maintain the North Slope Haul Road. Additionally, the Haul Road was made a Component of the Interior Region Maintenance and Operations BRU.

The Governor's Request for the 1980 Operating Budget for the Haul Road was $4,566,100. That amount was estimated to be adequate to provide year around maintenance from five camps manned by State employees. At the current time and for the remainder of Fiscal Year 80 there will be only three camps in operation providing coverage for 182 miles of the road. The remaining, 210 miles will be maintained under a contractual arrangement with two private contractors. The requirement to continue the two contracts for the remainder of Fiscal Year 1980 will require us to request a Supplemental greater than $2,166,100. The $2,166,100 is the difference between the Governor's request of $4,566,100 for year around maintenance and the $2,400,000 approved by the FCC for partial year funding.

The total Supplemental needed for the Haul Road Component to finish Fiscal Year 1980 is $3,737,300. This amount will make a total FY 80 budget of $6,137,300 which is $1,571,200 over the Governor's Request for 1980.

The cost of maintaining the first 182 miles with the state forces located at three camps is estimated at $1,953,900 for a full year. The two contracts will cost $344,260 per month or $4,131,100 for a full year. The total expenditures for this component as of November 30, 1979 was $1,635,593 leaving a balance of $404,407. The Legislature only fund 85% of the $2.4 million approved.

There is the alternative of making up the shortfall in the Haul Road Component by transferring funds from the other three Interior Components. This alternative has been considered but would result in extensive reduction of services to the remainder of the Region as the effect would be a 33% reduction in those components. Therefore, that alternative is unacceptable in my opinion.

The third alternative is to drop the two contracts and man the remaining 210 miles with state forces. While it is estimated that this would result in a savings to the state, the alternative is not practical as camp facilities do not exist at this time to allow the placement of state personnel.

Therefore, we believe the only viable course of action is to request a supplemental in the amount of $3,737,300 to complete FY 80.

HB
696

(7)

COMMITTEE REPORT

HOUSE

2/8/80

FURTHER: FINANCE

Date: 3-3-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 696

"An Act relating to the individual tax credit allowed under the Alaska Net Income Tax Act; 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)

[X] replace with CS for 696 [X] same title [ ] new title

and recommends CS HB 696 Do Pass

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS S. ING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

WO 7388
Baldwin

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the individual net income tax; providing for payments to state residents; and providing for an effective date."

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

* Section 1. POLICY, PURPOSES AND FINDINGS. (a) It is the duty and policy of the state with respect to the natural resources belonging to it and the income derived from those natural resources to provide for their use development, and conservation for the maximum benefit of the people of the state.

(b) The purposes of this Act are

(1) to provide a mechanism for equitable distribution to the people of Alaska of at least a portion of the state's energy wealth derived from the development and production of the natural resources belonging to them as Alaskans;

(2) to encourage persons to maintain their residence in Alaska and to reduce population turnover in the state; and

(3) to encourage increased awareness and involvement by the residents of the state in the management and expenditure of state revenues derived from natural resources development and production.

(c) The legislature finds that the demands on and cost of state government have increased over the past few years at an excessive rate and that this increase has been permitted to occur, at least in part, by a feeling on the part of many residents of the state that because such a high proportion of the state's revenue comes from royalties and bonuses under mineral leases

of state land, those demands and costs do not have a significant economic impact upon them personally. It is in the public interest to distribute a portion of Alaska's energy wealth to the people of the state.

(d) The legislature also finds that state residents have been paying increasingly high prices for fossil fuels, while few have received direct monetary benefits from the production and development of fossil fuels belonging to them as Alaskans. It is in the public interest to return to state residents a portion of the state's income from oil, gas, and other mineral production to help offset rising fuel costs.

(e) The legislature also finds that state residents who have played a role in the history and development of this state constitute an irreplaceable resource and have made valuable contributions to the political, economic and social fabric of the state not only in the form of taxes but also in the form of participation in the state's development. The legislature finds that these contributions cannot be measured accurately in monetary terms and that the contributions have been made during years since statehood in which relatively small amounts of revenue were generated from the development of the state's natural resources. These same Alaskans have borne the burdens of a high cost of living during their years of residence here. In order to achieve a fair distribution of the present and future income from the development of the state's natural resources, it is necessary to establish a distribution mechanism that takes into account the years during which these individuals were owners of the state's valuable natural resources but did not receive direct benefits from that ownership. It is also in the public interest to provide special incentives to ensure that long-time Alaskans will remain in the state and to provide financial assistance to those who may not otherwise be able to do so.

(f) The legislature also finds that there exists in the state a serious problem of population turnover. A substantial portion of the state's popu-

lation is comprised of individuals who reside in Alaska for only a relatively short time. This is especially true in the state's larger cities. This constant turnover in population leads to political, economic, and social instability and is harmful to the state. It is in the public interest for the state to promote a stable resident population by providing incentives to encourage Alaskans to maintain their residency in the state.

* Sec. 2. AS 43 is amended by adding a new chapter to read:

CHAPTER 23. DISTRIBUTION OF REVENUE TO STATE RESIDENTS.

Sec. 43.23.010. RESIDENCY PAYMENT. (a) An individual who is eligible under (b) of this section is entitled to an annual residency payment determined as follows:

(1) $115 for each full year that the individual is a state resident from January 1, 1975, through December 31 of the year for which the residency payment is claimed;

(2) the amount of political campaign contributions made by the individual during the year not to exceed $50;

(3) 10 percent of the residential fuel expenses paid by the individual during the year or $10, whichever is greater;

(4) 10 percent of the expenses for residential fuel conservation capital improvements paid by the individual during the year not to exceed $200; and

(5) 16 percent of the tax credit claimed by the individual on his federal income tax return for household and dependent care services necessary for his gainful employment.

(b) An individual is eligible to receive a residency payment under (a) of this section if he

(1) applies to the department for the payment; and

(2) he is a state resident on the date of the application.

(c) If an individual is a state resident for less than 12 months

during a year, the portion of the residency payment determined under (a)(3) - (5) of this section shall be prorated according to the number of months during the year that the individual was a state resident.

(d) If an individual is married and files a joint federal income tax return, the portion of the residency payment determined under (a)(5) of this section may not exceed 50 percent of tax credit claimed for household and dependent care services on the joint federal income tax return.

(e) A parent or guardian may claim a residency payment on behalf of a minor or incompetent who is eligible to receive a residency payment under AS 43.23.010.

Sec. 43.23.020. PROOF OF ELIGIBILITY. (a) An individual who applies for a residency payment shall make and submit a statement of eligibility which must be verified by him under penalty of perjury. The commissioner may require an individual to provide additional proof of eligibility including one or more affidavits from persons having personal knowledge concerning the individual's eligibility.

(b) The department shall prescribe and furnish an application form for claiming the residency payment which shall contain a statement of eligibility and a certification of residency in the following form:

> Under penalty of perjury, I certify that I am a state resident on the date of this application and I have been a state resident for _____ full years and that I understand that my claim for a residency payment is partly determined by the number of years that I have been a state resident after January 1, 1975. I also understand that if I am convicted of falsely claiming a residency payment I will forfeit all residency payments and that I must repay all residency payments which have been paid to me. I understand that this penalty is in addition to any criminal penalties imposed.

(signature of individual)

Sec. 43.23.030. PENALTIES AND ENFORCEMENT. (a) In addition to any criminal penalties imposed by state law, if an individual is convicted of perjury or unsworn falsification for a statement made in a certification of residency, and the conviction is not reversed, that individual is not, and may never become, eligible for a residency payment, and he forfeits all residency payments paid to him.

(b) If the commissioner determines that a residency payment should not have been claimed by or paid to an individual, he may use any collection procedures or remedies available under this title to recover a residency payment which was improperly made.

Sec. 43.23.040. APPROPRIATIONS OF PERMANENT FUND INCOME. (a) The legislature shall appropriate 50 percent of the annual income of the Alaska permanent fund for residency payments under AS 43.23.010. If 50 percent of the annual income of the Alaska permanent fund is not sufficient to pay all residency payments due in a year, the legislature shall appropriate the additional amount needed from the general fund.

(b) If 50 percent of the annual income of the Alaska permanent fund is more than the amount needed to pay the residency payments due during that year, the amount not needed to pay residency payments shall be deposited in the general fund.

Sec. 43.23.050. DUTIES OF THE DEPARTMENT. The department shall

(1) by the 10th day of each regular legislative session, present a request to the legislature for an appropriation for the residency payments required by AS 43.23.010;

(2) make the residency payments required by AS 43.23.010 from an annual appropriation for that purpose;

(3) adopt regulations under the Administrative Procedure Act

(AS 44.62) which establish procedures and time limitations for claiming a residency payment. The department shall set the time limitation for applications for a residency payment so that all residency payments for a year are paid before October 15 of the following year; and

(4) assist residents of rural areas who because of language, illness, old age or inaccessibility to public transportation need assistance to establish eligibility and to apply for the residency payment provided by this chapter.

Sec. 43.23.060. DEFINITIONS. In this chapter,

(1) "Alaska permanent fund" means the fund established by art IX sec. 15, of the state constitution;

(2) "commissioner" means the commissioner of revenue;

(3) "department" means the Department of Revenue;

(4) "expenses for fuel conservation improvements" means

(A) the cost of additional insulation or insulating material installed in the principal residence of the individual if the residence was in existence on June 5, 1977;

(B) the cost of insulating windows of the principal residence of the individual;

(C) the cost of labor for the installation of the materials set out in (A) and (B) of this subsection; and

(D) the cost of installation of alternate sources of power generation not dependent on fossil fuels for energy supply, including but not limited to wind, tidal, solar or geothermal sources;

(5) "individual" means a natural person;

(6) "political campaign contribution" includes a contribution or gift to a person or organization for use exclusively

(A) for political campaigns for candidates for President

or Vice President of the United States, whether or not they will be voted on in a primary election in the state; United States senator from Alaska; United States representative from Alaska; governor or lieutenant governor of Alaska; the Alaska legislature; delegate to an Alaska constitutional convention; electoral confirmation as a judge or justice of a court in the state; and municipal office in the state; and

(B) for groups seeking to influence the outcome of a ballot proposition or question; or dues to a nonprofit organization organized primarily to influence an election;

(7) "residential fuel expenses" means the payments made by an individual for wood, coal, heating oil, gas, electricity or other fuel consumed in the state for the principal residence of the individual;

(8) "state resident" means an individual who is physically present in the state with the intent to remain permanently in the state or, if he is not physically present in the state, intends to return to the state and he is absent for the following reasons:

(A) vocational, professional or other special education for which a comparable program was not reasonably available in the state,

(B) postsecondary education,

(C) military service,

(D) medical treatment, or

(E) service in Congress;

(9) "year" means a calendar year.

* Sec. 3. AS 43.20.011(a) is amended to read.

(a) There is imposed for each taxable year upon the taxable income of every resident, nonresident and part-year resident individual and fiduciary of the state, except those qualifying for the rates in (b) or

(c) of this section, taxes computed according to the following table.

If the taxable income is:	Then the tax is:
[NOT OVER $2,000	3 PER CENT OF THE TAXABLE INCOME
OVER $2,000 BUT NOT OVER $4,000	$60 PLUS 3.5 PER CENT OF EXCESS OVER $2,000
OVER $4,000 BUT NOT OVER $6,000	$130 PLUS 4.0 PER CENT OF EXCESS OVER $4,000
OVER $6,000 BUT NOT OVER $8,000	$210 PLUS 5.0 PER CENT OF EXCESS OVER $6,000
OVER $8,000 BUT NOT OVER $10,000	$310 PLUS 5.5 PER CENT OF EXCESS OVER $8,000
OVER $10,000 BUT NOT OVER $12,000	$420 PLUS 6.0 PER CENT OF EXCESS OVER $10,000
OVER $12,000 BUT NOT OVER $14,000	$540 PLUS 7.0 PER CENT OF EXCESS OVER $12,000
OVER $14,000 BUT NOT OVER $16,000	$680 PLUS 7.5 PER CENT OF EXCESS OVER $14,000
OVER $16,000 BUT NOT OVER $18,000	$830 PLUS 8.0 PER CENT OF EXCESS OVER $16,000
OVER $18,000 BUT NOT OVER $20,000	$990 PLUS 8.5 PER CENT OF EXCESS OVER $18,000
OVER $20,000 BUT NOT OVER $22,000	$1,160 PLUS 9.0 PER CENT OF EXCESS OVER $20,000
OVER $22,000 BUT NOT OVER $26,000	$1,340 PLUS 9.5 PER CENT OF EXCESS OVER $22,000
OVER $26,000 BUT NOT OVER $32,000	$1,720 PLUS 10.0 PER CENT OF EXCESS OVER $26,000]
Over $32,000 but not over $38,000	[$2,320 PLUS] 10.5 percent of excess over $32,000

Over $38,000 but not over $44,000	$630 [$2,950] plus 11.0 percent of excess over $38,000
Over $44,000 but not over $50.000	$1,290 [$3,610] plus 11.5 percent of excess over $44,000
Over $50,000 but not over $60,000	$1,980 [$4,300] plus 12.0 percent of excess over $50,000
Over $60,000 but not over $70,000	$3,180 [$5,500] plus 12.5 percent of excess over $60,000
Over $70,000 but not over $80,000	$4,430 [$6,750] plus 13.0 percent of excess over $70,000
Over $80,000 but not over $90,000	$5,730 [$8,050] plus 13.5 percent of excess over $80,000
Over $90,000 but not over $100,000	$7,080 [$9,400] plus 14.0 percent of excess over $90,000
Over $100,000 but not over $150,000	$8,480 [$10,800] plus 14.0 percent of excess over $100,000
Over $150,000 but not over $200,000	$15,480 [$17,800] plus 14.5 percent of excess over $150,000
Over $200,000	$22,730 [$25,050] plus 14.5 percent of excess over $200,000

* Sec. 4. AS 45.20.011(b) is amended to read:

(b) There is imposed for each taxable year upon the taxable income of every resident, nonresident and part-year resident married individual who makes a single return jointly with his spouse (as provided in section 6013 of the Internal Revenue Code) and upon every resident, nonresident and part-year resident surviving spouse (as defined in section 2(a) of the Internal Revenue Code) taxes computed according to the following table.

If the taxable income is:	Then the tax is:

[NOT OVER $4,000	3 PER CENT OF THE TAXABLE INCOME
OVER $4,000 BUT NOT OVER $8,000	$120 PLUS 3.5 PER CENT OF EXCESS OVER $4,000
OVER $8,000 BUT NOT OVER $12,000	$260 PLUS 4.0 PER CENT OF EXCESS OVER $8,000
OVER $12,000 BUT NOT OVER $16,000	$420 PLUS 5.0 PER CENT OF EXCESS OVER $12,000
OVER $16,000 BUT NOT OVER $20,000	$620 PLUS 5.5 PER CENT OF EXCESS OVER $16,000
OVER $20,000 BUT NOT OVER $24,000	$840 PLUS 6.0 PER CENT OF EXCESS OVER $20,000
OVER $24,000 BUT NOT OVER $28,000	$1,080 PLUS 7.0 PER CENT OF EXCESS OVER $24,000
OVER $28,000 BUT NOT OVER $32,000	$1,360 PLUS 7.5 PER CENT OF EXCESS OVER $28,000
OVER $32,000 BUT NOT OVER $36,000	$1,660 PLUS 8.0 PER CENT OF EXCESS OVER $32,000
OVER $36,000 BUT NOT OVER $40,000	$1,980 PLUS 8.5 PER CENT OF EXCESS OVER $36,000
OVER $40,000 BUT NOT OVER $44,000	$2,320 PLUS 9.0 PER CENT OF EXCESS OVER $40,000
OVER $44,000 BUT NOT OVER $52,000	$2,680 PLUS 9.5 PER CENT OF EXCESS OVER $44,000
OVER $52,000 BUT NOT OVER $64,000	$3,440 PLUS 10.0 PER CENT OF EXCESS OVER $52,000]
Over $64,000 but not over $76,000	[$4,640 PLUS] 10.5 percent of excess over $64,000
Over $76,000 but not over $88,000	$1,260 [$5,900] plus 11.0 percent of excess over $76,000

Over $88,000 but not over $100,000	$2,580 [$7,220] plus 11.5 percent of excess over $88,000
Over $100,000 but not over $120,000	$3,960 [$8,600] plus 12.0 percent of excess over $100,000
Over $120,000 but not over $140,000	$6,360 [$11,000] plus 12.5 percent of excess over $120,000
Over $140,000 but not over $160,000	$8,860 [$13,500] plus 13.0 percent of excess over $140,000
Over $160,000 but not over $180,000	$11,460 [$16,100] plus 13.5 percent of excess over $160,000
Over $180,000 but not over $200,000	$14,160 [$18,800] plus 14.0 percent of excess over $180,000
Over $200,000 but not over $300,000	$16,960 [$21,600] plus 14.0 percent of excess over $200,000
Over $300,000 but not over $400,000	$30,960 [$35,600] plus 14.5 percent of excess over $300,000
Over $400,000	$45,460 [$50,100] plus 14.5 percent of excess over $400,000

* Sec. 5. AS 43.20.011(c) is amended to read:

(c) There is imposed for each taxable year upon the taxable income of every resident, nonresident and part-year resident head of a household (as defined in section 2(b) of the Internal Revenue Code), taxes computed according to the following table.

If the taxable income is:	Then the tax is:
[NOT OVER $2,000	3 PER CENT OF THE TAXABLE INCOME
OVER $2,000 BUT NOT OVER $4,000	$60 PLUS 3.5 PER CENT OF EXCESS OVER $2,000
OVER $4,000 BUT NOT OVER $6,000	$130 PLUS 4.0 PER CENT OF EXCESS OVER $4,000

OVER $6,000 BUT NOT OVER $8,000	$210 PLUS 4.5 PER CENT OF EXCESS OVER $6,000
OVER $8,000 BUT NOT OVER $10,000	$300 PLUS 5.0 PER CENT OF EXCESS OVER $8,000
OVER $10,000 BUT NOT OVER $12,000	$400 PLUS 5.5 PER CENT OF EXCESS OVER $10,000
OVER $12,000 BUT NOT OVER $14,000	$510 PLUS 6.0 PER CENT OF EXCESS OVER $12,000
OVER $14,000 BUT NOT OVER $16,000	$630 PLUS 6.5 PER CENT OF EXCESS OVER $14,000
OVER $16,000 BUT NOT OVER $18,000	$760 PLUS 7.0 PER CENT OF EXCESS OVER $16,000
OVER $18,000 BUT NOT OVER $20,000	$900 PLUS 7.0 PER CENT OF EXCESS OVER $18,000
OVER $20,000 BUT NOT OVER $22,000	$1,040 PLUS 7.5 PER CENT OF EXCESS OVER $20,000
OVER $22,000 BUT NOT OVER $24,000	$1,190 PLUS 8.0 PER CENT OF EXCESS OVER $22,000
OVER $24,000 BUT NOT OVER $28,000	$1,350 PLUS 8.5 PER CENT OF EXCESS OVER $24,000
OVER $28,000 BUT NOT OVER $32,000	$1,690 PLUS 9.0 PER CENT OF EXCESS OVER $28,000]
Over $32,000 but not over $38,000	[$2,050 PLUS] 9.5 percent of excess over $32,000
Over $38,000 but not over $44,000	$570 [$2,430] plus 10.0 percent of excess over $38,000
Over $44,000 but not over $50,000	$1,170 [$3,030] plus 10.5 percent of excess over $44,000
Over $50,000 but not over $60,000	$1,800 [$3,660] plus 11.0 per-

	cent of excess over $50,000
Over $60,000 but not over $70,000	$2,900 [$4,760] plus 11.5 per-
	cent of excess over $60,000
Over $70,000 but not over $80,000	$4,050 [$5,910] plus 12.0 per-
	cent of excess over $70,000
Over $80,000 but not over $90,000	$5,250 [$7,110] plus 12.5 per-
	cent of excess over $80,000
Over $90,000 but not over $100,000	$6,500 [$8,360] plus 13.0 per-
	cent of excess over $90,000
Over $100,000 but not over $150,000	$7,800 [$9,660] plus 13.5 per-
	cent of excess over $100,000
Over $150,000 but not over $200,000	$14,550 [$16,410] plus 14.0 per-
	cent of excess over $150,000
Over $200,000 but not over $300,000	$21,550 [$23,410] plus 14.5 per-
	cent of excess over $200,000
Over $300,000	$36,050 [$37,910] plus 14.5 per-
	cent of excess over $300,000

* Sec. 6. AS 43.20.015(a) is amended to read:

(a) For tax years beginning after December 31, 1979 [1977], each individual filing an Alaska net income tax return is entitled to the credit provided for in this section. For married taxpayers filing a joint return, the return may claim the credit for each spouse.

* Sec. 7. AS 43.20.015(b) is repealed and re-enacted to read:

(b) The amount of the annual individual tax credit is $250 for each tax year beginning after December 31, 1974, for which the individual filed an individual income tax return but the annual individual tax credit may not exceed (1) $1,250; or (2) the net income tax liability of the individual for the year for which the credit is claimed, whichever is less.

* Sec. 8. AS 43.20.011(d) is repealed.

* Sec. 9. AS 43.23.010(a)(2) - (5) enacted in sec. 2 of this Act do not apply to claims for a residency payment for the year ending December 31, 1979. For that year only, an eligible state resident may receive a residency payment equal to $115 for each full year that the individual was a state resident from January 1, 1975, through December 31, 1979. The Department of Revenue shall prescribe and distribute forms to the public so that the residency payment for 1979 will be paid before October 15, 1980.

* Sec. 10. If any provision enacted in sec. 2 of this Act is held to be invalid by the final judgment, decision or order of a court of competent jurisdiction, then that provision is nonseverable, and all provisions enacted in sec. 2 of this Act are invalid and of no force or effect.

* Sec. 11. This Act terminates on the effective date of an Act which repeals AS 43.20.011(a) - (d).

* Sec. 12. Sections 1 and 2 of this Act are retroactive to January 1, 1979.

* Sec. 13. Sections 3 - 8 of this Act apply to tax years beginning after December 31, 1979.

* Sec. 14. Sections 3 - 8 of this Act are retroactive to January 1, 1980.

* Sec. 15. This Act takes effect immediately in accordance with AS 01.10.070(c).

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER / POUCH S – JUNEAU 99811

February 18, 1980

The Honorable Mike Miller
Chairman
House State Affairs Committee
Room 102 - Capitol Building
Juneau, Alaska 99811

Dear Mr. Miller:

Re: House Bill No. 696

House Bill No. 696, an Act relating to the individual tax credit allowed under the Alaska Net Income Tax Act, was introduced in the House on February 8, 1980 and was referred to the House State Affairs and Finance Committees.

For the consideration of the House State Affairs Committee, I am enclosing copies of Fiscal Notes prepared by Gary Jenkins, Director, Audit Division; P. A. Wall, Director, Administrative Services Division and Bill Yankee, Research Section of the Department of Revenue concerning the proposed legislation.

Sincerely,

R. D. Stevenson
Special Assistant

cc: Russ Meekins
Chairman
House Finance Committee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Gary Jenkins, Director
Audit Division
Department of Revenue

P. A. Wall, Director
Administrative Services Division
Department of Revenue

Vincent Wright
Research Section
Department of Revenue

04-02LH

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill No. 696
Title An Act relating to the individual tax credit allowed under Alaska
Requested by House State Affairs & Finance Comm. xxDate (Net Income Tax Act
Date: 2/11/80

II. FISCAL DETAIL
Agency Affected Revenue
Program Category Affected Fiscal Services
BRU, Program, or Subprogram(s) Affected Audit Division
(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						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS None

FULL TIME						
PART TIME						
TEMPORARY						

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

See attached memorandum to R. D. Stevenson dated 2/11/80.

IV. DATE February 11, 1980 PREPARED BY Gary Clarke
AGENCY Department of Revenue, Audit Division
PHONE 465-2320

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

33-001 (Rev. 12/79)

02-001B (Rev. 10/76)

STATE
of ALASKA

MEMORANDUM

TO: R. D. Stevenson
Special Assistant
Department of Revenue

DATE: February 11, 1980

FILE NO:

TELEPHONE NO:

FROM: Gary L. Jenkins
Director
Audit Division

SUBJECT: House Bill No. 696

This bill would modify the current law providing for an annual individual tax credit by adding three additional years with an increasing amount of credit of $100 per year. This credit would be partially refundable up to a maximum of $200 for residents.

It appears that there may be a constitutional problem with this bill in that a part-year or nonresident taxpayer may take the credit only up to the amount of their tax liability while a resident may claim the credit and receive a refund up to $200 in excess of their actual tax liability.

The sentence which begins in the middle of line 10, page 2 of the bill provides for a deferral of the credit payment, allowing the amount which might be refunded to be applied to future income taxes. The initial phrase of this provision states, "to the extent allowed under federal law". In light of the fact that there is no similar credit permitted under federal law, I would suggest that the phrase be eliminated and replaced with language such as, "a payment required by this subsection may be applied to the estimated tax liability of the taxpayer for the following tax year".

The potential loss of revenue which would result from enactment of this proposed legislation will be provided by the Research Section of the Department of Revenue.

The Administrative Services Division will prepare a Fiscal Note showing the administrative costs that they will incur if this legislation passed.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 696
Title Releating to the individual tax cretit allowed under the Alaska Net Income Tax
Requested by _____ Date 2/11/80

II. FISCAL DETAIL
Agency Affected Revenue
Program Category Affected General Government
BRU, Program, or Subprogram(s) Affected Administration & Support, Management Services
(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		34.3	36.9	42.1	45.0	48.2
200 TRAVEL						
300 CONTRACTUAL		15.5	17.0	23.2	24.8	26.6
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS CLAIMS, ETC.						
TOTAL		49.8	53.9	65.3	69.8	74.8

Data Processing Chargeback increase above continuation in FY 83.

FUNDING (Thousands of Dollars)

GENERAL FUND		49.8	53.9	65.3	69.8	74.8
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME		5/19mm	5/19mm	7/29mm	7/29mm	7/29mm
TEMPORARY						

2 PPT Tax Scanner positions (10mm) added in FY 83.

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

The administrative complexities of Chapter 144, SLA 1978 are compounded by HB 696. This occurs because the tax years claimed for the credit are not required to be consecutive, there is no time limit on the interval between tax years when the credit is claimed and there is substantial change in taxpayer names and addresses, and in Social Security Numbers. As a result, the computer programs which compare the total years claimed on this years return to the previous years in which earlier tax credits were claimed, produce many non-matching situations. These non-matching claims must be checked out manually before final disposition of the credit can be decided. Further, each additional year adds another income tax file to the computer cross-checking routines which increases the computer systems and supporting staff costs.

ASSUMPTIONS: Over 225,000 returns are extimated to be processed for the tax year 1980. 25,000 of these are expected to be in response to the credit payment provided for in HB 696. The expanding of the credit and

IV. DATE 2/16/80 PREPARED BY P. A. WALL
AGENCY Revenue
PHONE 465-2313

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

33-001 (Rev. 12/79)

ASSUMPTIONS (Con't):

resulting credit payments will be incorporated into the existing process. Additional data capture will occur and will be added to the existing routines.

Program Summary: A Systems Analyst is required to design the cross-checking and payment system for HB 696. It will data capture returns filed for the credit payment only and will compare all returns against prior year tax files to verify the credit and reject for manual checking those not verified. Manually verified returns must then be data captured and processed. Additional staff will process the 25,000 returns expected from those filing for the credit as well as the additional work in manual verification.

Positions:	1 PPT Systems Analyst/Programer, Range 18, 3mm at $2,361 per mo =	7.1
	Position Cost: Benefits 1.1, FICA .4, Health Ins. .4 =	1.9
	4 PPT Tax Scanners, Range 8, 16mm at $1,197 per mo, Shift Work =	19.2
	Position Cost: Benefits 2.8, FICA 1.3, Health Ins. 2.0 =	6.1
Other Costs:	2 Data Capture Machines, 4 mos ea at 350 mo =	2.8
	Warrant Stock: 25,000 at $24M	.6
	Postage: 25,000 at .15 cents ea	3.8
	Envelopes: 25,000 at $11.54M	.3
	Miscellaneous: Toll Calls, Insurance, Date Processing Chargeback, (5.5), Electrical Installation =	8.0

	POSITION TITLE			RANGE/STEP	BARG. UNIT	LOCATION	GOV.	APPROV.	DISAPP.
1	Systems Analyst I			18/A	GG	Juneau			
2	TYPE OF POSITION: PPT	STAFF MONTHS: 3	RP No.	PCN No.	PRIORITY: HB 696	FORM 12 PAGE/LINE	LEG.		

3	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES: SALARY	7.1	
5	BENEFITS	1.1	
6	FICA	.4	
7	HEALTH INS.	.4	
8	TOTAL PERSONAL SERVICES		9.0
9	TRAVEL		
10	CONTRACTUAL DP Chargeback		5.5
11	COMMODITIES		
12	EQUIPMENT		
13	OTHER		
14	TOTAL COST		14.5

	CODE	FUNDING SOURCE	
15		FED RCPTS	
16		GF MATCH	
17		GEN FUND	14.5
18		I-A RCPTS	
19		PGM RCPTS	
20		OTHER	
21	CONTINUATION		
22	ADDITION		

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4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

Required to design the computer cross-checking and credit payment system. Data required for the process will be captured and compared against prior year tax files to verify the credit and reject for manual checking those not verified. Manually verified returns must be data captured and processed. The required controls and routines for batching, warrant release and warrant redemption must be provided. Appropriate documentation of the computer processes must be prepared.

AGENCY Revenue PROGRAM AREA General Government

BRU Administration and Support

COMPONENT Management Services

13 REQUEST FOR NEW POSITION

FY 81

REVISED DATE _____

	POSITION TITLE			RANGE/STEP	BARG. UNIT.	LOCATION		APPROV.	DISAPP.
1	Tax Scanners			8/A	GG	Juneau	GOV.		
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE			
2	PPT	.6			HB 696		LEG.		

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES: SALARY	19.2	
5	BENEFITS	2.8	
6	FICA	1.3	
7	HEALTH INS	2.0	
8	TOTAL PERSONAL SERVICES		25.3
9	TRAVEL		
10	CONTRACTUAL		10.0
11	COMMODITIES		
12	EQUIPMENT		
13	OTHER		
14	TOTAL COST		35.3

	CODE	FUNDING SOURCE	
15		FED RCPTS	
16		CF MATCH	
17		GEN. FUND	35.3
18		I-A RCPTS	
19		PGM RCPTS	
20		OTHER	
21	CONTINUATION		
22	ADDITION		

FOR B&M USE ONLY

AA KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

Required to data capture 25,000 additional returns filed for the credit payment and to assist in the processing of the additional manually verified credit claims so that the normal tax refund process will not be slowed down. Work involves using the terminal and manual records in checking and verifying claims, batching, batch editing and correction, warrant release and control, and redeemed warrant processing.

AGENCY Revenue PROGRAM AREA General Government

BRU Administration and Support

COMPONENT Management Services

13 REQUEST FOR NEW POSITION

FY 81

REVISED DATE _____

02-1011 (Rev. 7/79)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. IB 696
Title An Act Relating to the Individual Tax Credit
Requested by House State Affairs Committee Date

II. FISCAL DETAIL
Agency Affected
Program Category Affected
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						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (~~Thousands~~ Millions of Dollars)

GENERAL FUND	-0-	($25)	($27)	($46)	($66)	($68)
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The above revenue loss for FY 81 is attributable to the three tax years 1978, 1979, and 1980 combined. Since each of these years are subject to the existing Income Credits, the only fiscal impact under this bill is due to the additional credit beyond tax liability (up to $200 per taxpayer.) It is estimated that this impact will amount to $5, $9, and $11 million for the three tax years respectively and sum to the $25 million FY 1981 value.

For each of the FY 82-85 values, the previous tax year was used to calculate the impact. Starting with tax year 1981, the estimated revenue loss accounts for both the credit over and above tax liability (up to $200) and the additional $100 credit per taxpayer per year through tax year 1983. The FY 85 value is a reflection of growth over FY 84.

IV. DATE 2/13/80 PREPARED BY Bert Hawkins
AGENCY Research Section
PHONE 465-2390

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

33-001 (Rev. 12/79)

To: Rep. Brian Rogers
From: Staff
re: Tax Proposals

February 8, 1980

Here is the report you requested covering all the current bills before the legislature concerning income taxes. One problem is that for many of the bills the Department of Revenue does not have adequate information to assess the effects. One critical piece of information they do not have is a table of income tax paid by income catagory. The research division is doing a study on that at the moment which is expected to be complete at the end of March. In the meantime I have used the 'broad brush average' approach and, on occasion the 'mix oranges with apples' approach. I have noted the method used whenever practical; please accept my appologies for any errors.

The 28 bills worked on fall into 5 groups:

1) COMPLETE OR VIRTUAL TAX REPEAL
2) "EARNED" TAX CREDITS/DEDUCTIONS
3) PAYABLE CREDIT--OTHER INCOME DISTRIBUTION
4) TAX COMPUTATION CHANGES
5) CONSTITUTIONAL TAX LIMITATIONS

GROUP 1	GROUP 2	GROUP 3	GROUP 4	GROUP 5
HB 507	CSHB 11	HB 607	HB 436	HJR 37
SB 297	HB 115	SB 359	HB 464	HJR 88
HB 554	SB 95	W.O. 7327	SB 266	
HB 571	HB145	W.O. 9844	SSSB 47	
HB 587	SB 48		HB 376	
SB 260	HB 284			
	HB 431			
	HB 622			
	CSSB 310			
	HB 655			
	HB 99			

WO 78.39

HB 675
HB 676
HB 677
} Randolph (D)

HB 695 Rogers (D)
HB 696 Miles (D)

1
75 copies in vault

Rep. Brian Rogers
February 8, 1980

GROUP 1

COMPLETE OR VIRTUAL TAX REPEAL

HB 507 (K) REPEALING NET INCOME TAX/INDIVIDUALS (Barnes, Beirne, Bettisworth, Chatterton, Eliason, Halford, Haugen. Hayes, Martin, Metcalfe, Montgomery, O'Connell & Phillips)

SB 297 (D) REPEALING NET INCOME TAX/INDIVIDUALS (Kerttula, 1980)

These bills repeal the individual income tax beginning in tax year 1981. Average savings per taxpayer is $734 annually; estimated revenue loss for FY 1981 is $161 million. Dept. of Revenue is currently conducting a study (scheduled for late March completion) to show resident/non-resident benefits and spread of tax liability by adjusted gross incomes. In 1978, the largest group of returns (28%) occurred in the $0-$5,000 adjusted gross income; these will not benefit. The same year, non-resident returns accounted for 22% of all returns filed (versus 26.3% in 1977).

HB 554 (L)(K) REPEALING NET INCOME TAX/INDIVIDUALS AND OIL AND GAS CORPORATE INCOME TAX (Randolph, Beirne, Bettisworth, Metcalfe, 1980)

Same as HB507/SB297 above on individual income tax, except the bill is retroactive to the 1979 tax year, with last year's taxes refunded. Effective 6/30/80, the Oil and Gas Corporate Income Tax is repealed, giving an estimated $558,000,000 benefit the first year to the petroleum industry.

HB 571 (K) REPEALING NET INCOME TAX/INDIVIDUALS AND SUSPENDING MOST OTHERS (Hayes, Barnes, Beirne, Bettisworth, Branson, Chatterton, Eliason, Halford, Haugen, Martin, Metcalfe, Montgomery, O'Connell & Phillips, 1980)

Repeals the individual income tax and the 4% capital gains tax on individuals, and suspends all other taxes except the Oil & Gas Severance Tax. Retroactive to 1/1/80, it would result in a $161 million annual revenue loss from the individual income tax repeal (FY 81 estimate) and would suspend collection of $855,000,000 until the commissioner of administration and revenue jointly certify the state general fund balance available for appropriation and expenditure has fallen below a six-month operating reserve. It is estimated this would occur immediately, since current revenue estimates include more FY80 receipts.

HB 587 (D) INCREASING INDIVIDUAL TAX CREDIT (Cotten, 1980)

Increases the Freeman tax credit in the second and succeeding years to $5,000 per taxpayer per year. It would essentially eliminate all personal income taxes (a $1200 credit eliminates 95 per cent of all state income taxes). Retroactive to 1/1/79. Taxpayer is entitled to receive interest on taxes withheld. Revenue loss $160 million/year.

SB 260 (D) REPEALING SCHOOL TAX (Stimson, 1979)

Repeals $10 school tax, effective 1/1/80. Estimated $2 million annual revenue loss

Rep. Brian Rogers
February 8, 1980

GROUP 2

"EARNED" TAX CREDITS/DEDUCTIONS

CSHB 11 (Fin) ADOPTION EXPENSE DEDUCTION (Phillips & Halford, 1979)
Provides for a maximum tax deduction for allowable expenses incurred in adopting a child during the tax year. Retroactive to tax year 197. Fiscal note (revenues lost) $29,000 annually.

HB 115 (D) VOTING CREDIT (Rogers, 1979)
Allows a $5 credit for voting in primary and general elections. Maximum credit $10 in even-numbered tax years. Fiscal note (revenues lost) $600,000 annually.

SB 95 (R) VOTING CREDIT (Bradley, 1979)
Allows a $50 credit for voting in primary or general elections. Maximum credit $50 in even numbered tax years. Estimated fiscal note (revenues lost)$5,000,000 annually.

HB 145 (R) TUITION TAX CREDIT (Martin, 1979)
Allows a 50% credit for tuition payments made for tuition at an accredited or approved private educational institutions. Maximum credit $500 for individual in elementary school, $750 in secondary or vocational school, or $1,000 for postsecondary education. Retroactive to 1/1/79. No revenue loss estimate available per Dept. of Revenue.

SB 48 (R) TUITION TAX CREDIT (Bradley, 1979)
Allows a 50% credit for tuition payments made on behalf of any member of a taxpayer's family, to a maximum $500 credit per individual in school (no limit on number of individuals in family eligible). Retroactive to 1/1/78. Dept. of Revenue has an "almost total lack of information" about revenue loss estimate.

HB 284 (D) CONTRIBUTION CREDITS (Bettisworth, Martin, Randolph, 1979)
Provides for a tax credit of up to $100 each for contributions made in 1979 to: Alaska Conservation Society, Alaska Center for the Environment, Alaskans Unite, Committee (sic) for the Management of Alaskan Lands, and the Real Alaska Coalition. Maximum credit is $500 per year. No revenue loss estimate available.

HB 431 (D) CONTRIBUTION CREDIT/CERTAIN CHARITIES (Randolph, Martin, 1979)
Allows a credit for contributions to Alaska chapters of non-profit, tax exempt (I.R.S. code sec. 501(c)(3)) organizations certified by commissioner of revenue. Retroactive to tax year 1979.

Rep. Brian Rogers
February 8, 1980

GROUP 2 (cont'd)

HB 622 CREDIT FOR MUNICIPAL TAX PAYMENTS (Phillips, Anderson, Barnes, Beirne, Bettisworth, Branson, Brown, Buchholdt, Chatterton, Fuller, Haugen, Hayes, McKinnon, Martin, Metcalfe, Montgomery, Moss, Munson, O'Connell, Parr and Rogers)

Taxpayer may take as a tax credit the municipal property taxes paid on his/her place of residence. Renters receive a credit equal to one per cent of rent payments made during the tax year for each mill of property tax levied by the municipality. Retroactive to 1/1/79. Estimated tax credits of $57 to $97 million annually; estimate of revenue loss from these credits not available.

CSSB 310 (R) EXEMPTING INTEREST EARNED IN ALASKA (Kelly, 1980)

Provides for an exemption for interest earned in financial institutions chartered in Alaska or with a principal or home office in Alaska. Retroactive to 1/1/80. "Virtually impossible" to calculate the revenue loss from this legislation.

HB 655 ( ) RESIDENTIAL FUEL CONSERVATION CREDIT (Governor, 1980)

Increases the existing residential fuel conservation credit from 10% of conservation-related expenses to 20%. Maximum credit is raised from $200 to $500 for single taxpayers and $250 each for those married and filing separate returns. Coverage is extended to improvements to residences completed on or before 1/1/80. The bill expands the definition of fuel conservation expenditures to include energy-saving devices. State revenue losses are estimated at $935,000 for FY 80 and from $1.1 to $1.34 million in future years.

HB 99 ( ) COST-OF-LIVING CREDITS (Governor, 1979)

An earlier attempt at Permanent Fund Credits (see HB 607 in group 3). The credit is tied to the earnings of the permanent fund (1/2 the earnings divided by the number of 'creditable years'). The existing Freeman tax credit is repealed; at this time the indications are that it would result in a $20 million tax increase.

Rep. Brian Rogers
February 8, 1980

GROUP 3

PAYABLE CREDITS - DIRECT DISTRIBUTION

HB 607
SB 359 (-) PERMANENT FUND DIVIDENDS (Governor, 1980)
These two identical bills would provide a payable tax credit of one "Permanent Fund Dividend" for each year of residency. For tax year 1979 each dividend would be worth $50. In future years each dividend would be worth either $50 or 1/2 of the earnings of the Permanent Fund divided by the number of dividends paid the year before, whichever is greater. An ISER study pegs the number of dividends at approximately 2,571,000 (person/residency/years to a maximum of 20), averaging 9.52 years per capita. The fiscal note shows payments beginning at $215 million per year; according to Legislative Finance Division the Permanent Fund Dividends would not exceed $50 until approximately 1986.

W.O. 9844
(Draft) INDIVIDUAL PAYABLE TAX CREDIT (Miles, Freeman, Malone, 1980)
Extends the existing Freeman tax credit to $400, $500, and $600 for the fourth, fifth, and six years, respectively, for tax returns filed by a taxpayer beginning in 1978. If the credit exceeds the net tax liability, up to $200 of the credit is payable to the taxpayer. The bill automatically terminates if the state general fund balance goes below a six-month cash reserve. As the bill is in draft form, no fiscal note is available.

W.O. 7327 (P) INDIVIDUAL PAYABLE TAX CREDIT (Rogers, 1980)
(Draft) Extends a one-time payable tax credit of $1200 for each person filing a 1979 tax return before June 30, 1980. It is estimated that this would eliminate state income taxes for 95% of all taxpayers. As the bill is in draft form, no fiscal note is available.

Rep. Brian Rogers
February 8, 1980

GROUP 4

TAX COMPUTATION CHANGES

HB 436 MARRIED TAXPAYERS AUTHORIZED TO FILE AS INDIVIDUALS (Parr, Barnes, Buchholdt, Hurlbert, Martin, Minson, Zharoff, 1979)
Allows married taxpayers to compute and pay state income taxes in accordance with rates applicable to the returns of individuals. Retroactive to tax year 1979, it would remove the higher tax schedule for married taxpayers.

HB 464 INDEXING THE STATE INCOME TAX (Anderson, Barnes, Cotten, Freeman, Halford, Haugen, Hayes, McKinnon, Martin, Minson, Osterback, Rogers, Schaeffer, Zharoff, Gardiner, 1979)
Provides the tax rate brackets, minimum deduction, personal exemption, and tax credits be indexed by the annual inflation factor in Alaska. Applicable to tax years beginning with 1979.

SB 266 INDEXING THE STATE INCOME TAX (Kelly, Dankworth, Hackney, Stimson, Sumner, 1979)
Same as HB 464.

SSSB 47 REDUCING TAX ON INCOME OVER $10,000 (Bradley, 1979)
Reduces tax rate on individuals with incomes over $10,000 to equal percentage for those with $8,000 to $10,000 ($20,000 for married filing jointly, $12,000 for head of household). Maximum rate becomes 6 per cent. Tax credit for payments over 6 per cent allowed, refundable.

HB 376 EXEMPTING UNEMPLOYMENT BENEFITS FROM INCOME TAX (Brown, 1979)
Exempts unemployment compensation and extended unemployment compensation from income taxation, effective 1/1/80. Conforms with past practice changed by federal legislation in 1979 (effective in Alaska beginning 1980 unless this is approved).

Rep. Brian Rogers
February 8, 1980

GROUP 5

CONSTITUTIONAL TAX LIMITATIONS

HJR 37 LIMITING TAX LEVIES BY STATE AND LOCAL GOVERNMENT (Metcalfe, Barnes, Beirne, Bettisworth, Haugen, Hayes, Hurlbert, Moss, Randolph, 1979)

Limits taxes collected to the amount colledted in FY 1978 plus population growth and cost-of-living index. The legislature or municipal assembly may provide for an exception if approved by voters. (Note: much of the language is much more 'statutory' than currently appears in Alaska State Constitution.)

HJR 38 LIMITING STATE TAX POWER (Randolph, Beirne, Bettisworth, Freeman, 1979)

Allows no new taxes or increase in tax levy after 1/1/79 except emergency one-year taxes and those taxes levied to pay or secure payment of general obligation bonds.

Tax preparer cites overpayments

B-2 The Anchorage Times, Thursday, February 28, 1980

by Karen Ransport
Times Writer

A local income tax man thinks the state owes as many as 40,000 Alaska taxpayers $8.84 million in tax overpayments and interest and penalties.

Phillip Christiansen, a tax preparer for Planning Systems of Alaska, said Tuesday Alaskans overpaid their 1977 tax bills to the tune of $6.96 million. He said the state owes another $1.88 million in interest and penalty payments.

Christiansen said a majority of the 40,000 are Alaskans are wage earners who prepare their own returns.

The problem dates back to a ban on standard deductions from state taxes enacted between June 1977 and February 1978. The ban was due to a change in federal statutes.

The Department of Revenue advised taxpayers the law was being changed and that the state would automatically refund taxes on the standard deduction when the law was passed.

But Christensen said 44 percent of the returns he examined that did not have the standard deduction were never corrected by the state.

He would not say how many returns he examined, citing confidentiality rules for tax preparers. A tax attorney said he believes 100 to 150 returns were involved.

Revenue Department officials deny Christiansen's charge but have no figures on how many returns were automatically corrected.

Christiansen said the 40,000 figure is his projection, assuming 44 percent of the total number of incorrectly filed 1977 state tax returns were not corrected by the state.

About 200,000 returns were filed that year. Christiansen estimates that 90,000 returns were filed without being corrected for the standard deduction foul-up.

Although statistics are not available from the Department of Revenue, several officials said it is unlikely that many tax returns could have escaped their error detection unit. The department has no figures on how many were corrected but say they did review some returns last summer when a complaint was filed with the state ombudsman's office.

The apparent confusion began in June 1977 when a new federal law removed the standard deduction from federal tax filings. The standard deduction, $1,600 for a single taxpayer, was incorporated into the federal tax tables. The change did not affect the amount of taxes paid.

Under Alaska statute, when standard deductions were banned from federal returns, they were automatically banned from Alaska returns. However, state tax tables are not subject to federal changes and they remain in effect until the Legislature changes them.

Since the Legislature wasn't in session in June 1977, the state tables couldn't be changed. The taxable income of Alaskans increased by the amount of the standard deduction.

The Legislature did reinstate the standard deduction in February 1978 but by that time tax booklets had been delivered throughout the state. A notice in the front of the booklet informed taxpayers special legislation was being prepared to reinstate the standard deduction and that the Department of Revenue would automatically refund any overpayments as soon as it passed.

The amount of the overpayment would vary with the tax bracket and the filing status. In the $22,000 adjusted salary tax bracket, it meant $192 for a joint return. Christiansen said the average refund for his clients was $165 plus interest and penalties.

Christianson said in an interview Tuesday he doesn't believe the state automatically returned overpayments.

He also said the state is required to pay interest and penalties on all overpayments, but is not doing so. He said the state is not paying penalties and is paying interest on only some of the corrected returns he has been sending in for the past year.

Several Revenue Department officials said they had never heard of the penalty statute until Tuesday, but said they will challenge it.

They said interest due on overpayments begins accumulating 90 days after the original filing. It would automatically be paid when the overpayment is returned, according to Revenue officials.

The bureaucracy is always quick to assess P. & I., but slow to pay it. Right?

? They conveniently ignored this: but ole A.G. Av Gross will find a loophole for them.

3/1/80 note to Clem Tillion & Hugh Malone: This bureaucratic boondoggle wouldn't have happened if you two boobs had got my suggestion adopted years ago to simplify reporting and computing the State income tax. Remember my idea to simply furnish the State with a copy of the first page of IRS 1040 (which summarizes everything), and pay a percentage of the federal tax thereon?

But, oh no! Your precious bureaucrats, who usually have the last word in Juneau, said that would be inequitable to some taxpayers (but didn't say it would deprive them of a lot of useless papershuffling work)—so both of you meekly acquiesced. Now just who the hell are you representing down there anyway—the bureaucracy or the taxpayers who elected you?

Well, you have one last chance to redeem yourself with me. Quit kissing J.H.'s ass with his complicated formulas to "equitably distribute" our income taxes to all Alaskans (whether they work or not), and simply let us keep what we have already earned by suspending or cancelling both the tax and the cursed report form now. As you both know, that has nothing to do with distributing the free oil money. Of course, it will be painful for you to unemploy about 156 friendly bureaucrats and save about $5 million of their expenses, but I assure you it will be a hell of lot more painful for you next election.

And I don't give a damn if many Outsiders benefit from no income taxes, too. After all, it's they who are finding and producing the huge oil wealth in Alaska, not us bums. Even Prudhoe Bay was a gift to us from Uncle Sam: we didn't create it or buy it. And all Uncle gets in return from his ungrateful wards is a kick in the ass for more. Cheers. C.C. to others.

Charlie Parker

Ditman Research

years of residence / present population as of Nov '79

1 – 12	months	4% ↗	
1 – 3	years	10%	14%
4 – 7	years	19%	86%
8 – 15	years	29%	
16 +	years	37%	

∴ @ $115.00

4%	= 16.000	× 115	=	1,840,000
10%	= 40,000	× 345	=	13,800,000
86%	= 344.000	× 575	=	197,800,000
				$ 213,440,000.00

@ $112.00

112	=	1,792,000
336	=	13,440.000
560	=	142,640,000
		207.872,000

@ $110.00

110	=	1,760.000
330	=	13,200,000
550	=	189.200,00
		204,160,000

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S
JUNEAU, ALASKA 99811

February 20, 1980

MR MIKE MILLER

POUCH V

JUNEAU AK 99811

I am enclosing a copy of a monthly report prepared by the Alaska Department of Revenue, concerning tax collections and interest income.

The statement entitled "Cumulative Summary of Revenue Collected July 1, 1979 through January 31, 1980" discloses gross receipts, refunds, net receipts, estimated total year collections and percent of estimate realized. It covers receipts of all taxes and licenses administered by the Department of Revenue and interest income accounted for on a cash basis. It does not cover all items of state revenue.

The net collections of taxes and license fees, exclusive of interest income collected by the Department of Revenue for January, 1980, was $52,785,470.55. This is an increase of 53.58 percent as compared to the $34,369,830.56 collected in January, 1979.

For the first seven months of the current fiscal year, total collections of net taxes and license fees, exclusive of interest income, amounted to $569,479,694.55 compared to $221,331,786.91 collected during the first seven months of the previous year, an increase of 157.30 percent.

Sincerely,

Thomas K. Williams

Thomas K. Williams
Commissioner

Enclosure

04-02LH

CUMULATIVE SUMMARY OF REVENUE
COLLECTED 7/1/79 THRU 1/31/80
7/12 or 58.33%

CODE NO.	TYPE OF TAx	GROSS RECEIPTS	REFUNDS	NET RECEIPTS	ESTIMATE	NET RECEIPTS % OF ESTIMATE
001	Property	$ 1,900,459.57	$ 626,801.47	$ 1,273,658.10	$ 175,000,000.00	0.73
016	Alcohol	4,796,744.17	0	4,796,744.17	7,700,000.00	62.30
017	Cigarette Tax - GF	980,871.51	5,015.84	975,855.67	1,700,000.00	57.40
018	Cigarette Tax - SF	1,634,785.84	0	1,634,785.84	2,800,000.00	58.39
020	Electric & Telephone	7,939.00	0	7,939.00	2,000,000.00	0.40
021	Highway Fuel	12,632,032.70	,278,560.90	11,353,471.80	18,400,000.00	61.70
022	Aviation Fuel	2,607,953.80	0	2,607,953.80	3,600,000.00	72.44
023	Marine Fuel	2,343,899.59	0	2,343,899.59	3,100,000.00	75.61
036	Individual Income	101,859,390.16	6,079,170.82	95,780,219.34	122,000,000.00	78.51
037	Fiduciary Income	34,316.92	652.46	33,664.46	100,000.00	33.66
038	Corporation Income	11,388,995.33	10,091,394.37	1,277,600.96	15,000,000.00	8.52
039	Oil & Gas Corp Income	242,799,956.47	945,162.00	241,854,794.47	402,000,000.00	60.16
046	Business License	1,352,982.21	293 283.28	1,059,698.93	4,000,000.00	26.49
052	Estate	142,985.39	5,838.68	137,146.91	200,000.00	68.57
057	School	763,727.90	0	763,727.90	2,500,000.00	30.55
061	Mines & Mining	117,294.00	506.10	116,787.90	100,000.00	116.79
062	Raw Fish	5,665.35	9,071.13	(3,405.78)	8,600,000.00	0
063	Cold Storage	198,098.17	1,222.21	196,875.96	8,700,000.00	2.26
064	Freezer Ship	176,541.61	28,590.07	147,951.54	3,600,000.00	4.11
065	Oil Production	192,687,728.05	5,414.96	192,682,313.09	420,590,000.00	45.81
066	Oil & Gas Conservation	183,881.69	0	183,881.69	600,000.00	27.31
067	Gas Flaring	1,290.12	0	1,290.12	10,000.00	12.90
068	Gas Production	6,100,737.45	0	6,100,737.45	11,700,000.00	52.14
096	Prepaid Tax (102)	(243,448.33)	5,143.00	(248,591.33)	0	0
106	Liquor Lic. Application	50,050.00	0	50,050.00	80,000.00	62.56
107	Pub Liquor License	0	0	0	900.00	0
108	Brewery	0	0	0	100.00	0
109	Distiller	0	0	0	0	0
110	Beverage Dispensary	313,600.00	3,800.00	309,800.00	480,000.00	64.54
111	Club License	16,650.00	0	16,650.00	2,400.00	11.11
112	Common Carrier	8,000.00	0	8,000.00	15,900.00	50.31
113	Restaurant	28,850.00	0	28,850.00	43,000.00	67.09
114	Roadhouse	1,800.00	0	1,800.00	6,400.00	28.13
115	Retail	192,700.00	4,500.00	188,200.00	270,400.00	69.60
116	Retail Stock Sale	0		0	0	0
117	Wholesale General	7,500.00	500.00	7,000.00	79,000.00	8.86
118	Wholesale Malt Beverage	650.00	0	650.00	14,100.00	1.19
119	Misc. License	10,758.50	0	10,758.50	18,000.00	59.77
165	Amusement & Gaming	39,326.82	192.00	39,134.82	85,000.00	46.04
166	Lottery Permits	15,013.80	0	15,013.80	20,000.00	75.07
602	Misc. Revenues	8,680.80	275.00	8,405.80	0	0
692	Redistributed Revenue	0	0	0	0	0
	TOTAL	1588,128,208.58	$22,185,094.09	$563,763,114.50	$1,213,133,900.00	58.24
126	Vessels & Cost	$ 0	$ 0	$ 0	$ 0	0
137-844	Comm. Fish Resident	81,584.85	0	81,584.85	141,000.00	54.03
138-845	Comm. Fish Nonresident	136,223.61	0	136,223.61	217,000.00	62.78
140	Comm Fish Ent Fee	1,080.00	0	1,080.00	0	0
120-218	Sport Fish & Hunt	3,517,691.77	0	3,517,691.77	4,385,000.00	80.23
	SUB-TOTAL	$ 3,736,580.03	0	$ 3,736,580.03	$ 4,753,000.00	78.62
	TOTAL	1591,864,788.61	$22,185,094.09	$569,499,694.53	$1,217,886,900.00	58.58
	INTEREST					
575	Interest on Loans	$ 1,218,219.73	$ 0	$ 1,218 219.73	$ 2,628,000.00	46.36
576	Interest on Investments	42,532,953.42	0	42,532,953.42	64,160,000.00	66.29
577	Interest on Deposits	16,205.89	0	16,205.89	3,212,000.00	.50
	TOTAL INTEREST	$ 43,767,379.04	$ 0	$ 43,767,379.04	$ 70,000,000.00	62.53
	TOTAL REVENUE	1635,632,167.65	$22,185,094.09	$613,267,073.57	$1,287,886,900.00	47.63

POUCH V
JUNEAU, ALASKA 99811
OFFICIAL BUSINESS

Alaska State Legislature
House of Representatives

OFFICE OF THE SPEAKER

P R E S S R E L E A S E

Feb 25, 1980

House Speaker Terry Gardiner, D-Ketchikan, took to task the Anchorage Republican members of the House who have recently run advertisements in Anchorage newspapers urging repeal of the state income tax.

Speaker Gardiner called the ads "cheap political tricks that are an attempt to deceive the Alaskan public about the real nature of the Republican plan."

"What the House Republicans really intend to do is to repeal the Oil Franchise Tax and Oil Property Taxes along with the income tax, thereby giving the oil companies six dollars for every dollar they give to Alaskans."

The impact of the proposed Republican bill, HB 571, sponsored by every Republican in the House, would hand over $800 million to the oil companies while only giving Alaskans $120 million in personal income tax relief according to Gardiner. This amount is nearly equal to the annual state budget.

Gardiner called the Republican plan to repeal oil taxes "untimely and an unjustified giveaway program." After 20 years Alaska has reached a fair and stable oil tax policy. We should not rock the boat now with a destabilizing oil tax repeal. The success of the Beaufort Sea lease sales bringing

in a half billion in cash proves the viability of our present laws and removes arguements for change.

Gardiner stated that it is clear from the huge profits of U.S. oil companies (9.7 billion in 1979) that oil companies would only suffer further surpluses if Alaska repealed oil taxes. Oil company profits increased by 64% in 1979 alone - with some Alaskan producers such as Sohio increasing 163% to $1.2 billion.

Gardiner also said that he can understand the Anchorage Republicans' efforts to get on the income tax bandwagon. "Everybody knows that Rep. Oral Freeman, D-Ketchikan, was promoting the income tax relief issue while the Republicans were busy opposing the Permanent Fund." It was the Democratically controlled House which promoted and ultimately passed the Freeman income tax credit bill, and also repealed the gross business tax, not the Republicans.

The House Democrats intend to deal with the income tax issue, Gardiner stated. The State Affairs and Finance committees have worked late into the night for the past two weeks reviewing more than 20 different proposals for tax relief and distribution programs. "This is not an issue which should be rammed through the Legislature without public hearings and good solid thinking," Gardiner said.

Gardiner stated he was confident the income tax issue will be dealt with conclusively during the next few weeks. He added that he expects the ultimate bill to distribute more than $120 million which is now collected under existing income tax laws.

TELEGRAM

ALASKOM, INC.
PHONE: 586-1442
JUNEAU, AK 99802

'80 APR 12 AM 5 31

P253A *L ANCHORAGE ALASKA 197 04-11 400P AST

PMS REP MIKE MILLER

JUN 1417

THE HONORABLE REP MILLER

A COMPLEX TAX BILL, THAT INVITES CONSTITUTIONAL CHALLENGES, WILL CONTRIBUTE TO THE RUIN OF MANY ALASKANS STRUGGLING FOR ECONOMIC SURVIVAL.

THEREFORE, SIMPLE, OUTRIGHT TAX REPEAL LEGISLATION SHOULD BE ENACTED IMMEDIATELY.

IT IS NOT UNCONSTITUTIONAL TO REPEAL STATE INCOME TAXES, BOTH PERSONAL AND BUSINESS. IT IS NOT UNCONSTITUTIONAL TO REBATE THOSE TAXES PAID IN 1979.

THE DLRS142 MILLION REFUND FROM 1979 SHOULD BE RETURNED TO THE TAXPAYER WITHIN THE NEXT 60 TO 90 DAYS AS A VITAL INFUSION TO A LAGGING ECONOMY AND TO ALLEVIATE PERSONAL HARDSHIPS. STOPPING THE WITHHOLDING OF STATE TAXES WILL INSTANTLY ADD ADDITIONAL DOLLARS TO THE PAYCHECK OF THE WAGE EARNER.

THE FULL COMMONWEALTH NORTH REPORT ON OTHER VITAL ISSUES SURROUNDING R[illegible] INCOME TO THE STATE WILL BE IN YOUR HANDS SOON.

BUT WE URGE YOU NOW TO PRESS FOR SIMPLE, CLEAR LEGISLATION TO REPEAL STATE INCOME TAXES. NO OTHER ACT BY THE 1980 LEGISLATURE WILL HAVE [illegible] IMPORTANCE FOR [illegible] PEOPLE [illegible] NOW.

[illegible] MARTIN [illegible]
[illegible] [illegible]
[illegible] [illegible]
[illegible] [illegible]
DAVID CHATFIELD JOHN BLAKAR WILLIAM TOBI
HARRY DONAHUE RENEE MURRAY PAUL WILCOX
[illegible] [illegible]

HB

729

(7)

COMMITTEE REPORT

HOUSE

2/12/80

FURTHER:

Date: 2-21-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 729

"An Act relating to works of art in public facilities; and providing for an effective date."

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

[X] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____

CHAIRMAN

H 60 (Rev. 12/78)

A M E N D M E N T

Offered in the HOUSE By Miller

TO: HOUSE BILL NO. 729

Page 1, lines 23 - 29, delete all material and insert the following in its place:

"(c) The council may use the money in the fund

(1) to commission or purchase a work of art which is to be made a permanent part of, or placed on loan in, a public facility operated by the department which made the deposit to the fund under (b) of this section; and

(2) to meet expenses for commissioned works of art for a public facility operated by the department which made the deposit to the fund under (b) of this section if the cost of the work of art exceeds the amount reserved under AS 35.27.020(c)."

Jan 9th

Dear Mike -

So I went to the PO right after talking with you and found this letter from Chris to you. Representative Sally Smith also has been contacted about this matter. I called our office in Anchorage & found Chris has been called to New York on urgent family business. It looks like Duncan may be delayed for a few days.

If you don't know her I believe you will enjoy meeting her little family on her 5th of July and she does a wonderful job!

If I can help you any - help at any time please call.

Sincerely,

Sally Lee

Alaska State Council on the Arts

619 Warehouse Avenue, Suite 220 • Anchorage, Alaska 99501 • (907)272-1558

January 3, 1980

Representative Mike Miller
Box 1494
Juneau, Alaska 99802

Dear Representative Miller:

A number of people have suggested that I contact you regarding a possible amendment to the existing one percent for art law in Alaska, AS 35.27.010-030.

While the existing law provides that one percent of capital construction costs for public buildings and facilities shall be reserved for the purchase or commissioning of works of art, no mention is made of facilities where art work is not feasible or possible. The State Council on the Arts has become aware of the increasing number of projects which the Department of Transportation and Public Facilities feel should be exempted from the 1% for art requirement. While it is sometimes quite obvious that art work is not appropriate at a remote fish and game location, for example, it is often not quite as obvious where the one percent for art is finally spent. In light of this situation, the Council on the Arts is suggesting a possible amendment to the original legislation.

The Council has considered the possibilities of the establishment of a "pool" created with those percent for art funds generated from projects which have been granted variances from the statute. This pool could then be used to commission works in existing state buildings and facilities or on state lands subject to public view. In this way, those dollars originally earmarked for art work and for artists would not be diverted into asphalt and chain link fence.

I have enclosed copies of the existing 1% legislation, the Council's proposed amendment, and the procedures for the administration of the program for your review. I am planning to be in Juneau the week of January 14th and will try to set up a time to discuss the possibilities of the Council's ideas.

Sincerely,

Christine D'Arcy

Christine D'Arcy
Visual Arts Director

cc: ASCA Visual Arts Committee

GOVERNOR

*This same letter was sent to each council member. List is attached.

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

December 5, 1979

Mr. Carl Heinmiller
P.O. Box 271
Haines, Alaska 99827

Dear Mr. Heinmiller:

As you are aware, I am proposing to transfer, next fiscal year, many of the programs and agencies currently under the Office of the Governor to several of the line departments. Under this proposal, the State Council on the Arts and the Alaska Historical Commission, will be placed in the Department of Education. I realize this may be of concern to you and, therefore, I felt the occasion of this week's council meeting would be an appropriate opportunity to convey more information regarding the transfer.

You may recall that a "Management and Efficiency Review" of State government was conducted at my request, by a group of top-level Alaska business executives. Over 75% of the recommendations the review team made have been implemented or responded to. One of the key recommendations was to reduce the excessively large span of responsibility of my office, by transferring a number of the commissions, council and agencies reporting to the Office of the Governor to departments with related responsibilities. A number of programs and agencies have been transferred since this recommendation was first made; ten more, including the Arts Council, are proposed for relocation July 1, 1980. My goal is to limit to the maximum extent permissible, the activities of the Governor's Office to policy development rather than program operations.

Let me stress that this transfer in no way reflects a lack of interest in the arts or faith in the council, its staff, or you as a council member.

Transfer of the council to the Department of Education will only mean that the administrative support now provided by my office, will be provided by that agency.

Commissioner Lind intends for the Arts Council to retain its independent status under the Department of Education. He will not attempt to direct the policies or actions of the council. Also, the council will not be placed within the Division of Libraries and Museums. It will remain autonomous within the department. Let me emphasize again, that the Department of Education will be providing administrative support only.

Further, my staff will monitor and assist in the transition process that will result in classification of existing staff positions, transfer of accounting records, etc. In my view, the Executive Director should remain in the partially exempt service.

I understand Commissioner Lind will be meeting with you this week to discuss the transfer and any specific questions you may have. I am confident he will be responsive to your concerns.

Thank you for your continued service on the council, your understanding of the reasons for this decision, and for your dedication to Alaska arts programs.

Kind regards,

Sincerely,

Jay S. Hammond
Governor

cc: Commissioner Lind

bcc: Don Argetsinger

*This same letter was sent to each council member. List is attached.

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

December 5, 1979

Mr. Carl Heinmiller
P.O. Box 271
Haines, Alaska 99827

Dear Mr. Heinmiller:

As you are aware, I am proposing to transfer, next fiscal year, many of the programs and agencies currently under the Office of the Governor to several of the line departments. Under this proposal, the State Council on the Arts and the Alaska Historical Commission, will be placed in the Department of Education. I realize this may be of concern to you and, therefore, I felt the occasion of this week's council meeting would be an appropriate opportunity to convey more information regarding the transfer.

You may recall that a "Management and Efficiency Review" of State government was conducted at my request, by a group of top-level Alaska business executives. Over 75% of the recommendations the review team made have been implemented or responded to. One of the key recommendations was to reduce the excessively large span of responsibility of my office, by transferring a number of the commissions, council and agencies reporting to the Office of the Governor to departments with related responsibilities. A number of programs and agencies have been transferred since this recommendation was first made; ten more, including the Arts Council, are proposed for relocation July 1, 1980. My goal is to limit to the maximum extent permissible, the activities of the Governor's Office to policy development rather than program operations.

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Kind regards.

Sincerely,

Jay S. Hammond
Governor

cc: Commissioner Lind

bcc: Don Arnetsinger

delete last
2
frames

PERCENTAGE FOR PUBLIC ART PROGRAM PROCEDURES

Revised draft issued 9/1/77

Revised draft issued 4/1/78

PERCENTAGE FOR PUBLIC ART PROGRAM PROCEDURES

I. Purpose of Alaska Statute 35.27.010-030, amended.

The legislation declares, "The state recognizes its responsibility to foster culture and the arts and the necessity for the viable development of its artists and craftsmen. The legislature declares it to be a state policy that a portion of appropriations for capital expenditures be set aside for the acquisition of works of art to be used for state buildings and other public facilities."

The Department of Transportation and Public Facilities (DOTPF) and the Alaska State Council on the Arts (ASCA) have defined the following goals related to the purpose of the Act:

GOAL: To nurture our living culture by recognizing and providing for the aesthetic needs and the artistic growth of the people of Alaska.

SUBGOALS:

1. To Provide access to works of art in public spaces;
2. To offer a variety of visual experiences in varied styles, methods and media,
3. To further humanize our man-made surroundings with the artistic statements of living artists.
4. To provide a supportive working environment and the opportunity for personal creative accomplishment;
5. To contribute to the development and recognition of a professional artistic community; and
6. To accomplish broad cultural goals by introducing new visual ideas to the general public.

II. Definitions

A. "Works of Art": For the purpose of this Act, all forms of original creations of visual art objects, including but not limited to:

1. Sculpture; in the round, bas relief, high relief, mobile, fountain, kinetic, electronic, etc., in wood, clay, stone, metal, plastic, fiber, ivory, concrete, etc.
2. Painting; in oil, tempera, acrylic, water soluble medium, etc on wood, paper, canvas, skin, prepared surface, etc.
3. Graphics;
   a. Prints in silk-screen, lithography, etching, embossing, and other techniques on paper, etc.
   b. Drawing in pencil, ink, charcoal, pastel, etc. on paper skin, bone, etc.

4. Murals, mosaics, super-graphics, frescos; in paint, tile, glass, stone, etc., on a prepared surface.
5. Photographs; on light sensitive paper, light sensative emulsions, etc.
6. Ceramics; in porcelain, clay, etc., in functional and non-functional application.
7. Fiber; in wool, cotton, leather, grass, etc., in functional and non-functional application.
8. Metalcrafts; in copper, silver, gold, etc., singularly or in combination with other metals or materials.
9. Mixed Media; any combination of materials or forms.

B. "Artist": A practitioner in the visual arts, generally recognized by critics and his or her peers as a professional who is committed to producing high quality work on a regular basis. Indicators of professionalism include but are not limited to proportion of income received from art sales, or art related activities, frequent or consistent exhibitions, purchase of works by museums and other public institutions. The project architect or a member of the project architect's firm will generally not be considered as an eligible artist for consideration unless they are specifically solicited by the art advisory committee.

C. "User Agency": The state agency or state-funded institution for which funds have been set aside for artworks from the construction appropriation for any new facility or renovation project within its jurisdiction.

D. "Agency Representative": A person within the user agency, or another person designated by and from that agency who represents the agency and has decision authority during the selection process.

E. "Site": The physical space occupied by the work of art.

F. "Construction Cost": The cost expended for the actual construction of the facility, exclusive of the costs of the land acquistion, site investigation design services, administrative costs, equipment purchase and any other costs not specifically incurred within the construction contract or contracts awarded for the construction of the facility.

G. "Public Facilities": Including, but not limited to, schools, office buildings, court buildings, the vessels of the state ferry system, and other facilities designed for substantial public use.

III. Location

The work of art must either be an integral part of the facility, attached to the facility or detached within or outside the facility. The artwork must be within reasonable proximity of the facility. Portable artworks may be exhibited outside the facility in other public facilities as long as the artworks have a permanent place to reside in the facility that is being constructed.

IV. Inclusions and Exclusions

A. Inclusions: The portion of the capital appropriations reserved for works of art may be expended for the purchase of existing works of art or commissioned pieces and the design consultant services of artists. The following are included:

1. The cost of the work of art: Generally if the artist is commissioned to produce a new work, the following are taken into account in the contract:
   a. Artists's fee for professional design and execution of a work of art and for consultation and on-site preparation for art works.
   b. Labor of assistants, and materials required for production of the work.
   c. Studio and operating costs of the artists, including rent, depreciation, utilities, communications, insurance, and other direct and indirect costs.
   d. Travel of the artist for the site visitation(s) and research.
   e. Transportation of the work to the site.
   f. Installation of the completed work.
   g. Taxes where applicable.
2. Waterworks and electrical and mechanical devices or equipment which are integral parts of the work of art.
3. Frames, mats, or pedestals necessary for the proper presentation of the works of art.
4. Exhibitions and educational aspects.
5. Site modification necessary for the installation of the work of art.

B. Exclusions: The portion of the capital appropriation reserved for works of art may not be expended for the following:

1. Reproductions by mechanical or other means of original works of art. Included, however, may be limited editions, controlled by the artist, of original prints, cast sculpture, photographs, etc.
2. Decorative, ornamental, or functional elements which are designed by the building architect or consultatants other than artists under these procedures engaged by the architect (see V., paragraph 3.)
3. Those elements generally considered to be components of a landscape architectural design: plant material, pools paths, benches, receptacles, fixtures, planters, etc. (Exceptions to this are noted under General Policies).

4. "Art Objects" which are mass produced of standard design such as a playground sculpture or fountains.
5. Directional, or other functional elements, such as supergraphics signing, color coding, maps, etc., except where a recognized graphic artist is employed under these procedures.
6. Those items which are required to fulfill the basic purpose of the agency. Examples would be works of art in the collection of a state museum, or works of art fulfilling an interpretive or educational role in a state park, the state library, or a college or university art museum or gallery.
7. Preparation of the adjacent areas necessary for access to the work of art.
8. Recurring operational costs of electrical, water, or mechanical service for activation of the work.
9. In connection with the works of art, after they are installed; lighting, registration, dedication, unveiling, insurance, security, publicity or publications, and maintenance (preservation, conservation, restoration, repair).

V. Scope and Nature of Expenditures

The act applies to all state facilities and all grants of state funds to municipal and other agencies for capital construction projects.

The one per cent of construction cost is a required minimum with the exception of public schools funded after September 1, 1977 for which the required minimum is one-half of one per cent of the construction cost.

In cases where the project architect is working closely with the artist(s) from the inception of a project, the DOTPF may negotiate a separate contract with the project architect for the artist(s)' design services. Such a contract for artist consultation will not be construed to define the artist as a member of the architectural firm.

VI. Selection Principles

A. Criteria for selected works:

1. Quality: Of highest priority is the inherent quality of the work itself.
2. Media: All visual art forms may be considered.
3. Style and Nature: The art should be appropriate in scale, material, form, and content for both its immediate environment and for the general environment in which it is placed.

4. Elements of Design: The art advisory committee and the artist will take into account the fact that, as differentiated from works in a museum context, art in public places may serve to establish focal points; terminate areas, modify, enhance, or define specific places; or establish identity.
5. Permanence: Due consideration will be given to structural and surface soundness and to permanence in terms of relative proof against theft, vandalism, weathering, or excessive maintenance or repair costs.
6. Method of acquisition: Either existing works or those commissioned specifically for the site may be acquired.
7. Diversity: The participating agencies will strive, in the overall program, to attain reasonable diversity in style, scale, media, and materials represented.

B. Eligibility of Artists:

1. Alaska artists: Preference will be given to artists currently residing in the State of Alaska at the time of review by the art advisory committee for the project.
2. Artists from Other Areas: Certain artists from other areas may, because of their unique talents or style, be the logical choice of an art advisory committee.

VII. Selection Procedures

A. Public Schools: The superintendent of a school district in which a public school is to be constructed will be responsible for establishing selection procedures for artist and art work selection with the approval of the local school board. The Alaska State Council on the Arts may be consulted concerning procedures, review of artist portfolios, contracting procedures, and purchase of art from the Public Art Collection.

B. Facilities Except Public Schools:

1. Notification: Upon receipt of allocated construction funds the DOTPF shall notify the ASCA of the amount of the projected construction contract, the function and location of the proposed facility, the amount of the 1% public art allocation, and the name and address of the project architect when that person and firm has been selected.

2. Methods of Acquisition: The ASCA will advise the agency representative of the owner agency which of the acquisition methods is the most feasible, depending upon the amount of public art monies available and the function and location of the proposed facility. Three recommended categories are identified:

a. Category I - Amounts under $5,000.
   1) Portable Art: Selection of existing works by arts advisory committees either by public viewing or through slide presentation.
   2) Artists-in-Residence: An educational participatory residency by an artist selected by the art advisory committee resulting in a permanent work of art for the facility.

b. Category II - Amounts over $5,000 but less than $20,000.
   1) Includes Portable Art and Artists-in-Residence and,
   2) Design Integrated Commissions: Works of art especially commissioned for the specific sites which will in some way be integrated into the overall facility or specific site, or which will reflect some special function or aspect of the owner agency.

c. Category III - Amounts over $20,000. 1) Includes Portable Art and Artists-in-Residence, Design Integrated Commissions, and,
   2) Architecture Integrated Commissions: Major works of art which are integrated into the facility design, or works which will require special design consideration for their installation or display.

3. Art Advisory Committee: A special committee will be chosen according to the category of acquisition. The Committee shall be responsible for the necessary recommendations and/or the selections of art for the proposed fa

a. Appointments:
   1) Facility Users and Community representatives will be appointed by the agency representative. Composition should include individuals knowledgable in the arts and be representative of the regular users of the facility. To insure maximum involvement of the community and users, a wide variety of view points should be included.
   2) Public Art Panel members are artists appointed to the panel by the Chairman of the ASCA. A regional representative of the panel will be delegated by the ASCA Chairman to each of the art advisory committees where their presence is indicated.
   3) ASCA Visual Arts Committee members are appointed by the ASCA Chairman from among the members of the ASCA and delegated to each appropriate committee by the ASCA Chairman.

NOTE: The project architect, a member of the project architect's firm, an ASCA member or Public Art Panel member that is participating on an art advisory committee may not be considered for a commission or have their work considered for purchase.

b. Composition:

1) Category I:
- Agency Representative (Chairman)
- Project Architect
- Facility Users/Community Representatives

2) Category II:
- Agency Representative (Chairman)
- DOTPF Regional Design Manager
- Project Architect
- Facility Users/Community Representatives
- Regional member of the Public Art Panel

3) Category III:
- Agency Representative (Chairman)
- DOTPF Regional Design Manager
- Project Architect
- Facility Users/Community Representatives
- Regional Member of the Public Art Panel
- Member of the ASCA Visual Arts Committee

4. Methods of Commission

a. Direct Commission. The art advisory committee will review the portfolios of artists that have been filed with the ASCA. If there are artists in whom they express interest that are not represented by the portfolios, they may request that the artist be contacted to determine if he/she would like to file a portfolio and be considered. The committee will select three artists of their choice for each work of art to be commissioned and place them in priority. Upon approval from the ASCA the artists will be contacted by the user agency in order to determine if they are willing and able to undertake the commission.

When a contract has been negotiated by DOTPF, it will include a 5% design fee as the first payment. The artist will prepare a written presentation accompanied by sketches, plans, and/or a model of the proposed work of art. The committee will review the plan and recommend acceptance, rejection or modifications. If and when approval is given by the art advisory committee the artist will proceed into the production phase of the project. If agreement is not reached the contract will be terminated and the next artist on the priority list will be contracted for a similar procedure.

b. Limited Competition. Based on portfolio review the art advisory committee will invite a limited number of artists to present a detailed written proposal accompanied by sketches, plan and/or model for the selected site(s). A design fee equal to 5% of the total commission value will be paid to each artist that is invited to enter. The artists may be invited to personally present their proposal to the committee. In such a case the artists' transportation and per diem costs will be provided by the owner agency.

When a decision is reached a contract will be negotiated with the selected artist(s) per 5. below. Should none of the designs be selected the committee will start the selection process over (See Reconsideration).

The design fees paid to the artists will be drawn from the percentage for public art funds available to the project.

c. Other forms of competitions: Special projects may suggest other selection methods.

5. Contract Authority: For all methods the contracting authority shall be DOTPF with approval of contract and payments by the ASCA. Technical assistance in contract preparation may be obtained from the ASCA upon request.

VIII. Reconsideration process

When reconsideration of the selection of artist or works for purchase is requested by an agency's art advisory committee approval of reconsideration must be obtained from the ASCA.

The art advisory committee must discuss the project with the selected artist(s). If no agreement can be reached the agency must notify the ASCA and the following methods may be implemented:

A. A joint meeting with the artist, agency, and Visual Arts Committee of the ASCA to work out a solution.

B. Request the artist to resubmit alternative examples or designs for the project.

C. Place the project into another round of selections.

D. Employ another procedure for selection.

All costs of reconsideration will be born by the owner agency requesting the reconsideration.

IX. Variance

There may be some capital construction projects funded by the State of Alaska for which inclusion of works of art may be inappropriate due to lack of substantial public use. The owner agency of the proposed facility may request in writing permission for exemption, in whole or in part, from the requirements of the Percentage for Public Art Act from the ASCA. The ASCA will review the request in relation to the potential aesthetic benefits to the principal users of the building and the community-at-large and recommend to DOTPF to accept, reject, or modify the percentage of construction costs that will be allocated.

X. Documentation and Evaluation

A. For the documentation of the Percentage for Public Art Program the artist will furnish the ASCA and the DOTPF the following photographs of the completed work as installed:

1. Two 35 mm color slides of good quality to each agency;
2. Two 8" x 10" black and white glossy photographs to each agency; and
3. A full written description of each piece.

B. Identification: Plaques or labels identifying the work will be provided by the ASCA and will be permanent, unobtrusive and well designed. Included will be the name of the artist, title of the work (if any), medium and year completed.

C. Registration: The ASCA will maintain accession records similar to those of art museums for all public art acquisitions, including those of public schools. Owner agencies including public schools will register all portable works as public agency property under the normal procedures.

D. Evaluations: The ASCA shall annually make a public written report to the DOTPF on the projects of the previous year and shall conduct periodic evaluations of the program.

PERCENTAGE FOR PUBLIC ART RESPONSIBILITIES AND GENERAL POLICIES

Responsibilities

A. The Department of Transportation and Public Facilities shall:

1. Upon receipt of allocated construction funds for a specific project(s), notify the ASCA of the projected amount of the construction contract, the facility(s) location(s) and function(s), agency representative(s), and amount of Percentage for Public Art allocation.

2. Contract with the selected artist(s) for works of art and make contract payments upon approval of the ASCA.

3. Maintain such records as are required for the execution of contracts.

4. Accept, reject, or modify the ASCA recommendations for variance from the Act.

B. The Alaska State Council on the Arts shall:

1. Notify the user agency of the amount of Percentage for Public Art allocation and request the appointment of an agency representative, and facility user/community representatives.

2. Appoint Public Art Panel members or Visual Arts Committee members to the Art Advisory Committees as required.

3. Approve final selections of Art Advisory Committees and forward the names of recommended artists to DOTPF.

4. Assist in contract negotiations with artists.

5. Review requests for variances and forward recommendation to DOTPF.

6. Maintain accession records of all art acquisitions.

7. Provide identification labels for all art acquisitions.

8. Conduct a yearly review of the overall program.

C. The Advisory Committee shall:

1. Meet to consider the location(s), method(s) of acquisition, and artist(s) based upon the amount of Percentage for Public Art allocation.

2. Forward recommendations to ASCA.

3. Review proposals prepared by artists and forward recommendation to the DOTPF.

D. The User Agency shall:

1. Appoint an agency representative and form a local art advisory committee in consultation with the ASCA.

2. Be responsible for maintenance, repair and security of the work(s)

3. Handle public information aspects of the project with assistance from the ASCA.

E. The Project Architect shall:

1. Recommend to the art advisory committee specific sites for works of art and the scale and type of work most appropriate.
2. If requested, work closely with the artist, provide engineering and technical assistance to the artist and supervise the delivery and installation of the work under contract with the contracting agency.
3. Assure that all service requirements for the work of art are met in the design documents.

F. The Artist shall:

1. Submit proposals as outlined by contract.
2. Be commissioned by the contracting agency to execute and complete the work in a timely and professional manner, or transfer title of an existing work of art to the agency for incorporation in its new or renovated facility.
3. Preferably deal personally with all other parties in all phases of the negotiations. However, the artist may, at his/her option, designate dealers or agents to represent him/her in certain aspects of the project.
4. Maintain a close working relationship with the architect.

General Policies

A. Integration of Art and Architecture: So that artists and architects can gain from each others' design insights and, thereby produce a more integrated solution, all parties involved should strive for engagement of the artist or artists as soon as possible after the employement of the architect.

B. Design Services by Artists: Architects are encouraged to contract with artists for custom design of lighting fixtures and systems, gates, railings, fences, doors, door knobs, drawer pulls, furniture, hand-crafted musical instruments, planters, benches, windows, signs maps and other equipment, accessories, and architectural elements. The consultation of an artist(s) is also encouraged during the design of display areas for portable works of art. The cost of artist design services may be borne by the Percentage for Public Art Program monies. The selection of artists would fall under these procedures.

C. Freedom of expression: All parties shall encourage the artists to reach creative solutions to the design problems they have been employed to solve. The artist, on their part, must be sensitive to the unique qualities of public art and the guidelines and parameters which, of necessity, have been agreed upon.

D. Exhibitions and Educational Aspects: To serve various publics more fully, the contracting agencies should consider undertaking the following, funded with monies other than those made available under the Percentage for Public Art Act:

1. Exhibitions of sketches and maquettes from limited or open competitions.
2. Involvement of students and art instructors in workshops with artists creating works, especially those for educational institutions.
3. Employment of an artist to design, jointly, with elementary and secondary school students, a work for a school with the design motifs springing from the school's history and heritage, the cultural traditions of ethnic minorities, or simply the rich imagination of the students. A present or former Artist-in-Residence could be a candidate for such a project.
4. Tours of a site involving many works, conducted by trained docents.
5. Use of state educational and other facilities by the artist in development of concepts and creation of the work, so that state employees and students can witness and assist in the creative act. Such facilities might include studio space, foundries, machine welding and woodworking shops, printing and photographic facilities, etc.

E. Professional Assistance. Where suitable, the private sector may be consulted. Gallery owners and dealers provide valuable assistance in gaining access to quality art works throughout the State. The ASCA recommends that dealers' fees on new commissioned works should not exceed 10% of the artist's fee after manufacture or cost of the work is subtracted.

All public agencies shall deal directly with the artist unless otherwise requested by the artist.

F. Supplemental Funds: The National Endowment for the Arts provides matching funds for works of art in public places on a grants application basis. In some cases the agency may generate funds locally to supplement their art allocation. The ASCA encourages the utilization of these resources in matching state funds.

G. Publications: As collections grow, owner agencies are encouraged to publish informative folders and booklets on their works of art. The ASCA will offer editorial and professional assistance if requested.

H. Dedication: If a dedication or "unveiling" of the work is desired, arrangements and costs incurred will be the responsibility of the owner agency, though technical assistance can be requested of the ASCA.

I. Administrative Costs: The DOTPF and ASCA will cover all costs of administering the program from funds other than the Percentage for Public Art Allocation.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

OFFICE OF THE COMMISSIONER

POUCH Z
JUNEAU, ALASKA 99811
(TELEX 45-328)

March 13, 1980

000H-

RE: House B[illegible] 729
Art in [illegible]ic Facilities

The Honorable Mike Miller
House State Affairs Committee
Alaska State Legislature Pouch V
Juneau, Alaska 99811

Dear Pepresentative Miller:

The Department of Transportation & Public Facilities generally concurs with the intent of HB 729 but with one exception. Money not used for art at a particular project should go to the Art Council, but then it should be accumulated under an account belonging to the department/division which contributed it. If, for instance, a remote fish hatchery were not an ideal candidate for artwork because it is inaccessible, and if the Department of Fish & Game requests and obtains a waiver to delete the artwork, ther the money should be available for use on one of that agency's other projects, like Fort Richardson or Clear AFS hatcheries which will receive heavy public attention. This way, the department requesting the waiver will not feel like they are losing the money or control of it; they are only putting it to better and more visible use.

If this is not done, the client may have no incentive to request a waiver on artwork in secluded places, since that agency would only lose the money anyway.

Your favorable consideration of this suggestion would be appreciated.

Sincerely,

Robert W. Ward
Commissioner

cc: Keith Specking
Legislative Assistant
Governors Office

28A-7 1LM

March 18, 1980

Commissioner Bob Ward
Department of Transportation and
Public Facilities
Pouch Z
Juneau, Alaska 99811

Dear Bob:

Just a short note to thank you for your letter of March 14 and for your suggested amendment to HB 729. The bill with the amendment you suggested passed the House this morning. Thanks for your suggestion.

Sincerely,

Mike Miller

REP. MIKE MILLER
ALASKA STATE LEGISLATURE
DURING SESSIONS: POUCH V, JUNEAU, ALASKA 99811
BETWEEN SESSIONS: BOX 1494, JUNEAU, ALASKA 99802
HOME PHONE (907) 586-3067
LEGISLATIVE PHONE (907) 465-4964 OR 465-4965

CHAIRMAN HOUSE STATE AFFAIRS COMMITTEE
MEMBER RULES COMMITTEE
MEMBER LABOR & MANAGEMENT COMMITTEE
MEMBER, ALASKA LEGISLATIVE COUNCIL

HB
746

(7)

COMMITTEE REPORT

HOUSE

2/14/80

FURTHER:

Date: 2-7-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 746

"An Act relating to overtime compensation under a flexible work hour plan."

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

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [X] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____

CHAIRMAN

H 60 (Rev. 12/78)

STATE OF ALASKA

Inter-Department Route Slip

TO:
MAIL STATION NUMBER 3100

DEPARTMENT Alaska State Legislature

ATTENTION Representative Miller

☐ 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:
MAIL STATION NUMBER 0208

DEPARTMENT Admin/Admin. Services

BY Judy Crondahl DATE 3/10

02-002 (REV.10/73)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 746
Title An Act relating to overtime compensation under a flexible work hour plan
Requested by Representative Miller Date 3/7/80

II. FISCAL DETAIL
Agency Affected All
Program Category Affected All
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 79	FY 80	FY 81	FY 82	FY 83	FY 84
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-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

HB 746 will have no fiscal impact.

IV. DATE 3/7/80 PREPARED BY Judy Crondahl Judy Crondahl
AGENCY Administration
PHONE 465-2277

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

33 001 (Rev 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS for HB 746
Title "An Act relating to Overtime Compensation under a Flexible Hour * work plan"
Requested by Representative Mike Miller Date April 3, 1980

II. FISCAL DETAIL
Agency Affected Departent of Labor
Program Category Affected Public Protection
BRU, Program, or Subprogram(s) Affected Wage and Hours - Administrative Services
(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		53.0				
200 TRAVEL		18.7				
300 CONTRACTUAL		21.2				
400 COMMODITIES		1.3				
500 EQUIPMENT		5.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		99.2				

FUNDING (Thousands of Dollars)

GENERAL FUND		99.2				
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		2				
PART TIME						
TEMPORARY						

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

Funding is for 1) Wage and Hour Investigator I
2) Clerk Typist II

IV. DATE April 3, 1980 PREPARED BY House State Affairs Committee
AGENCY
PHONE 465-4964

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

33-001 (Rev. 12/79)

I. REQUEST

Bill/Resolution No. CS for HB 746

Title "An Act relating to Overtime Compensation under a flexible* work hour plan."

Requested by House State Affairs Committee Date 1-28-80

II. FISCAL DETAIL

Agency Affected Department of Labor

Program Category Affected Public Protection

BRU, Program, or Subprogram(s) Affected Wage and Hour - Administrative Services

(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES	-0-	156.1	156.1 ~~153.0~~	156.1	156.1	156.1
200	TRAVEL		26.1	~~27.9~~ 18.7	29.9	32.0	34.2
300	CONTRACTUAL		29.5	~~31.6~~ 21.2	33.8	36.1	38.7
400	COMMODITIES		1.2	~~1.3~~ 1.3	1.4	1.5	1.6
500	EQUIPMENT		10.6	-0- ~~5.0~~	-0-	-0-	-0-
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	-0-	223.5	~~216.9~~ 199.2	221.2	225.7	230.6

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	223.5	~~216.9~~ 199.2	221.2	225.7	230.6
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-	5	~~8~~ 5	5	5	5
PART TIME						
TEMPORARY						

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

1. Salaries entered at the current rate.

2. Non Personal Services assumes an inflation rate of 7% annually.

3. Assumes effective date of 7/1/80.

IV. DATE March 28, 1980

PREPARED BY James M. Soudy III

AGENCY Department of Labor

PHONE 465-2720

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/78)

CHAIRMAN'S REPORT

April 3, 1980

Mr. Speaker:

The original fiscal note on CSHB 746 was $223,500 and envisioned a minimum of five employees. Apparently it was the thinking of the Department of Labor that inspectors would have to be on site to monitor each election. The committee felt this staffing was considerably more than necessary, that instead the department should promulgate election regulations and then conduct on-site inspections on a random basis, or in the case of suspected non-compliance or in response to specific requests by one party or the other. We feel that one inspector and one clerical person should be sufficient for this purpose. It is the feeling of the committee that should this staffing level be insufficient, the department can return to the legislature with a request for supplemental funding.

Representative Mike Miller
Chairman
House State Affairs

STATE OF ALASKA

Inter-Department Route Slip

TO:
MAIL STATION NUMBER _____

DEPARTMENT House State Affairs

ATTENTION Room 104 - Capitol

☐ 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:
MAIL STATION NUMBER 0700

DEPARTMENT Labor

BY _____ DATE _____

02-002 (REV.10/73)

Bill No. CS House Bill 746 Date March 28, 1980

Title "An Act relating to overtime compensation under a flexible work hour plan".

Contact: Judy DuBois
465-2700
Dale Cheek
465-4870

The most recent Committee Substitute for House Bill 746 would create a serious workload impact on the Wage and Hour Division of the Department of Labor.

From inquiries the Department has had concerning a flexible work hour plan, it would appear that at least three major industries in the State, banking, seafood processing and air carriers, with a sizeable number of employees would want to take advantage of a plan such as this.

In the banking industry there are approximately 124 separate branch banks in the State of Alaska with over 1,400 employees. In addition, there are 33 credit union offices throughout the State and 20 offices of savings and loan companies.

The major airline companies are primarily covered by collective bargaining agreements; however, we have had interest shown to the Department by that segment of the air carriers who are not covered by collective bargaining agreements which cause us to believe that a considerable number of employees in that industry would also elect to be covered by this law.

The Department is aware that the seafood processing industry would be another area that could elect to work under such a plan. At peak times of that industries' season there are several thousand people employed who for the most part are not covered by collective bargaining agreements at this time.

Before the Department of Labor could issue a certificate approving the plan, it would be necessary to review the election process to ascertain whether or not a majority of the employees affected had indeed agreed to the plan. After certification of an employer-employee agreement, there is additional concern for the re-certification process should there be turn over in the original employees.

As we review this bill, it is apparent that it would be necessary to promulgate regulations to implement the act.

The Department has reason to believe because of our experience in the labor relations area that it could be required to certify elections involving several thousand employees located throughout the State. In our opinion, it would require at least four Wage and Hour Investigators with one clerical support position.

The Department recognizes the restrictive language in A.S. 23.10.060. with reference to payment of overtime and the need as well as the demand from many industries, employers and employees for a flexible work week. Other than repeal of the eight hour overtime requirement, which may not be politically acceptable, the Department has been unable to develop a recommended amendment that would not be both costly and difficult to administer.

POSITION PAPER/Department of Labor

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS for HB 746
Title "An Act relating to Overtime Compensation under a flexible* work hour plan."
Requested by House State Affairs Committee Date 3-28-80

II. FISCAL DETAIL
Agency Affected Department of Labor
Program Category Affected Public Protection
BRU, Program, or Subprogram(s) Affected Wage and Hour - Administrative Services
(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES	-0-	156.1	156.1	156.1	156.1	156.1
200	TRAVEL		26.1	27.9	29.9	32.0	34.2
300	CONTRACTUAL		29.5	31.6	33.8	36.1	38.7
400	COMMODITIES		1.2	1.3	1.4	1.5	1.6
500	EQUIPMENT		10.6	-0-	-0-	-0-	-0-
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	-0-	223.5	216.9	221.2	225.7	230.6

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	223.5	216.9	221.2	225.7	230.6
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-	5	5	5	5	5
PART TIME						
TEMPORARY						

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

1. Salaries entered at the current rate.

2. Non Personal Services assumes an inflation rate of 7% annually.

3. Assumes effective date of 7/1/80.

IV. DATE March 28, 1980 PREPARED BY James M. Souby III
AGENCY Department of Labor
PHONE 465-2720

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

33-001 (Rev. 12/78)

	POSITION TITLE			RANGE/STEP	BARG. UNIT	LOCATION		APPROV.	DISAPP.
1	Wage & Hour Investigator I			16	GGU	Anchorage	GOV		
2	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP No	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG.		

	TYPE OF EXPENDITURE	1	2	AMOUNT 3
	PERSONAL SERVICES			
4	SALARY	2,132	25,584	
5	BENEFITS	15.42	3,945	
6	FICA	6.65	1,701	
7	HEALTH INS	127 x 12	1,524	
8	TOTAL PERSONAL SERVICES			32,754
9	TRAVEL			7,500
10	CONTRACTUAL			6,750
11	COMMODITIES			250
12	EQUIPMENT			1,921
13	OTHER			
14	TOTAL COST			49,175

	CODE	FUNDING SOURCE	
15		FED RCPTS	
16		GF MATCH	
17	T004	GEN FUND	49,175
18		I-A RCPTS	
19		PGM RCPTS	
20		OTHER	
21	CONTINUATION		
22	ADDITION		

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

The investigators in the Anchorage Regional Office will be responsible for the area encompassing the 2nd and 3rd judicial districts principally the Mat-Su Valley, Anchorage, Prince William Sound, Bethel, Kodiak, and Aleutian Chain. These investigators will conduct investigations of petitions for certification from employee groups who wish to take advantage of the act, which will entail travel to various locations throughout the region to monitor elections, to act as fact finder in disputes concerning purported agreements, and to investigate wage claims.

(9) Travel to remote arease from Anchorage to Kodiak, Kenai, and the Aleutian Chain for investigations and elections. Average one trip a month for an average cost of $650 per trip or $7500.

(10) Postage and mailing	$ 500.00
Local and long distance calls	800.00
Rent 10 sq. ft. @ $1.09 x 12 mo.	1,308.00
Legal fees and hearings officers	4,142.00
Total Contractual	$ 6,650.00

(11) Supplies needed for new position and to operate for the year $ 250.00

(Continued on page 1b)

AGENCY Department of Labor PROGRAM AREA Public Protection

BRU Wage & Hour

COMPONENT Wage & Hour Administration

13 REQUEST FOR NEW POSITION

FY 81

REVISED DATE _____

(12) Equipment:

Desk	$ 387.70
Chair	179.41
Credenza	309.80
Bookcase	90.04
Dictating machine	713.59
Calculator	240.32
Total equipment	$ 1,920.86

	POSITION TITLE				RANGE/STEP	BARG. UNIT.	LOCATION		APPROV.	DISAPP.
1	Wage & Hour Investigator I				16	GGU	Anchorage	GOV.		
2	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP No.	PCN No.	PRIORITY		FORM 12 PAGE/LINE	LEG.		

	TYPE OF EXPENDITURE	1	2	AMOUNT 3
	PERSONAL SERVICES			
4	SALARY	2,132	25,584	
5	BENEFITS	15.42%	3,945	
6	FICA	6.65%	1,701	
7	HEALTH INS	127 x 12	1,524	
8	TOTAL PERSONAL SERVICES			32,754
9	TRAVEL			7,500
10	CONTRACTUAL			6,750
11	COMMODITIES			250
12	EQUIPMENT			1,921
13	OTHER			
14	TOTAL COST			49,175

	CODE	FUNDING SOURCE	
15		FED RCPTS	
16		GF MATCH	
17	1004	GEN FUND	~~49,175~~
18		I-A RCPTS	
19		PGM RCPTS	
20		OTHER	
21	CONTINUATION		
22	ADDITION		

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

The investigators in the Anchorage Regional Office will be responsible for the area encompassing the 2nd and 3rd judicial districts principally the Mat-Su Valley, Anchorage Prince William Sound, Bethel, Kodiak and Aleutian Chain. These investigators will conduct investigations of petitions for certification from employee groups who wish to take advantage of the act, which will entail travel to various locations throughout the region to monitor elections, to act as fact finder in disputes concerning purported agreements, and to investigate wage claims.

(9) Travel to remote areas from Anchorage to Kodiak, Kenai and the Aleutian chain for investigations and elections. Average one trip a month for an average cost of $650 per trip or $7500.

(10) Postage and mailing $ 500.00
Local and long distance calls 800.00
Rent 10 sq. ft. @ $1.09 x 12 mo. 1,308.00
Legal fees and hearing officers 4,142.00
$ 6,650.00

(11) Supplies needed for new position and to operate for the year $ 250.00

(Continued)

AGENCY Department of Labor PROGRAM AREA Public Protection

BRU Wage & Hour

COMPONENT Wage & Hour Administration

13 REQUEST FOR NEW POSITION

FY 81

REVISED DATE _____

(12) Set up new position, office equipment needed:

Desk	$ 387.70
Chair	179.41
Credenza	309.80
Bookcase	90.04
Dictating machine	713.59
Calculator	240.32
Total equipment	$ 1,920.86

	POSITION TITLE			RANGE/STEP	BARG. UNIT.	LOCATION		APPROV.	DISAPP.
1	Wage & Hour Investigator I			16	GGU	Juneau	GOV		
	TYPE OF POSITION	STAFF MONTHS	RP No. / PCN No.	PRIORITY		FORM 12 PAGE/LINE			
2	PFT	12					LEG.		

3	TYPE OF EXPENDITURE			AMOUNT
	1		2	3
4	PERSONAL SERVICES SALARY	2,132	25,584	
5	BENEFITS	15.42%	3,945	
6	FICA	6.65%	1,701	
7	HEALTH INS.	127 x 12	1,524	
8	TOTAL PERSONAL SERVICES			32,754
9	TRAVEL			3,600
10	CONTRACTUAL			6,000
11	COMMODITIES			250
12	EQUIPMENT			2,125
13	OTHER			
14	TOTAL COST			44,729

	CODE	FUNDING SOURCE	
15		FED RCPTS	
16		GF MATCH.	
17	1004	GEN FUND	44,729
18		I-A RCPTS.	
19		PGM RCPTS	
20		OTHER	
21	CONTINUATION		
22	ADDITION		

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

The Juneau investigator position will be responsible for the Southeastern Alaska area south of Takutat. This investigator will conduct investigations of petitions for certification from employee groups who with to take advantage of the act, which will entail travel to various locations throughout the region to monitor elections, to act as fact finder in disputes concerning purported agreements, and to investigate wage claims.

(9) Travel: The Juneau investigator will be responsible for the Southeast Alaska area.

2 x Ketchikan @ 130 = 260 + 3 days @ 55	$ 425
2 x Sitka @ 91 = 182 + 3 days @ 62	368
2 x Yakutat @ 108 = 216 + 3 days @ 55	381
2 x Peterşberg @ 108 = 216 x 3 days @ 55	381
	1,555
Charter to areas not serviced by scheduled flights	2,045
Total Travel	$3,600

(10) Rent $1,890
Postage 500
Telephone 800
Professional fees 2,810
Total Contractual $6,000

(Continued on page 3b)

AGENCY Department of Labor PROGRAM AREA Public Protection

BRU Wage & Hour

COMPONENT Wage & Hour Administration

13 REQUEST FOR NEW POSITION

REVISED DATE _____

FY 81

(12)

Desk	$ 468.91
Chair	214.52
Credenza	375.21
Bookcase	112.49
Dictating machine	713.59
Calculator	240.32
Total Equipment	$2,125.04

	POSITION TITLE				RANGE/STEP	BARG. UNIT	LOCATION		APPROV.	DISAPP.
1	Wage & Hour Investigator I				16	GGU	Fairbanks	GOV		
2	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP No.	PCN No.	PRIORITY		FORM 12 F. GE/LINE	LEG.		

	TYPE OF EXPENDITURE		1	2	AMOUNT 3
4	PERSONAL SERVICES: SALARY	2,465		29,580	
5	BENEFITS	15.42%		4,561	
6	FICA	6.65%		1,967	
7	HEALTH INS.	127 x 12		1,524	
8	TOTAL PERSONAL SERVICES				37,632
9	TRAVEL				7,500
10	CONTRACTUAL				6,000
11	COMMODITIES				250
12	EQUIPMENT				2,125
13	OTHER				
14	TOTAL COST				53,507

	CODE	FUNDING SOURCE	
15		FED RCPTS.	
16	1004	GF MATCH	53,507
17		GEN. FUND	
18		I-A RCPTS.	
19		PGM RCPTS	
20		OTHER	
21	CONTINUATION		
22	ADDITION		

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

The Fairbanks Regional Investigator will be responsible for an area north of the 63rd parallel. This investigator will conduct investigations of petitions for certifications from employee groups who wish to take advantage of the act, which will entail travel to various locations throughout the region to monitor elections, to act as fact finder in disputes concerning purported agreements, and to investigate wage claims.

(9)	2 x Barrow @ 216 = 432 + 3 days @ 100	$1,164
	2 x Nome @ 248 = 496 + 3 days @ 84	1,244
	2 x Kotzebue @ 248 = 496 + 3 days @ 96	1,280
	2 x Prudhoe @ 220 = 440 + days @ 67	1,081
		$4,769
	Charter to areas not serviced by scheduled flights.	$2,700
	Total Travel	$7,469

(10)	Rent	$ 1,100.00
	Telephone	800.00
	Mailing	500.00
	Professional Fees	3,600.00
		$ 6,000.00

(Continued on page 4b)

AGENCY Department of Labor

PROGRAM AREA Public Protection

BRU Wage & Hour

COMPONENT Wage & Hour Administration

13 REQUEST FOR NEW POSITION

FY 81

REVISED DATE _____

(12) Equipment:

Desk	$ 468.91
Chair	214.52
Credenza	375.21
Bookcase	112.49
Dictating Machine	713.59
Calculator	240.32
	$ 2,125.04

	POSITION TITLE			RANGE/STEP	BARG. UNIT	LOCATION		APPROV.	DISAPP.
1	Clerk Typist II			8	GGU	Anchorage	GOV.		
2	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG.		

3	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES: SALARY 1277	15,324	
5	BENEFITS .1542	2,363	
6	FICA .0665	1,019	
7	HEALTH INS 127 x 12	1,524	
8	TOTAL PERSONAL SERVICES		20,230
9	TRAVEL		-0-
10	CONTRACTUAL		4,008
11	COMMODITIES		250
12	EQUIPMENT		2,463
13	OTHER		
14	TOTAL COST		26,951

	CODE	FUNDING SOURCE	
15		FED RCPTS	
16		GF MATCH	
17	1004	GEN FUND	26,951
18		I-A RCPTS	
19		PGM RCPTS	
20		OTHER	
21	CONTINUATION		
22	ADDITION		

FOR B&M USE ONLY

4r KEY NUMBER _____ COLUMN NO. ____

JUSTIFICATION:

Clerical support for investigators in Anchorage Regional office.

(10) Rent $1,308.00
Word Processing Equipment 2,700.00
$4,008.00

(12) Desk $ 459.80
Chair 114.55
Typewriter 902.48
Transcribing Machine 713.59
File Cabinet, 5 drawer 272.44
$2,462.86

AGENCY Department of Labor PROGRAM AREA Public Protection

BRU Wage and Hour Division

COMPONENT Wage and Hour Administration

13 REQUEST FOR NEW POSITION

REVISED DATE _____

FY 81

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C
JUNEAU, ALASKA 99811
465-2200

April 15, 1980

Honorable John Sackett, Chairman
Senate Finance Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Serator Sackett:

Re: HB 746

I would like to bring your attention to a problem which has occurred in the consideration of fiscal notes for House Bill 746.

The Department of Administration prepared a fiscal note (attached) showing no fiscal impact. This fiscal notes pertains to the impact on the State in its role as employer. The Department of Labor prepared a fiscal note (attached) showing fiscal impact of $99.2 General Funds. This fiscal note pertains to the impact on the Department of Labor in its role of Wage and Hour enforcement. Apparently, because the Department of Administration fiscal note indicated it applied to all agencies, the Department of Labor fiscal note was not considered in the House Finance Committee. This was not our intent and we urge the approval of the Department of Labor fiscal note to enforce the intent of this bill should it become law.

Sincerely,

Sue S. Greene
Deputy Commissioner for
Personnel Management

SSG/mjc
cc: Senator Bob Mulcahy, Chairman
Senate State Affairs
Representative Mike Miller
Chairman, House State Affairs
Representative Russ Meekins, Chairman
House Finance Committee
Representative Samuel R. Cotten
Keith Specking, Legislative Assistant
Judy DuBois, Legislative Liaison
Department of Labor
Attachments

02-00LH

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

Sill
3-10-80
MC

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 746
Title An Act relating to overtime compensation under a flexible work hour plan.
Requested by Representative Miller Date 3/7/80

II. FISCAL DETAIL
Agency Affected All
Program Category Affected All
FY, 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 79	FY 80	FY 81	FY 82	FY 83	FY 84
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-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

HB 746 will have no fiscal impact.

IV. DATE 3/7/80 PREPARED BY Judy Crandahl
AGENCY Administration
Original: Legislative Finance PHONE 465-3777
cc: Budget and Management
Prime Sponsor (If a Legislator Named) Representative Cotten

33-001 (Rev. 2/78)

CSHB
746

FISCAL NOTE

I. REQUEST

II. FISCAL DETAIL

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
102 PERSONAL SERVICES		23.0				
103 TRAVEL		15.7				
104 CONSULTANTS		41.5				
105 COMMODITIES		1.3				
107 EQUIPMENT		50.0				
108 GRANTS TO LOCALS						
109 OTHER SERVICES, ETC.						
TOTAL		99.2				

EXPENDITURES (Thousands of Dollars)

		15.2				

INCOME

III. ANALYSIS

IV. DATE April 5, 1980 PREPARED BY

AGENCY

PHONE 475-3761

Optional Explanatory Notes

HB
757

(7)

COMMITTEE REPORT

HOUSE

2/14/80

FURTHER: FINANCE

Date: 2-21-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 757

"An Act making a special appropriation to the Department of Natural Resources, division of parks; and providing for an effective date."

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

[X] 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

John Brabec

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____
CHAIRMAN

H 60 (Rev. 12/78)

FOREST SERVICE
Seward Office
Box 275

REPLY TO: 7750 Forest Highways November 6, 1979

SUBJECT: Resurrection River Road; Interagency Meeting

TO: Files

On October 5th a meeting was held in Seward to discuss the future development and maintenance of Resurrection River Road. Those in attendance were:

Clay Beal, Forest Supervisor - USDA Forest Service
Dwane Klassen, Forest Engineer - USDA Forest Service
Kerry Martin, Resource Management Assistant - USDA Forest Service
Doug Warnock, Deputy Director Alaska Area - National Park Service
Paul Hartel, Ranger in Charge - Kenai Fjiords National Monument
Howard Wagner, Planner - National Park Service
Johnny Johnson, Seward City Manager
Darrel Schafermeyer, Seward Assistant City Manager
John Horn, Alaska DOT - Maint & Ops, Anchorage
Ed Hollier, Alaska DOT - Maint & Ops, Soldotna
Bill Frazier, Alaska DOT - Maint & Ops, Seward
Margaret Branson, State Legislator
Herman Leirer - Interested citizen
Betty Elge - Seward Chamber of Commerce

The road was originally built about 1970 with State, Borough, and City money and equipment for about a $400,000 investment. A $200,000 concrete bridge was constructed in 1978 by the State over an unnamed creek.

Each agency's current involvement is as follows:

USDA Forest Service - the last 3.3 miles of the road is on National Forest land and is under special use permit to the City of Seward and the Kenai Peninsula Borough. The Forest Service is in the process of developing a recreation trail from the present road terminus to the Upper Russian Lakes area. The Forest Service presently has no maintenance responsibilities other than management of the special use permit.

City of Seward, in conjunction with the Kenai Peninsula Borough, holds the permit and was responsible for the construction of the road and its present maintenance. The City supports the concept of the road as a gateway to the Harding Icefield to encourage tourism in the local area. However, they have a higher priority project (access to the proposed Fourth of July Shipyard site) and cannot afford any financing or personnel for the Resurrection River Road at this time. The road is entirely outside the City's corporate limits. The city originally intended to complete the road, a bridge over Resurrection River and visitor facilities at the glacier prior to d-2 stopping their involvement. The bridge and other facilities were never completed. There is access across the river in the early spring when the water is low.

The State of Alaska, Department of Transportation, has the road on its current maintenance schedule but due to lack of funding, only that portion of the road actually on State land has been maintained to any degree. It is also their last priority for maintenance. This year, they have built the first mile or so of the road bed up, cleaned ditches and built some diversion dikes to control flooding, as the river is now higher than the road in some locations.

National Park Service has no specific plans for the Exit Glacier area at this time but does recognize its potential and will continue to include it as their planning progresses and funds become available. They are legally bound, except through special legislation, from spending money outside the Monument's boundary. If the road were not already in existence, they probably would not look at constructing a new road. Since it is in place they would be encouraged if visitors could use it to get to Exit Glacier.

It was agreed upon by all parties that the road is desirable because of it's recreation potential; however, it is recognized that some problems exist in bringing it up to minimum standards and maintaining it. These are:

1. Levees and dikes will probably be needed since the river is now higher than the road in some locations.

2. It is in a flood plane which may raise some questions as to the use of Federal Monies and about the cost/benefit analysis of a road that essentially goes no where.

3. An "off the cuff" estimate of $300,000 per mile for construction and $400,000 for the bridge was made.

4. The necessity of a lot of rock rip rap in diverting the river and the read availability of that rock.

5. Would an EIS be needed? Probably not since it would be reconstruction of an existing road.

6. Preliminary engineering surveys indicate that the road should be relocated to save it from the river. This would probably be financially and environmentally unfeasible, thus leaving the road to be repaired where it is.

7. To get any funding, the Forest Service has to budget at least 2 years ahead, the State DOT must have the road on the 6 year plan or the State Legislature could pass a special appropriation.

To accomplish the goals of reconstructing the Resurrection River Road, it was agreed that a cooperative agreement would be drawn up by the Forest Service and would include specific actions to be taken by the individual agencies involved (NPS, City, State, and USFS).

Specifically, the following actions were agreed upon:

USDA Forest Service will a) put the road reconstruction project into the FY 82 or 83 budget; b) write the coop agreement for other agencies to review and sign; c) will do the centerline survey on the road if FY 80 funds are available.

State Dept. of Transportation will do minimum maintenance to prevent total loss of the road. When the road is reconstructed they would be able to maintain it if they have to. If funds available they may be able to assist in the survey.

City of Seward Will write to Alaska DOT stating their position in support of the road but due to higher commitments they would be unable to participate in an active way. They will pursue any opportunities to acquire money to repair the road. They will continue to maintain the permit in their name.

National Park Service will continue to develop plans for facilities at Exit Glacier and for the bridge over Resurrection River. Until special legislation occurs that will allow them to expend funds outside the Monument boundary, they can only show their active support for the road's existence.

Margaret Branson, State Legislature, will look into what money might be available through special legislation

Kerry T. Martin

KERRY T. MARTIN
Resource Management Assistant

HB
764

(7)

COMMITTEE REPORT

HOUSE

2/14/80

FURTHER: FI''NCE

Date: 4 8 8 1

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 764

"An Act establishing the Alaska Student Leadership Association."

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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____

CHAIRMAN

H 60 (Rev. 12/78)

TELEGRAM

ALLSCOM INC.
PHONE: 586-6442
JUNEAU, AK 99802

M2139 TDA VALDEZ AK 109 04-03 248P AST

PMS REP MIKE MILLER

387

JUNEAU AK

'80 APR 3 PM5 18

THANK YOU FOR GRANTING MYSELF AND THE AASC TIME TO TESTIFY ON THE ALASKA STUDENT LEADERSHIP ASSOCIATION BILL. I WOULD LIKE TO GIVE A WRITTEN COPY OF THE GENERAL FEELING WE HAVE IN REGARD TO THIS ACTION. IT IS OUR FEELING THAT THE BILL WOULD BEST SUIT THE VOCATIONAL PROGRAMS IT INCLUDES AND THAT IT WOULD BENEFIT THE BILL AND THE AASC IF WE WERE REMOVED FROM THE ACTION. OUR POSITION WOULD ENCOURAGE THE REMOVAL OF OUR ORGANIZATION AND MOST FAVORABLY THE FUNDING OF THE AASC SEPARATELY UNDER SPONSORSHIP OF THE AASA. I REGRET THAT OUR REPRESENTATIVES IN ANCHORAGE AND FAIRBANKS WERE UNABLE TO TESTIFY HOWEVER THEY ARE SENDING YOU WRITING OPINIONS POSTE HASTE. VERY MUCH APPRECIATE YOUR HELP AND CONCERN. SINCERELY

MIKE COLLINS PRESIDENT AASC

PO BOX 144 VALDEZ AK 99686

April 1, 1980

Mr. Mike Miller
Pouch V
Juneau, AK 99811

Dear Mr. Miller:

It is my understanding that House Bill 764 and House Bill 765 are presently in the House State Affairs Committee. I am very intersted in seeing that this bill passes this session. I would appreciate any support you can give this bill.

If you have any questions and desire any back up information about this bill, please let me know and I will be happy to furnish the same.

Sincerely,

Korlyn Williams

Mrs. Korlyn Williams
OEA State Advisor
P.O. Box 1580
Wasilla, AK 99687

ALASKA STATE VOCATIONAL ASSN.

WHEREAS, the Alaska State Vocational Association actively promotes vocational programs in the State of Alaska, and

WHEREAS, the Alaska State Vocational Association recognizes the need for the promotion, organization, and operation of a student leadership program, and

WHEREAS, the Alaska State Vocational Association recognizes the Alaska School Activities Association as the current manager of other student activities currently existing in the State, and

WHEREAS, the Alaska State Vocational Association recognizes the need for funding to implement a Student Leadership Program,

NOW THEREFORE BE IT RESOLVED, that the Alaska State Vocational Association go on record as unanimously supporting the funding of an Alaska Student Leadership Program with appropriation of funds by the State of Alaska to the Department of Education to coordinate with the Alaska School Activities Association to promote, organize, and operate an Alaska Student Leadership Program. Such appropriation to include safeguards to insure that these funds are spent on the Student Leadership Program and activities.

Copies to Lt. Gov. Terry Miller
August Anderson, President, State Board of Education
Commissioner Marshall L. Lind, Department of Education
Glenn Erickson, Director of Vocational Education

March 1, 1982

STATE
of ALASKA

MEMORANDUM

JAN 24 1980

TO: Terry Whitbeck
Alaska Vocational Education
Planning Council

DATE: January 24, 1980

FILE NO:

TELEPHONE NO:

FROM: Karen Ryals, Supervisor
Adult Vocational Education

SUBJECT: Proposed Legislation: Student Leadership Association

FHA-
FFA
Vocational

Please review the enclosed materials regarding the development of a Student Leadership Association. Student leadership training is an investment in the youth of Alaska. Each of the organizations mentioned in the proposed legislation has as one of its primary purposes, student leadership development. Each of the organizations has expressed concerns about the inability to function effectively as a state association in the development of these skills. Each organization has requested Department of Education support in terms of staff and funds to support communication, coordination and student travel. Currently each state advisor is a volunteer or appointee and acts as state advisor in addition to a full-time assignment. This legislation would provide an executive secretary to assist each state advisor in conference planning, bookkeeping, communications, officer training, organization, management and development of a yearly program of work.

Of vital concern is the composition of the governing body. We would like to have your organization's input, support, and assistance in the creation of this association for students. Please respond with your ideas.

If you would like further information or clarification, please feel free to contact me. Your support is of great value to the future of student leadership organizations.

Capitol Bldg
Rm 126

ADMINISTRATION OF PUBLIC SCHOOLS

Chapter 07

Section 14:07 075 Student Leadership Association

a. There is created within the Department of Education the Student Leadership Association.

b. The purpose of the association is to provide for leadership skills training for students who are members of the Alaska Association of School Governments, Distributive Education Clubs of America, Future Farmers of America, Future Homemakers of America, Office Education Association and Vocational Industrial Clubs of America.

c. Activities carried out under this section include but are not necessarily limited to:

1. Leadership skills training to be provided by the association.

2. Fulfillment of officer duties within the program of work of the state association of each respective organization.

3. Representation of their organization and the State of Alaska as delegates at the National Leadership Conferences.

4. Statewide administrative services required to support these student leadership organizations.

d. Any student member enrolled in grades 9-12 is eligible to participate in this association.

e. The governing body of the association shall be the Board of Control with one member from each organization contained within (b) of this section, and one member from the Department of Education on the Board of Control. The members shall be appointed by each organization contained within (b) of this section. The term of appointment shall be two years, except that one half of the members appointed to the first board shall be appointed for one year terms under regulations promulgated by the Board.

f. The Board of Control in consultation with the Department of Education shall appoint an executive secretary, prescribe his duties and fix his compensation. He shall serve at the pleasure of the Board of Control.

g. The Department of Education shall approve the association's constitution and bylaws.

DRAFT

Section 14:07 076 Alaska Student Leadership Fund

a. The Alaska Student Leadership Fund shall be established within the Department of Education.

b. The Commissioner of Education shall review and approve the program of work and budget request of the Alaska Student Leadership Fund.

c. The Legislature, school districts, and membership organizations may appropriate money to the Fund.

DRAFT

STUDENT LEADERSHIP ASSOCIATION

Student Leadership Organizational Funds	
Instructional materials for developing skills in parliamentary procedure, organizational management, legislative process and instructional projects.	$ 5,000
Testing supplies for competitive events held at state conference, particularly Office Education Association, Distributive Education Clubs of America, Future Farmers of America, and Vocational Industrial Clubs of America.	$ 5,000
Awards for achievement in leadership activities, competitive events and unique merit.	$ 5,000
Leadership skills training in group dynamics, decision making, parliamentary procedure, goal setting, time management, communication, and motivation. Includes consultant fees for leadership training.	$ 13,000
Telephone, paper, postage, ect., for student officers to conduct the business of their organization.	$ 16,000
Teacher in-service in developing local advisor's leadership skills.	$ 16,000
Substitute fees for state organization advisors.	$ 5,000
Student Leadership Grant Funds to enable student officers to participate in statewide leadership activities (maximum limit per organization $25,000)	$150,000
Sub Total	$220,000
Administrative Services	
Director to implement and manage the student leadership foundation. See Appendix I	$ 40,000
Secretarial staff (one-half time).	$ 15,000
Travel for Director and advisors to [illegible] placement.	$ 15,000
Communications supplies, printing, postage, telephone, etc.	$ 10,000
Office supplies and equipment.	$ 5,000
Sub Total	$ 85,000
Grand Total	$300,000

DRAFT

STUDENT LEADERSHIP ASSOCIATION

The Executive Secretary for the Student Leadership Association shall perform the following functions:

Coordinate the statewide activities of each student leadership organization.

Provide for leadership training of each elected state officer of each organization.

Manage membership activities newsletters and communication for each organization.

Organize and conduct each state conference in conjunction with the state advisor and officers.

Act as facilitator for the executive board of each organization.

Administer the grant funds provided in the student leadership association.

Act as a public relations officer for each organization.

It is the recommendation of the state sponsors that this person have had a minimum of five years teaching experience including student organization experience and preferably public relations experience.

STUDENT LEADERSHIP ASSOCIATION

Appropriation by Object Code

100	Salaries	$ 55,000
200	Travel	15,000
300	Contractual	5,000
400	Commodities	7,500
500	Equipment	2,500
700	Grants	220,000
	Grand Total	$300,000

BOARD OF CONTROL OPTIONS - PLEASE RETURN YOUR SELECTION BY FEBRUARY 8, 1980

e_1 The governing body o the association shall be the Board of Control with one member from each organization contained within (b) of this section, and one member from the Department of Education by the Commissioner on the Board of Control. The members shall be appointed by each organization contained within (b) of this section. The term of appointment shall be two years, except that one half of the members appointed to the first board shall be appointed for one year terms under regulations promulgated by the Board.

Rationale - Each organization appoints it's representative. The expenditures due to travel could be reduced. A student or teacher could serve as the representative. The regulations would outline the appointment procedure. A seven member board would probably function more simply than a 13 member board.

e_2 The governing body of the association shall be the Board of Control consisting of one teacher advisor member elected by the local advisors of each organization contained within (b) of this section, one elected member appointed from the Department of Education and one student member elected by each organization contained within (b) of this section. The term of office shall be two years except that one half of the members elected to the first board shall be elected for one year terms under regulations promulgated by the Board.

Rationale - Each organization would have two representatives, an elected teacher-advisor, and a elected student. The number of members could make this cumbersome to manage. The regulations would outline the procedures for elections. Any local advisor or student could be elected at the state conference.

e_3 The governing body of the association shall be the Board of Control consisting of six state advisors representing each of the organization contained within (b) of this section and one member appointed by the Commissioner of Education representing the Department of Education, and six student advisory members appointed by the organizations contained within (b) of this section. The term of appointment shall be two years, except that one half of the members appointed to the first board shall be appointed for one year terms under regulations promulgated by the Board.

Rationale - The six State Advisors would serve on the Board of Control and six student members elected at the state conference. The size of the board may make this cumbersome to operate, but it provides for input by the State Advisors and input from elected students. The regulations would outline the procedures for elections. Any local advisor or student could be elected at the state conference.

e_4 Other; your choice

December 28, 1979

TO: Alaska Vocational Education
Planning Council

FROM: State Advisors of DECA, FFA, FHA,
OEA, and VICA

SUBJECT: Vocational Student Organizations

Vocational student organizations have been growing in Alaska during the 1970s. Their common goal is the development of leadership and citizenship in the youth of Alaska. In 1973, four high school teachers met in Juneau with the State Department of Education and asked for financial support. Part of the request at that time was for full-time paid State Advisors for each of the various organizations, monies for student travel, and funding for state conferences. The four classroom teachers mentioned above were serving as full-time unpaid State Advisors of OEA, DECA, VICA, and FHA. Since that time, FFA, the fifth student organization, has been chartered in Alaska. Alaska is one of the few states that does not provide full-time paid State Advisors in conjunction with other vocational education regulations and funding.

The five vocational youth organizations are an integral part of the high school vocational curriculum in schools statewide. Participation of all students is encouraged in vocational student activities which are conducted as an integral part of instruction.

Each of the five organizations has an annual meeting where the stress is placed on development of skills in leadership and the students have the opportunity to compete in occupational skill contests. Winners of the State contests are then eligible to compete at the national level.

Students and Advisors alike should have the opportunity to attend workshops which relate to their organization. These workshops should provide training for the Advisors on integrating student organizations and activities into the curriculum.

It has always been the feeling of those instructors involved with youth organizations at the vocational level, that the State Department needs to be more supportive of vocational youth organizations through finances and program planning.

As previously stated, vocational student organizations are growing in Alaska. This is because State Advisors, instructors, and students are convinced of the importance of youth organizations. We feel we will continue to grow slowly unless we have the support of the State Department of Education. The youth of Alaska are the future of Alaska. We feel they should be the prime concern of all areas of government.

THEREFORE, we have prepared the following resolutions and budgets which represent our needs.

DRAFT

ADMINISTRATION OF PUBLIC SCHOOLS

Chapter 07

Section 14:07 075 Student Leadership Association

a. There is created within the Department of Education the Student Leadership Association.

b. The purpose of the association is to provide for leadership skills training for students who are members of the Alaska Association of School Governments, Distributive Education Clubs of America, Future Farmers of America, Future Homemakers of America, Office Education Association and Vocational Industrial C' bs of America.

c. Activities carried out under this section include but are not necessarily limited to:

1. Leadership skills training to be provided by the association.

2. Fulfillment of officer duties within the program of work of the state association of each respective organization.

3. Representation of their organization and the State of Alaska as delegates at the National Leadership Conferences.

4. Statewide administrative services required to support these student leadership organizations.

d. Any student member enrolled in grades 9-12 is eligible to participate in this association.

e. The governing body of the association shall be the Board of Control with at least one member from each statewide [redacted] organization and one member from the Department of Education on the Board of Control. The members shall be appointed by each [redacted] organization and approved by the Commissioner of Education. The te m of appointment shall be two years, except that one half of the members appointed to the first board shall be appointed for one yea. terms under regulations promulgated by the Board.

f. The Board of Control in consultation with the Department of Education shall appoint an executive secretary, prescribe his duties and fix his compensation. He shall serve at the pleasure of the Board of Control.

g. The Department of Education shall approve the association's constitution and bylaws.

Section 14:07 076 Alaska Student Leadership Fund

a. The Alaska Student Leadership Fund shall be established within the Department of Education.

b. The Commissioner of Education shall review and approve the program of work and budget request of the Alaska Student Leadership Fund.

c. The Legislature, school dis ricts, and membership organizations may appropriate money to the Fund.

DRAFT

STUDENT LEADERSHIP ~~FOUNDATION~~ ASSOCIATION

The Executive Secretary for the Student Leadership ~~Foundation~~ ASSOCIATION shall perform the following functions:

Coordinate the statewide activities of each student leadership organization.

Provide for leadership training of each elected state officer of each organization.

Manage membership activities newsletters and communication for each organization.

Organize and conduct each state conference in conjunction with the state advisor and officers.

Act as facilitator for the executive board of each organization.

Administer the grant funds provided in the student leadership ~~foundation~~. ASSOCIATION

Act as a public relations officer for each organization.

It is the recommendation of the state sponsors that this person have had a minimum of five years teaching experience including student organization experience and preferably public relations experience.

DRAFT

STUDENT LEADERSHIP ASSOCIATION

Student Leadership Organizational Funds

Instructional materials for developing skills in parliamentary procedure, organizational management, legislative process and instructional projects.	$ 5,000
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Leadership skills training in group dynamics, decision making, parliamentary procedure, goal setting, time management, communication, and motivation. Includes consultant fees for leadership training.	$ 13,000
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Teacher in-service in developing local advisor's leadership skills.	$ 16,000
Substitute fees for state organization advisors.	$ 5,000
Student Leadership Grant Funds to enable student officers to participate in statewide leadership activities (maximum limit per organization $5,000)	$150,000
Sub Total	$220,000

Administrative Services

Director to implement and manage the student leadership foundation. See Appendix I	$ 40,000
Secretarial staff (one-half time).	$ 15,000
Travel for Director and advisors to implement.	$ 15,000
Communications supplies, printing, postage, telephone, etc.	$ 10,000
Office supplies and equipment.	$ 5,000
Sub Total	$ 85,000
Grand Total	$300,000

DRAFT

STUDENT LEADERSHIP ASSOCIATION

Appropriation by Object Code

100	Salaries	$ 55,000
200	Travel	15,000
300	Contractual	5,000
400	Commodities	7,500
500	Equipment	2,500
700	Grants	220,000
	Grand Total	$300,000

WE, THE UNDERSIGNED, urge support of the House Bill being presented by Pappy Moss, District 19 Representative, relating to the $100,000.00 allotment for Vocational Student Travel.

We feel this is critical at the present time for the following reasons.

VOCATIONAL YOUTH ORGANIZATIONS ARE AN INTEGRAL PART OF THE VOCATIONAL CLASSROOM EDUCATION.

ALASKANS SHOULD BE EVER CONSCIOUS OF KEEPING ALASKA'S YOUNG PEOPLE IN ALASKA THROUGH EDUCATION.

State Officers represent the entire State of Alaska and not local organizations, once they become State Officers. Student travel is needed for State Officers of all Vocational Youth Organizations to:

1. Attend National Leadership Training Institutes provided by the various National Organizations

2. Provide leadership training for local vocational students throughout the State of Alaska.

Travel is needed for Alaska Student Delegates to attend national conferences as voting delegates and skill contestants.

We believe that this State representation is not the responsibility of the local school districts, as these young people are State Representatives. Currently there is no State funding for student travel. This places a tremendous financial burden on local communities. It often also places a financial burden on the individual students who expend their own funds to travel within their State and to their national conferences.

Vocational Youth Organizations are now being run by State Advisors who are chosen from classroom teachers: who remain full-time classroom teachers: as unpaid volunteers with little or no release time available to spend with community, business and industry to gain the support of these representative bodies.

ALL ALASKANS HAVE A RESPONSIBILITY TO TAKE A STAND AND SUPPORT THEIR YOUNG PEOPLE AND THEIR STATE BY SUPPORTING THIS BILL. THANK YOU FOR YOUR SUPPORT.

Steve Talovich
STEVE TALOVICH, FFA

Howard Lowery
HOWARD LOWERY, VICA

Eric Ho Acuna
Co FFA Advisor

KORLIN K. IAMS, DECA Kelly Williams

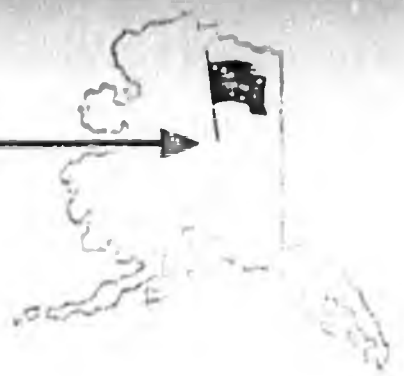
Marge Schmiege
MARGE SCHMIEGE, FHA

Bill Schrier
BILL SCHRIER, DECA

FAIRBANKS NORTH STAR BOROUGH SCHOOL DISTRICT
P.O. Box 1250, Fairbanks, Alaska 99707 (907)456-7934

DR. BRYCE STALLARD
Superintendent of Schools

GUS ZADRA
Associate Superintendent



January 25, 1980

The Honorable Pappy Moss
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Mr. Moss:

I would like to state my opposition to the proposed Section 14:07 075 of Chapter 07 regarding Student Leadership Association. It is my feeling this will only establish another level of administration, which is unnecessary in view of the fact that the Alaska School Activities Association is a presently functioning body capable of incorporating all of the needs of a Student Leadership Association within its administrative and governing structure.

Sincerely,

Charles A. Lowry
Assistant Superintendent

CAL:M
c Mr. Les Wells, Exec. Sec'y
ASAA
All Secondary Principals

Hutchison Career Center

IVAN R. GILLESPIE
Director of Vocational Education

Fairbanks North Star Borough School District
3750 Geist Road
Fairbanks, AK 99701
(901) 479-2261

February 4, 1980

State of Alaska
Pouch V
Juneau, Alaska 99811

Attention: The Honorable Pappy Moss
House of Representatives

Dear Mr. Moss:

This letter is to indicate my support for the concept of the proposed legislation of Chapter 07, Section 14:07 075 regarding Student Leadership Association.

This would provide an avenue for promotion and development, on a State-Wide Basis, of those Student Activities of a non-competitive nature. Vocational Education Student Leadership Organizations would benefit a great deal!

Yours truly,

Ivan R. Gillespie

Ivan R. Gillespie, Director
VOCATIONAL EDUCATION

IRG:bn

Pouch F, Juneau, Alaska 99811

Mark Ames
PO Box 5156
North Pole Alaska
99705

2/1/80"

Dear Sirs,

(I am intrested in receiving information on student and organization legislation.)

I am an agriculture student. I attend school here in North Pole High. I've been a student in North Pole schools for 13 years. I was told I may recive information on this particular legislation that Rep. Mr. Pappy Moss is trying, or is going to be trying to pass.

I will do everything in my power to muster up support because I feel this is for the best intrests of all Vocational students whatever they may be in. I also feel this will help myself open new intrests in the field in which I'm studying. This bill or legislation will help me provide leadership, and thus help me and many other represent there school properly.

Thank you very much, for listening to me, I hope I've influenced you alittle on the object which is:

"We the students want the passage of Student Organization legislation by Pappy Moss.

Thank You. Mark Ames N.P.A.H.

HB

782

COMMITTEE REPORT

HOUSE

2/18/80

FURTHER:

Date: 4-2-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 782

"An Act relating to local service roads and trails."

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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

HOUSE BILL 782 RELATING TO THE LOCAL SERVICE ROADS & TRAILS ACT
SPONSORED BY MALONE AND ROGERS

The Department of Transportation and Public Facilities recommends the following revisions to the proposed changes:

Section 19.30.171(b) Revise to read as follows:

> The costs incurred by the commissioner in acquiring this land or interest in land includes all costs and any fees incidental to acquisition. All costs incurred in connection with the acquisition of the land or interest in land for local governments with road powers shall be paid by the local government for which the land or interest in land is acquired. Right of way acquisition costs incurred by the commissioner for local governments without road powers is chargeable to the project allocation for the local government for which the land or interest in land is acquired.
>
> Comment: This revision is necessary to clarify the area of responsibility of funding for right of way costs. Deleted reference to relocation assistance.

Section 19.30.173 Royalty. Add the following section:

> Royalty payments required to obtain the necessary materials to construct local service roads and trails projects is a valid item of construction costs.
>
> Comment: This addition is necessary to clarify the area of responsibility of funds related to royalty payments.

Section 191.30.191(b) Revise as follows:

> Contracts for the construction of each project by the local government with road powers shall be awarded only on the basis of the lowest responsible bid submitted by a bidder meeting established criteria of responsibility.
>
> Comment: This revision is necessary to differentiate between local governments with road powers and others without.

Section 191.30.191(c) Revise as follows:

> All contracts by other than a local government with road powers awarded by competitive bidding under ( ) of this section must comply with the provisions of this section, and have the prior concurrence of the commissioner.
>
> Comment: This revision is necessary to place the responsibility of proper contract procedures with local autonomy.

Section 191.30.191(d) Add the following section:

> Except as provided in AS 44.33.300 and in (b) above, construction of each project subject to the provisions of this section shall be administered by the Department within the commissioner's guidelines.
>
> Comment: This addition is necessary to direct the local governments without road powers to a source document such as the LSR&T Handbook. The LSR&T Handbook will cover the policy and procedures necessary to carry out the LSR&T program concerning other than local governments with road powers.

March 17, 1980 / Charles D. Karella

Fiscal Note for HB 782 SUPPORT

Local Service Roads & Trails project average cost breakdown for one mile projects are as follows:

I. Right-of-Way Costs

Urban

Construction cost	$1,000,000
R/W Acquisition ($130,000 per Acre)	200,000
R/W Administration @25%	50,000
R/W Cost/Construction cost	25%

Suburban

Construction cost	$ 500,000
R/W Acquisition ($40,000 per Acre)	80,000
*R/W Administration @30%	24,000
R/W cost/Construction cost	30%

*Additional cost percentage due to some travel and additional map source such as BIM, ADL Native allotments, etc.

Remote Areas

Construction cost	$ 200,000
R/W Acquisition ($3,500 per Acre)	8,000
*R/W Administration @40%	3,200
R/W cost/Construction cost	5%

*Additional cost percentage due to more travel involved than the Suburban areas.

15% increase of project costs for Right-of-Way is anticipated reflecting $690,000 per year for a $10,000,000 bond issue.

II. Payment of Royalties. Based on royalty payments for materials, needed funding for the program follows:

Assuming that each project averages one mile and 15,000 cu. yds. is utilized per project, royalty related costs are computed as follows:

Calendar years 1981 & 1982. Each average 16 new projects in the unorganized Boroughs. Estimated cost of material at $.75/cu. yd. paid for royalties (Tanana Village Streets is set at $.55 and paid for through a special appropriation by the legislature). Cost of load count employee is $3,000 to $6,000 per month. (State employees will be base X O.H. factor of 1.77. Survey party time and travel would exceed $8,000).

15,000 cu. yd. X $.75	=	$11,250.00
Load Count Employee	=	5,000.00
TOTAL	=	$16,250.00

16 projects X $16,250 = $260,000/year.
1981 & 1982 Royalty related costs = $520,000 total.

An additional $500,000 per year increase funding is anticipated.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. H. B. 782
Title An Act relating to Local Service Roads and Trails
Requested by House State Affairs Date 3/18/80

II. FISCAL DETAIL
Agency Affected DOT/PF
Program Category Affected Transportation
BRU, Program, or Subprogram(s) Affected Highways
(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						
200	TRAVEL						
300	CONTRACTUAL		500	500			
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES		690	690			
700	GRANTS, CLAIMS, ETC.						
	TOTAL		1190	1190			

FUNDING (Thousands of Dollars)

GENERAL FUND		1190	1190			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The revision to this bill will result in payment for all right of way and royalty related costs.

IV. DATE 3/14/80 PREPARED BY Charles D. Karella
AGENCY DOT/PF
Original: Legislative Finance PHONE 364-2121
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33 001 (Rev. 12/79)

HOUSE BILL 782

TITLE: AN ACT RELATING TO LOCAL SERVICE ROADS AND TRAILS PROGRAM.

OBJECTIVES OF LEGISLATION: To grant local governments, which have assumed local road powers, increased authority/responsibility over local road criterions and the expenditure of the program's funds.

MAJOR AMENDMENTS TO PRESENT LAW: (A). Remove the discretionary authority of the commissioner of the department of transportation to withhold program money from "qualified" local governments; and power to mandate project agreements between the dept. and local governments concerning the construction of projects.

(B). Under this Act, local governments, which have adopted local road powers, may establish the design standards, right of ways, and widths, not the commissioner.

(C). The proposed language would allow the useage of program funds for the purchase of rights of ways. Present law prohibits such a useage.

SECTIONAL ANALYSIS OF HOUSE BILL 782

SEC 1 19.10.015

(B) would provide a municipality, that has assumed road powers(and will maintain said road) with the authority to designate road widths.

SEC 2 19.30.151

(A) is amended to remove reference to a date requiring a local government election. Amended version would require the transfer of L. S.R.and T's, upon approval by D.O.T., to the requesting local government.

SEC. 3 19.30.151

(B) is amended by deleting the commissioner's authority to with-hold program funds; based on his interpretation of qualification.

SEC 4 19.30.161

is amended by delegating to a local government, which has assumed road powers, the authority to establish road design standards, rights of way and widths for projects carried out under this program.

SEC 5 19.30.171

(B) is amended by deleting the requirement that the local government shall pay for the acquirement of rights of ways. Amended language would allow for the useage of program funds to acquire rights of ways.

SEC 6 19.30.181

is amended by deleting the project approval/disapproval authority of the commissioner and the requirement that the state and the appropriate local government enter into a formal project agreement. Amended language gives the local government the option to enter into a formal project agreement with the state, on any specific project.

SEC 7 19.30.191

(B) For local governments, which have not assumed road powers, amended language would delete the commissioner's authority to award contracts on a non-competitive basis. For Local governments, which have assumed local road powers, amended language deletes references to commissioner bidding participation. Furthermore, to insure that winning bids are selected upon the principle of "the lowest responsible bid", references to requirements or obligations that may be imposed upon a bidder were deleted.

SEC 8 19.30.201

technical amendments that serve to seperate D.O.T. design standards and state law, from local government design standards and ordinances.

SEC 9 19.30.211

amendment that serves to distinguish between departmental constructed and maintained roads, and those constructed by the local government. If a project is under the authorit of a local government, it will be its responsibility to insure maintenance.

SEC 10 19.30.221

(A) and (B) (With reference to 19.30.151(B), directing that funds be transfered to the appropriate local government) any reference to local governments in this section is unnecessary.

SEC 11 19.30.233 REPORTS: (A) to insure accountability, by the local governments, an annual report must be submitted to the commissioner, stating the useages of the funds monies.

(B) To insure accountability, by the department, an annual report must be submitted to the governor stating the useages of the funds monie and the status of all projects for which it has construction responsibility.

Notes

The amendments proposed are intended to provide more flexibility for the existing LJRT program. The bill as written is a "rough-cut", and may need refinement of language.

Also, the department of transportation has not been solicited for to the proposed changes. Therefore the DOT/PF may have substantial recommendations. These should be considered with respect to the responsibilities that remain with the department under the bill.

Alaska State Legislature

House of Representatives

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

February 27, 1980

M E M O R A N D U M

TO: Russ Meekins, Chairman
House Finance Committee

FROM: Mike Miller, Chairman
House State Affairs Committee

As the attached letter from Commissioner Bob Ward indicates the local service roads and trails act was created by the seventh legislature and bonds for service roads have been included in every even-year bond election since. As you can see in past years the local service road portion of the transportation bonds package has amounted to as much as 40 per cent of the total. The administration proposal for the current transportation bond program is set at $10,000,000 This is far too little to budget for one of the most successful and popular transportation programs in the state. Therefore the State Affairs Committee voted to raise the bonding for local service roads from 10 to 14.7 million dollars. Upon reflection I believe that even this is too small and would strongly recommend that additional bonding for this purpose be considered by the Finance Committee.

MM:kb

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. H. B. 782
Title An Act relating to Local Service Roads and Trails
Requested by House State Affairs Date 3/7/80

II. FISCAL DETAIL
Agency Affected DOT/PF
Program Category Affected Highways - Design and Construction
BRU, Program, or Subprogram(s) Affected Highways
(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						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES		690	690			
700 GRANTS, CLAIMS, ETC.						
TOTAL		690	690			

FUNDING (Thousands of Dollars)

GENERAL FUND		690	690			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The revision to this bill will result in payment for all right of way related costs. The above estimated costs are based only upon the proposed FY 81 CIP Bond Issue for $10,000,000.

IV. DATE 3/10/80 PREPARED BY Charles D. Karella
AGENCY DOT/PF
PHONE 364-2121

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

33-001 (Rev. 12/79)

3/12/80 COK

Fiscal Note HB 782

Local Service Roads and Trails projects average 150 per bond issue.

Average project is one mile in length.

Urban

R/W Acq (130,000 per A.) = $200,000
R/W Admin @ 25% 50,000 } 250,000
Construction @ $1,000,000 per mi.
R/W cost percentage of Const. 25%

Suburban

R/W Acq (40,000 per Acre) = $80,000
R/W Admin @ 35% 28,000 } 108,000
Construction $200,000 per mi.
R/W cost percent of Const. = 22%

Remote Areas

R/W Acq ($3,500 per Acre = $8,000
R/W Admin @ 40% 3,000 } 11,000
Construction @ $200,000 per mi.
R/W cost percent of Construction = 5%

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

DEPUTY COMMISSIONER – DESIGN AND CONSTRUCTION

POUCH Z
JUNEAU, ALASKA 99811

March 18, 1980

200H

RE: HB 782 Relating to
Local Service Roads & Trails
Act - Malone & Rogers

The Honorable Mike Miller
House of Representatives
House State Affairs Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Miller

At your hearing on March 10, 1980 discussing the referenced bill, a question was raised concerning the apparent high administration costs for right of way acquisition in Remote areas compared with Urban and Suburban areas.

In comparing the actual costs per acre for right of way acquisition, it turns out that the cost of administration in remote areas is far less than for urban areas (see figure below).

Area	Av. Cost of ROW per acre	Av Admin Cost of ROW acquisition per acre	ROW Admin. as percent of ROW Cost
Urban	$130,000	$32,500	25
Suburban	40,000	12,000	30
Remote	3,500	1,400	40

As is shown above, the percentages for ROW Administration can be very misleading and should be viewed in their proper context.

After your March 10 hearing on the proposed bill, we met briefly with Representative Malone to discuss possible amendments. As a result of that meeting we would like to recommend the attached wording for your consideration.

The major change suggested is to authorize royalty payments for materials used in constructing local service roads and trails projects. A revised fiscal note is attached which shows the added cost of royalty payments based on a $10,000,000 Capital Improvement Program for LSR&T.

JBA-T4LH

Other recommendations are intended to clarify the department's relation to local governments with, and without, road powers consistent with HB 782 as proposed.

We would be happy to discuss our comments and recommendation with you in more detail if you desire.

Sincerely,

R. D. Shumway, P.E.
Deputy Commissioner

Enclosures

cc: Representative Malone w/enc..

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS HB 782

Title An Act relating to local service roads and trails

Requested by Senate Community & Regional Affairs Committee Date 4/18/80

II. FISCAL DETAIL

Agency Affected Transportation & Public Facilities

Program Category Affected Highways - Design & Construction

BRU, Program, or Subprogram(s) Affected Highways

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

EXPENDITURES (Thousands of Dollars)

		FY 80	FY 81	FY 82	FY 83	FY 84	FY
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES		690	690			
700	GRANTS, CLAIMS, ETC.						
	TOTAL		690	690			

FUNDING (Thousands of Dollars)

GENERAL FUND		690	690			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The revision to this bill will result in payment for all right of way related costs. The above estimated costs are based only upon the proposed FY 81 CIP Bond Issue for $10,000,000.

IV. DATE 4/18/80

PREPARED BY Charles D. Karella

AGENCY DOT/PF

PHONE 364-2121

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

43 001 (Rev. 12/79)

3/12/80 CDK

Fiscal Note HB 782

Local Service Roads and Trails projects average 150 per Bond issue

Average project is one mile in length.

Urban

R/W Acq ($130,000 per A.) = $200,000
R/W Admin @ 25% 50,000 } 250,0
Construction @ $1,000,000 per mi.
R/W cost percentage of Const. 25%

Suburban

R/W Acq ($40,000 per Acre) = $80,000
R/W Admin @ 35% 28,000 } 10
Construction $200,000 per mi.
R/W cost percent. of Const. = 22%

Remote Areas

R/W Acq ($3,500 per Acre = $3,000
R/W Admin @ 40% 3,000 } 1
Construction @ $200,000 per mi,
R/W cost percent of Construction = 5%

HB 782

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

Department of Transportation and Public Facilities

DEPUTY COMMISSIONER — PLANNING AND RESEARCH

Pouch Z
Juneau, Alaska 99811

February 25, 1980

The Honorable Ray Metcalfe
Alaska House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Metcalfe:

At your request, I offer the following information concerning Capital Projects.

Bragaw, O'Malley to Huffman The department prepared an estimate of construction of this project. Our estimate is $1,750,000.00.

Northern Lights Blvd., Boniface to Muldoon The departments current estimate for this project is $5,000,000.00.

Hillside Drive, O'Malley to Abbott Paving of this route with minor widening and grade improvement is estimated at $1,000,000.00.

If this office can be of further assistance please let me know.

Sincerely,

John C. Bates

John C. Bates P.E.
Deputy Commissioner

ALASKA STATE LEGISLATURE - HOUSE OF REPRESENTATIVES

REPRESENTATIVE RICHARD I. ELIASON
P.O. BOX 143
SITKA, ALASKA 99835

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811

COMMITTEES
RESOURCES
STATE AFFAIRS

February 21, 1980
Juneau, Alaska

To: State Affairs Committee

From: Rep. Dick Eliason

Subject : Paving of Halibut road in Sitka

(4) The Department of Transportation estimates the cost to pave the road from Davidoff street to the ferry terminal is $2.4 million dollars. This covers the cost of paving, replacing guardrails and plastic striping. The length of road to be paved is 5.4 miles long, 2 inches thick and 36 feet wide, with an A.D.T. (average daily travel) rate of 1,800 people from the ferry terminal and 6,000 from the city limits.

Alaska State Legislature

House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

February 26, 1980

+1.2 miles

Memo-Rep. Miller

Regarding Holy Cross road as amended to HB 563. Holy Cross a village on the Yukon River is dependant on barge traffic for their bulk supplies. The road would lead from the village to the River . The road would also encourage growth of the village along the road. It is an eight mile all purpose road. It is to be a gravel road north of the village over tne hill to the river.

Vern Hurlbert

Rep. Vern Hurlbert

PROJECT TITLE	LOCATION(S)	AREA SERVED	ELECTION DISTRICT(S)
Holy Cross to Barge Landing	Holy Cross	Holy Cross	18

OBJ. NO(S): 1,2,4

APPROPRIATION REQUEST		OPTION 1	OPTION 2
1002	FED. RCPTS.	1,116.0	
1003	G/F MATCH		
1004	GEN. FUND		
1005	I/A RCPTS.		
	G.O. BONDS	84.0	
TOTAL		1,200.0	

OPERATIONAL COST & NO. PERSONNEL INCREASE (DECREASE)		OPTION 1 ULTIMATE ANNUAL YEAR ____	OPTION 2 ULTIMATE ANNUAL YEAR ____	PREVIOUS YR–PRIORITY
FUNDING SOURCE	FED. RCPTS.			AGENCY PRIORITY
	GEN. FUND	10.0		
				GOVERNOR'S PRIORITY
TOTAL ANNUAL OPER. COST		10.0		
POSITION (FTE)				

NARRATIVE

This project will involve the construction of approximately 8 miles of a new 20 foot wide, gravel surfaced roadway connecting Holy Cross with the barge landing. This surface transportation link will provide access to the barge landing used for movement of goods to and from Holy Cross.

CATEGORY Transportation AGENCY DOT/PF PROGRAM Highways Western Region

DI-1007 (7/78)

37 POTENTIAL CAPITAL PROJECT

REVISED DATE ____

000041

Alaska State Legislature

House of Representatives

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

February 27, 1980

M E M O R A N D U M

TO: Russ Meekins, Chairman
House Finance Committee

FROM: Mike Miller, Chairman
House State Affairs Committee

As the attached letter from Commissioner Bob Ward indicates the local service roads and trails act was created by the seventh legislature and bonds for service roads have been included in every even-year bond election since. As you can see in past years the local service road portion of the transportation bonds package has amounted to as much as 40 per cent of the total. The administration proposal for the current transportation bond program is set at $10,000,000 This is far too little to budget for one of the most successful and popular transportation programs in the state. Therefore the State Affairs Committee voted to raise the bonding for local service roads from 10 to 14.7 million dollars. Upon reflection I believe that even this is too small and would strongly recommend that additional bonding for this purpose be considered by the Finance Committee.

MM:kb

HB
806

(7)

COMMITTEE REPORT

HOUSE

4/3/80

FURTHER: JUDICIARY

Date: 4-17-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had SSHB 806

"An Act relating to heads, deputy heads, and directors of divisions of principal departments of the executive branch and to members of regulatory boards and commissions."

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)

[X] replace with CS for SSHB 806 [ ] same title [ ] new title

and recommends [illegible]

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[illegible]
[illegible]
John H Miller

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[illegible]

CHAIRMAN

H 60 (Rev. 12/78)

Introduced: 4/3/80
Referred: State Affairs and Judiciary

IN THE HOUSE BY MALONE

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 806

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

for an Act entitled: "An Act relating to heads, deputy heads, and directors of divisions of principal departments of the executive branch and to members of regulatory boards and commissions."

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

* Section 1. AS 39.50.090 is amended by adding new subsections to read:

(g) A person who served as a member of a state board or commission ~~and who was~~ as a full-time state employee during that service may not, for ~~two~~ one years after leaving that position, seek or take direct or contractual employment in a business regulated by the board or commission of which he was a member.

(h) A person who was the head or deputy head of a principal department of the executive branch or director of a division in a principal department of the executive branch may not, for ~~two~~ one years after leaving that position, seek or take direct or contractual employment in a business with which the principal department had a contract for services.

LA21 0577 12.20 JA01 0042 12.20 02/26/80

BE

16

TO: HOUSE JUDICIARY COMMITTEE CHAIRMAN PARK AND MEMBERS
HOUSE STATE AFFAIRS COMMITTEE CHAIRMAN MILLER AND MEMBERS

FM: EILEEN MONTANO, CHAIRMAN, BOARD OF NURSING, SR 10032, FDX 99701
PHONE - 479-4410 (H) 452-8101 (WK)

RE HB 906

THE BOARD OF NURSING IS OPPOSED TO THIS BILL BOARD MEMBERS NEED TO BE ACTIVE IN THE PROFESSION THEY REGULATE IN ORDER TO MAKE INTELLIGENT DECISIONS. I DOUBT MANY ACTIVELY PRACTICING NURSES COULD AFFORD OR WANT TO REFRAIN FROM PRACTICING THIER PROFESSION FOR A PERIOD OF TWO YEARS.

CAN BE CONTACTED 9 - 3:30 WORK 7 - 10 HOME

FDX LIQ/LG

For your information, from

Senator Tillion's office.

Union Chemicals Division: Nitrogen Group

Union Oil Company of California
P.O. Box 575, Kenai, Alaska 99611
Telephone (907) 776-8121

UNION 76

March 3, 1980

Representative Hugh Malone
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Mr. Malone:

Recently I received a copy of your House Bill 806 regarding department heads and board members. This bill, if enacted, will create an unworkable situation for most if not all board members.

I am a member of the State Board of Welding Examiners and also derive my livelihood in an industry regulated by the Board. I believe this holds true for all members of the Board of Welding Examiners and presume it holds true for most members of most State boards as the people in any industry are the most knowledgeable about that industry.

Part (G) of your bill states that a board member "may not seek or take employment in a business regulated by a board or commission of which he was a member" for two years after leaving that position.

Board members serve without compensation other than expenses as a civic reponsibility in order to make our state a better place in which to live.

There is absolutely no way that I or other board members could or would jeopardize our livelihoods or future earning ability to serve as a board member without compensation. To be restricted from accepting employment in my chosen field of endeavor would constitute an economic risk that I could not accept.

If this bill is enacted as written I shall be forced to tender my resignation to the board. I am sure most board members will feel the same way.

This would be comparable to a law stating that you could not accept any surveying contracts from any government entity for two years after your service in the House because you have been involved in government.

Sincerely,

G. A. Fox
Engineering Superintendent

cc: Glen V. Tillion, Senate, Pouch V, Juneau, AK 99811
Patrick M. O'Connell, House of Representatives, Pouch V, Juneau, AK 99811

Hoyle H. Hamilton
4040 Apollo Drive
Anchorage, Alaska 99504
March 7. 1980

Hon. Sarah J. Smith
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Smith:

This is in response to two similar House bills SSHB 799 and HB 806.

Both of these bills would amend AS 39.50.090 by adding a subsection which would not allow certain persons to take employment for two years in the business field associated with their position in state government.

In both bills this would apply to members of state commissions and they could not seek or take employment in a business regulated by the commission for two years after leaving the commission.

I am currently a member of the Alaska Oil and Gas Conservation Commission. A requirement for the position I hold is that I have to be a licensed professional engineer in the field of petroleum engineering. This has been my profession for the last 24 years. If either of these bills were to become law as they are currently written, then I would be unable to obtain employment in my professional field for two years following my employment with the Commission. To be deprived of one's livelihood for two years is an extreme hardship to place on anyone.

By virtue of being a licensed engineer I am already bound by statute (AS 08.01 and AS 08.48) and regulations (12 AAC 36) to "Rules of Professional Conduct."

I would like to ask that consideration be given to this matter when these bills are being reviewed.

Sincerely yours,

Hoyle H. Hamilton

Hoyle H. Hamilton
State of Alaska
Registered Professional Engineer
No. 1755-E
EP

Hoyle H. Hamilton
4040 Apollo Drive
Anchorage, Alaska 99504
March 7, 1980

Hon. Mike Miller
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Miller:

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Sincerely yours,

Hoyle H. Hamilton

Hoyle H. Hamilton
State of Alaska
Registered Professional Engineer
No. 1755-E
EP

LIBERTARIAN
REPRESENTATIVE
RICHARD (DICK) L. RANDOLPH
1105 CUSHMAN ST.
FAIRBANKS, ALASKA 99701
Phone (907) 452-2206

Alaska State Legislature

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA
99811
Phone (907) 465-4955

House of Representatives

April 1, 1980

Hoyle H. Hamilton
4040 Apollo Dr.
Anchorage, Ak 99504

Dear Mr. Hamilton,

I think your personal difficulty with SSHB 799 and HB 806 demonstrates the total inadequacy of these bills even from the point of view of people who strongly support this type of measure, because surely none of them intended to squeeze a person out of his own profession by these bills. As a first step in trying to alleviate your problem I will forward copies of your letter to the bills' sponsors to see if they can deal with this glaring problem before the bills reach the floor of the House.

As a libertarian, I have problems with the whole concept behind these pieces of legislation. In the first place, I do not believe that it is the government's business to be doing much of the regulating which it is poorly attempting to do, because the unhampered market has demonstrated time and again that it can do the job much more efficiently. Given that the state does have the task to regulate parts of the market, however, I still do not think that this sort of legislation is the proper way to prevent the abuses which can occur when government and business work closely together, because such laws punish the innocent right along with the guilty. As far as I can see, the only proper method to prevent undesirable transfers of employment from regulatory commissions to private industry is to require that prospective employees of government agencies sign agreements or contracts specifying unacceptable post-employment activities. This would be fair to all concerned, because no threat of punishment forces anyone to behave in a manner other than that to which he has agreed.

It is certainly monstrous to make these penalties apply to present commission employees ex post facto without first giving them a chance to resign.

Freedom is the issue,

Dick Randolph
Alaska's Libertarian Legislator

cc: McKinnon, Malone, Miller, Fuller, Gardiner, Parker, Eliason
Martin, Metcalfe

PAID FOR BY PRIVATE FUNDS

Hoyle H. Hamilton
4040 Apollo Drive
Anchorage, Alaska 99504
March 7, 1980

Hon. Richard L. Randolph
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Randolph:

This is in response to two similar House bills SSHB 799 and HB 806.

Both of these bills would amend AS 39.50.090 by adding a subsection which would not allow certain persons to take employment for two years in the business field associated with their position in state government.

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Hoyle H. Hamilton

Hoyle H. Hamilton
State of Alaska
Registered Professional Engineer
No. 1755-E
EP

Alaska State Legislature

HOME ADDRESS
1136 SUNSET DRIVE
FAIRBANKS, ALASKA 99701
HOME PHONE: 456-4610

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
HOME PHONE 586-3583
OFFICE PHONE 465-3799

SENATOR
GLENN HACKNEY
REPRESENTING
SENATE DISTRICT O
"ALASKA'S GOLDEN HEART"

COMMITTEES:
FINANCE

HEALTH, EDUCATION & SOCIAL SERVICES
CHAIRMAN

State Senate

March 28, 1980

Hoyle H. Hamilton
4040 Apollo Drive
Anchorage, Alaska 99504

Dear Mr. Hamilton,

Thank you for your letter of March 7 stating your objections to SSHB 799 and HB 806. Both of these bills are still in the House State Affairs Committee. I am forwarding a copy of your letter to the chairman of that House committee for his consideration.

Sincerely,

Glenn

Glenn Hackney
State Senator

cc: ✓Representative Mike Miller

Hoyle H. Hamilton
4040 Apollo Drive
Anchorage, Alaska 99504
March 7, 1980

Hon. Glenn Hackney
Alaska Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Hackney:

This is in response to two similar House bills SSHB 799 and HB 806.

Both of these bills would amend AS 39.50.090 by adding a subsection which would not allow certain persons to take employment for two years in the business field associated with their position in state government.

In both bills this would apply to members of state commissions and they could not seek or take employment in a business regulated by the commission for two years after leaving the commission.

I am currently a member of the Alaska Oil and Gas Conservation Commission. A requirement for the position I hold is that I have to be a licensed professional engineer in the field of petroleum engineering. This has been my profession for the last 24 years. If either of these bills were to become law as they are currently written, then I would be unable to obtain employment in my professional field for two years following my employment with the Commission. To be deprived of one's livelihood for two years is an extreme hardship to place on anyone.

By virtue of being a licensed engineer I am already bound by statute (AS 08.01 and AS 08.48) and regulations (12 AAC 36) to "Rules of Professional Conduct."

I would like to ask that consideration be given to this matter when these bills are being reviewed.

Sincerely yours,

Hoyle H. Hamilton

Hoyle H. Hamilton
State of Alaska
Registered Professional Engineer
No. 1755-E
EP

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

POUCH D
JUNEAU, ALASKA 99811

BOARD OF NURSING HOME ADMINISTRATORS

March 5, 1980

Representative Hugh Malone
Pouch V
Juneau, Alaska 99811

Dear Mr. Malone:

I wish to call to your attention that House Bill No. 806 which you introduced on February 18, 1980 will render the present Nursing Home Administrators Licensing Board non-functional. This, in turn, will cause severe hardships on the States administration of Nursing Homes as the NHA Board is required in order to comply with Federal Regulations to receive some $10 million in Federal Medicaide and Medicare matching funds.

The present Board consists of members comprised of:

Two Nursing Home Administrators
One Registered Nurse
Two Lay Persons

It is obvious no practicing Nursing Home Administrator or Registered Nurse would put their liveliehood and career in jeoprady for two years to accept a position on the Board no matter how dedicated they may be.

The two Nursing Home Administrators presently on the Board have indicated they would have to resign unless the legislation was amended to address such situations. I do not believe that legislation exempting present Board members is the solution since an effective Board requires such professionals to be effective.

I urge you serious consideration of the possible consequences of House Bill No. 806 as presently written.

Respectfully,

Jane Hanna

Jane Hanna
Chairperson

CC CM Webber
Ann Griggs
All Board Members
Rep. Miller (re-Dove M. Kull's conversation w/you on this matter)
Art Peterson

DB HBLH

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 806 An Act relating to heads, dep. heads, and directors
Title of divisions in depts. of the ex. branch & to members of reg. bds. &
Requested by commissions. (H) State Affairs Date April 22, 1980

II. FISCAL DETAIL

Agency Affected Commerc. and Economic Development
Program Category Affected Protection
BRU, Program, or Subprogram(s) Affected All
(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						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

There is no fiscal impact associated with passage of this bill.

IV. DATE April 22, 1980 PREPARED BY David Creekman
AGENCY Dept. of Commerce and Economic Dev.
PHONE 465-2504

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

33 001 (Rev. 12/79)

HB
883

COMMITTEE REPORT

(7)

HOUSE

2/19/80

FURTHER: FINANCE

Date: 3-21-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 883

"An Act making a special appropriation to the Office of the Governor, Reapportionment Board; and providing for an effective date."

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

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] same title

[X] replace with CS for HB 883 [ ] new title

and recommends CS-1

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

John Zeller

Tony Gardner

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Tony Gardner - do not pass

John Zeller

CHAIRMAN

H 60 (Rev. 12/78)

March 19, 1980

The Honorable Russ Meekins
Chairman
House Finance Committee
Pouch V
Juneau, Alaska 99811

Re: HB 883 - Special Appropriation to the Office of the Governor, Reapportionment Board

Dear Mr. Chairman:

Please amend the above-mentioned bill by increasing the appropriation amount in Section 1 to $204,800. The justification for the increase is attached.

Thank you for your consideration of this matter.

Sincerely,

Keith W. Specking
Legislative Assistant
to the Governor

Attachment

cc: The Honorable Mike Miller
Chairman, House State Affairs Committee, w/attachment

Jeff Morrison
Budget & Management, w/attachment

Karen Ward, Executive Director
Reapportionment Board

KWS:kms

STATE of ALASKA

MEMORANDUM

TO: Ron Lehr, Director
Division of Budget and
Management

DATE: March 18, 1980

FILE NO:

TELEPHONE NO:

FROM: Karen Ward, Executive Director
Reapportionment Board

SUBJECT: Revision of Special Appropriation - HB 883

During the March 13, 1980 meeting of the Reapportionment Board, the members approved an additional $93.6 for funding of the Reimbursable Services Agreement with the Institute of Social and Economic Research of the University of Alaska. The Board has currently entered into an RSA with the Institute for $65.5; however, payment of the entire amount of $65.5 was contigent upon legislative approval of the special appropriation.

Based on my March 13 memo to the Board (copy attached) outlining the basis for requesting the additional funding and the comments by Mr. Jack Kruse of the Institute who attended their meeting, the Board felt that in order to obtain an adequate response rate to their survey of Alaska's military population, providing a reliable data base for reapportionment purposes, they would need the additional amount of $93.6 bringing the total request for the Board to $204.8 for FY 80.

HB 883 is currently in the House State Affairs Committee. Their hearing on this appropriation is scheduled for Friday, March 21. Your prompt attention and approval of this revision is greatly appreciated.

Attachment

cc: Keith Specking
Legislative Assistant
to the Governor

KW:skf

March 13, 1980

To: Reapportionment Board

From: Karen Ward

Re: Reimbursable Services Agreement with the Institute of Social and Economic Research

Jack Kruse has informed me that several factors will necessitate a substantial increase in the amount of the RSA. The factors are these: first, the military will not make a self-administered survey to all military mandatory; second, the expected low response rate from a voluntary survey will provide data of questionable value; and, third, a random sample survey with planned follow-ups of non-respondents will be necessary to insure the acquisition of reliable data.

The random sample will be as described in Option B as set forth in ISER's revised proposal of 3-3-80. The cost of Option B will be $121,600; this constitutes an approximate increase of $93,600.

HB
906

(7)

COMMITTEE REPORT

HOUSE

2/26/80

FURTHER:

Date: 3-25-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 906

"An Act relating to the veterans' service preference under the state personnel system;"

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

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for H.B. 906 [X] same title [ ] new title

and recommends Committee Do Pass

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer, Administrative Assistant TBC

DATE: February 27, 1980

RE: House Bill 906

Relating to the veterans' service preference under the state personnel system.

House Bill 906 addresses Recommendation 12 of the Blue Ribbon Commission's Report to the Alaska Legislature, concerning the veterans' preference system in the State Personnel Act.

This bill proposes two changes in the veterans' preference system statute. The first, a housekeeping measure, designates November 7, 1975, as the final date for eligibility for preference as a veteran of the Vietnam era. This date was selected on the basis of President Ford's proclamation that the Vietnam era ended on May 7, 1975. See attached copy.

The second change limits eligibililty for veterans' preference points to a period of three years following discharge from the armed forces of the United States. The majority of the commission considered three years to be a reasonable period to assist veterans in their readjustments to civilian life and in their reentry into the civilian work force.

TBC:sp

No. 4373

May 9, 1975, 40 F.R. 20257

FIXING TERMINAL DATE RESPECTING SERVICE IN THE ARMED FORCES ENTITLING PERSONS TO CERTAIN VETERANS BENEFITS

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA
A PROCLAMATION

The Congress has provided that entitlement to certain veterans benefits be limited to persons serving in the Armed Forces during the period, beginning August 5, 1964, referred to as the Vietnam era. The President is authorized to determine the last day on which a person must have entered the active military, naval, or air service of the United States in order for such service to qualify as service during that period.

The signing of the cease-fire agreements and implementing protocols on January 27, 1973, between the United States of America and the Republic of Vietnam, on the one hand, and the Democratic Republic of Vietnam and the Provisional Revolutionary Government of the Republic of South Vietnam on the other hand, has terminated active participation by the Armed Forces of the United States in the Vietnam conflict.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, by virtue of the authority vested in me by Section 101(29) of Title 38 of the United States Code, do hereby proclaim, for the purposes of said Section 101(29), that May 7, 1975, is designated as the last day of the "Vietnam era."

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of May in the year of our Lord nineteen hundred seventy-five, and of the Independence of the United States of America the one hundred ninety-ninth.

Gerald R. Ford

HB
907

(7)

COMMITTEE REPORT

HOUSE

2/26/80 FURTHER:

Date: 4-7-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 907

"An Act relating to collective bargaining; and providing for an effective date."

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

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] same title

[ ] replace with CS for HB 907 [ ] new title

and recommends CS HB 907 by SAC

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

(7)

COMMITTEE REPORT

HOUSE

2/26/80 FURTHER:

Date: 4-7-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 907

"An Act relating to collective bargaining; and providing for an effective date."

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

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 907 [X] same title [ ] new title

and recommends CS HB 907 DO PASS

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

R. Miller
Robertson
Bill Parker
Terry Gandy
Jay Hamilton
Ray Metcalfe

MEMBERS HAVING OTHER RECOMMENDATIONS:

Terry Martin - Do not pass unless amended.

R. Miller
CHAIRMAN

Bill

Introduced: 2/26/80
Referred: State Affairs

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE HOUSE

HOUSE BILL NO. 907

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to collective bargaining; and providing for an effective date."

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

* Section 1. AS 23.40.210 is amended by adding a new subsection to read:

(b) When an agreement is entered into between an organization and the state, the agreement shall be submitted to the legislature ~~within 30 days after convening of a regular session~~ for approval of the monetary terms by appropriation or for rejection ~~by concurrent resolution. The legislature may not adjourn a regular session until it has accepted or rejected the monetary terms of an agreement submitted under this subsection~~. The monetary terms of an agreement may not take effect unless approved by appropriation by the legislature as provided in this subsection.

* Sec. 2. AS 23.40.215 is amended by adding a new subsection to read:

(b) When the monetary terms of an agreement for more than one year are approved by an appropriation and the agreement makes no provision for reopening and negotiating adjustments in those monetary terms during the life of the agreement, the appropriation shall be for the entire cost of the monetary terms to be expended in successive fiscal years in accordance with those terms over the life of the agreement, and its enactment shall constitute a contract by the state not to repeal or diminish the appropriation during the life of the agreement.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer, Administrative Assistant TBC

DATE: February 27, 1980

RE: House Bill 907

Relating to collective bargaining; and providing for an effective date.

House Bill 907 addresses the issue of legislative involvement in the collective bargaining process and implements Recommendation 4 of the Blue Ribbon Commission's Report to the Alaska Legislature.

ANALYSIS OF BILL

The purpose of this bill is to provide a system for legislative consideration of the monetary terms of the collective bargaining contracts negotiated by the state and its employees's organizations.

Section one of the bill amends the Public Employment Relations Act to implement the system of review. It provides that

-- the monetary terms of collective bargaining agreements must be approved by the legislature in order for those terms to take effect;

-- agreements between the employee organizations and the state shall be submitted to the legislature within the first 30 days of a regular session;

-- legislative review is limited to the monetary terms of the agreements;

-- the legislature approves those terms by passing the appropriation bills to fund the agreements;

-- the legislature may reject the monetary terms by adopting a Concurrent Resolution; and

-- the legislature may not adjourn a regular session until it has either accepted or rejected the monetary terms of any collective bargaining agreements which have been brought before it.

Section two of the bill addresses funding for multi-year collective bargaining agreements. It provides that the legislative appropriation which will establish legislative approval for the monetary terms is to be an appropriation for the entire life of the agreement. The legislative enactment constitutes a contract by the state not to repeal or reduce the appropriation during that time. This provision for multi-year funding applies only to agreements which make no provision for reopening and negotiating adjustments to the monetary terms during the life of the agreement.

Section three of the bill provides that the bill takes effect immediately.

DISCUSSION

The commission considered the question of how to provide a more active role for the legislature in considering the fiscal impact of collective bargaining agreements while retaining a viable negotiating system within the executive branch. The commission considered that for the legislature to negotiate directly with the public employee organizations would be excessively time-consuming, and that therefore this task was more appropriately left to the Division of Labor Relations of the Department of Administration. The commission believes that the system proposed in this bill is the most appropriate vehicle for legislative review.

The commission recommends that action on the agreements submitted to the legislature be taken expeditiously. This would insure that if the legislature rejected an agreement, there would remain time within the session for the parties to renegotiate, should they choose to do so. If they agreed to an alternative agreement, the second agreement could be submitted for legislative review of the monetary terms. Nothing in this bill precludes the parties from taking any other action they might deem appropriate, including seeking approval of a strike by an organization's membership.

Should this bill be enacted, an interim system would have to be agreed to by the parties for contracts presently in force.

TBC:sp

HB
908

(7)

COMMITTEE REPORT

HOUSE

2/26/80

FURTHER:

Date: 3-25-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 908

"An Act relating to the merit principle in state employment."

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

[X] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Terry Canales - No

CHAIRMAN

H 60 (Rev. 12/78)

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer, Administrative Assistant TBC

DATE: February 27, 1980

RE: House Bill 908

Relating to the merit principle in state employment.

House Bill 908 addresses Recommendation 1 of the Blue Ribbon Commission's Report to the Alaska Legislature concerning recognition of the components of the merit principle of employment.

The Alaska Constitution directs, in Article XII, Section 6, that "(t)he legislature shall establish a system under which the merit principle will govern the employment of persons by the state." The constitution does not identify the components of the "merit principle." During the constitutional debates, the delegates identified concepts which they believed were encompassed by that term. See Proceedings of the Alaska Constitution Convention, pages 2886-2895. The legislature incorporated those concepts into the State Personnel Act which was adopted in 1961, but did not identify specifically the essential elements. This bill places the five components of the merit principle identified during the Constitution Convention in the State Personnel Act.

Since the Public Employment Relations Act requires that all collective bargaining agreements conform to the merit principle of employment, the designation of these components of the merit principle would serve to insure that the parties to collective bargaining agreements were on notice as to the state's interpretation of that language.

These five principles are consistent with the federal Standards for a Merit System of Personnel Administration, 44 F.R. 10238. The federal standards must be met for employment of persons in any grant-in-aid program. In addition, to the five areas addressed in this bill, the federal standards include a merit principle which requires that employees be trained as needed to assure high quality performance.

TBC:sp

Alaska State Legislature

House of Representatives

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

April 21, 1980

M E M O R A N D U M

TO: State Affairs Committee Members
FROM: Kristine Harder

I received a telephone call from Bruce Cummings in the Department of Administration on friday. At one point during the committee's discussion on H.B. 908 Representative Martin requested that the committee be providing with information concerning merit increases. In 1979 approximately 97 1/2% of all state employees received merit increases. Therefore, only 2.58% did not receive merit increases.

HB
927

(7)

COMMITTEE REPORT

HOUSE

2/29/80

FURTHER: FINANCE

Date: 2-12-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 927

"An Act designating programs and activities for review and termination under AS 44.66, 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)

[X] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

do not pass

_____
CHAIRMAN

H 60 (Rev. 12/78)

(2) employ a person whose duties require expertise in determining or reducing the hazards of radiation.

(b) As used in this section, "state agency" or "agency of the state" means a state department or agency, whether in the legislative, judicial, or executive branch, including such entities as the Alaska State Housing Authority; "state agency" or "agency of the state" does not include the University of Alaska, a municipality, or an agency of a municipality.

(c) As used in this section, "radiation" does not mean radiation emitted from a Federal Communications Commission licensed facility emitting radiation of a wave length longer than one centimeter and an average power output not exceeding two kilowatts. (§ 2 ch 172 SLA 1978)

Cross reference. — As to radiation protection, see AS 18.60.475.

Chapter 66. Review of the Activities of Agencies, Boards and Commissions.

Section		Section	
10.	Termination of state boards and commissions	30.	Program identification
20.	Agency programs	50.	Legislative oversight
		60.	Existing claims

Cross reference. — As to the termination, continuation and reestablishment of regulatory boards, see AS 08.03.010.

Editor's note. — Section 1, ch. 149, SLA 1977, provides: "The legislature finds that the substantial increase in the number of state agencies, boards and commissions, and the proliferation of rules and regulations which each has adopted have contributed to a public disenchantment with the operation of state government, and that there is need for an effective and regular system of scrutiny of the programs and activities of all agencies, boards and commissions. The legislature further finds that the establishment of a system for periodic review by the public and the executive and legislative branches of certain state agencies, boards and commissions will help the governor and the legislature to determine the need for the continued existence of each of the agencies, boards and commissions."

Sec. 44.66.010. Termination of state boards and commissions. (a) Boards and commissions listed in this subsection expire on the date set out after each:

(1) Alcoholic Beverage Control Board (AS 04.05.010) — June 30, 1979;

(2) Alaska Transportation Commission (AS 42.07.011) — June 30, 1979;

(3) State Board of Parole (AS 33.15.010) — June 30, 1980;

(4) Alaska Public Utilities Commission (AS 42.05.010) — June 30, 1980;

(5) Alaska Pipeline Commission (AS 42.06.010) — June 30, 1981;

(6) Alaska Council on Science and Technology (AS 44.19.181) — June 30, 1983;

(7) Alaska Renewable Resources Corporation (AS 37.12.010) — June 30, 1982.

(b) Upon termination, a commission listed in (a) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs.

(c) A commission scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed four years. (§ 3 ch 149 SLA 1977; am § 3 ch 101 SLA 1978; am § 10 ch 1979 SLA 1978)

Effect of amendments. — The first 1978 amendment added paragraph (6) of subsection (a). The second 1978 amendment added paragraph (7) of subsection (a).

Sec. 44.66.020. Agency programs. (a) Agency programs and activities listed in this subsection which are specifically designated as provided in § 30 of this chapter are subject to termination during the regular legislative session convening in the month and year set out after each:

(1) programs in the budget categories of general government, public protection, and administration of justice — January, 1980;

(2) programs in the budget categories of education and the University of Alaska — January, 1981;

(3) programs in the budget categories of health and social services — January, 1982;

(4) programs in the budget categories of natural resources management, development and transportation — January, 1983.

(b) An agency program or activity designated in (a) of this section shall be subject to termination during the regular legislative session convening four years after the preceding review and may be subject to termination at any time upon the recommendation of the Legislative Budget and Audit Committee and the concurrence of the legislature as if under § 30 of this chapter. (§ 3 ch 149 SLA 1977)

Sec. 44.66.030. Program identification. During the legislative session preceding each of the years set out in § 20 of this chapter, the Legislative Budget and Audit Committee shall designate, not later than March 1 of those years, the programs and activities within each program category which shall be subject to termination in the next fiscal year. The recommendations of the Legislative Budget and Audit Committee shall be submitted to the respective houses of the legislature in the form of a bill which, if enacted into law, would terminate those designated programs and activities on or before July 1 of the following year. (§ 3 ch 149 SLA 1977)

Sec. 44.66.050. Legislative oversight. (a) Before the termination, dissolution, continuation or reestablishment of a board or commission under AS 08.03.010 or § 10 of this chapter, or of an agency program under §§ 20 and 30 of this chapter, a committee of reference of each house, which shall be the standing committee of legislative jurisdiction as provided in the Uniform Rules of the Legislature, shall hold one or more hearings to receive testimony from the public, the commissioner of the department having administrative responsibility for each named board, commission, or agency program, and the members of the board or commission involved. The hearings may be joint hearings. The committee shall also consider the proposed budget of the board, commission, or agency program, prepared in accordance with AS 37.07.050(f), and the performance audit of the activities of the board, commission, or agency program, prepared by the legislative audit division as prescribed in AS 24.20.271(1). The committee may consider any other report of the activities of the board, commission or program, including but not limited to annual report summaries prepared by the Legislative Affairs Agency, and any evaluation or general report of the manner of conduct of activities of the board, commission, or agency program prepared by the office of the ombudsman.

(b) During a public hearing, the board, commission or agency shall have the burden of demonstrating a public need for its continued existence or the continuation of the program, and the extent to which any change in the manner of exercise of its functions or activities may increase efficiency of administration or operation consistent with the public interest.

(c) A determination as to whether a board or commission or agency program has demonstrated a public need for its continued existence shall take into consideration the following factors:

(1) the extent to which the board, commission or program has operated in the public interest;

(2) the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters;

(3) the extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest;

(4) the extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided;

(5) the extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions;

(6) the efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved;

(7) the extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public;

(8) the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest; and

(9) the extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

(d) As to each board, commission, or agency program assigned to it for purposes of review, the committee of reference shall, not later than the 60th day of the legislative session, submit a report to the presiding officer of the house. The report shall contain a summary of the findings of the committee as to the compliance of the board, commission or program with the factors enumerated in (c) of this section, together with a summary or recommendations of the committee as to each of the following:

(1) an identification of the problems or the needs that the programs and activities of the board, commission or agency are intended to address;

(2) a statement, to the extent practicable, of the objectives of the program of the board, commission, or agency program, and its anticipated accomplishments;

(3) an identification of any other programs having similar, conflicting or duplicate objectives;

(4) an assessment of alternative methods of achieving the purposes of the program;

(5) an assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level;

(6) a justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts; and

(7) any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest.

(e) The committee of reference may introduce a bill providing for the reorganization or continuation of the board, commission or agency program. No more than one board, commission, or agency program shall be continued or reestablished in any legislative bill, and the board,

commission, or agency program shall be mentioned in the title of the bill. (§ 3 ch 149 SLA 1977)

Sec. 44.66.060. Existing claims. This chapter shall not cause the termination or dismissal of a claim or right of a citizen against a board, commission or program of an agency terminated under this chapter which is subject to litigation. Claims and rights shall be assumed by the department to which the board or commission terminated under this chapter was attached for administrative purposes. (§ 3 ch 149 SLA 1977)

Part 8. Claims and Liability.

Chapter 77. Claims Against the State.

Sec. 44.77.010. Presentation of claims.

Legislative history of section. — See State v. ZIA, Inc., Sup. Ct. Op. No. 1337 (File No. 2518), 556 P.2d 1257 (1976).

This section is only applicable after the claimant has pursued an administrative remedy. State v. ZIA, Inc., Sup. Ct. Op. No. 1337 (File No. 2518), 556 P.2d 1257 (1976).

The word "given" serves only to modify the word "services." State v. ZIA, Inc., Sup. Ct. Op. No. 1337 (File No. 2518), 556 P.2d 1257 (1976).

It is apparent that if "given" modified "money," "labor," "materials" and "supplies," each term would have a double modifier and the statute would be subject to construction not contemplated by the legislature. State v. ZIA, Inc., Sup. Ct. Op. No. 1337 (File No. 2518), 556 P.2d 1257 (1976).

For the purposes of the filing of contract claims, "promptly" is not defined in calendar terms. State v. ZIA, Inc., Sup. Ct. Op. No. 1337 (File No. 2518), 556 P.2d 1257 (1976).

If the legislature had intended to define "promptly" for other claims (including contract claims) and had a period of time in mind, it can be assumed that a reasonable legislature would have so legislated. In the absence of those intentions, no definite time limit should delimit "promptly" as applied to contract claims under subsection (a). State v. ZIA, Inc., Sup. Ct. Op. No. 1337 (File No. 2518), 556 P.2d 1257 (1976).

The legislature chose to define "promptly" only for medical claims. State v. ZIA, Inc., Sup. Ct. Op. No. 1337 (File No. 2518), 556 P.2d 1257 (1976).

Corporation's claim for damages against state for breach of contract was based on contract. — See State v. ZIA, Inc., Sup. Ct. Op. No. 1337 (File No. 2518), 556 P.2d 1257 (1976).

And was reimbursement for money expended for state. — Where, in its complaint, a corporation sought recovery against the state for money expended for labor, materials, administrative expenses, design and lost profits due to breach of contract, it sought "reimbursement for money expended . . . for the state . . ." as contemplated by this section. State v. ZIA, Inc., Sup. Ct. Op. No. 1337 (File No. 2518), 556 P.2d 1257 (1976).

Chapter 80. Liability of the State.

Article 3. Special Use of Highways.

Section

70 Special use of highways and other areas

Sec. 44.80.070. Special use of highways and other areas. When the state, or a department or agency of the state, which has control over a highway or vehicular way or area, permits a portion of the highway or

himself by the use of appropriate letters or a title after his name which represents his specific field of practice. The letters or title shall appear on all signs, stationery or other advertising in which the person offers or displays his professional services to the public. In addition, a person engaged in the practice of medicine or osteopathy under AS 08.64.360(2), or a person engaged in any manner in the healing arts who diagnoses, treats, tests, or counsels other persons in relation to human health or disease and identifies himself by using the letters "M.D." or the title "doctor" or "physician" or any other title which tends to show that the person is willing or qualified to diagnose, treat, test, or counsel another person, shall clarify the letters or title by adding the appropriate specialist designation, if any, such as "dermatologist", "radiologist", "anesthesiologist", "naturopath", or the like.

(b) A person subject to (a) of this section who fails to comply with the requirements of (a) of this section shall be given notice of his noncompliance by his appropriate licensing board. If, after a reasonable time, with opportunity for a hearing, his noncompliance continues, the board may suspend or revoke his license or registration, or administer other disciplinary action which in its determination is appropriate. (§ 1 ch 6 SLA 1973)

Sec. 08.02.020. Limitation of liability for members of licensing boards. No person is liable for damages or other relief in an action by reason of his performance of a duty, function, or activity as a member of a licensing board or by reason of a recommendation or action of the board when the person acts in the reasonable belief that his action or recommendation is warranted by facts known to him or to the board after reasonable efforts to ascertain the facts upon which the action or recommendation is made. (§ 45 ch 102 SLA 1976)

Chapter 03. Termination, Continuation and Reestablishment of Regulatory Boards

Sections

Termination, continuation and reestablishment of regulatory boards

Cross reference. — As to review of the activities of agencies, boards and commissions, see AS 44.66.010 et seq.

Editor's note. — Section 1, ch. 149, SLA 1976, provides: "The legislature finds that the substantial increase in the number of state agencies, boards and commissions, and the proliferation of rules and regulations which each has adopted have contributed to a public disenchantment with the operation of state government, and that there is need for an effective and regular system of scrutiny of the programs and activities of all agencies, boards and commissions. The legislature further finds that the establishment of a system for periodic review by the public and the executive and legislative branches of certain state agencies, boards and commissions will help the governor and the legislature to determine the need for the continued existence of each of the agencies, boards and commissions."

Sec. 08.03.010. Termination, continuation and reestablishment of regulatory boards. (a) Boards listed in this subsection have a termination date of June 30, 1979:

(1) Board of Chiropractic Examiners (AS 08.20.010);

(2) Board of Dental Examiners (AS 08.36.010);

(3) State Medical Board (AS 08.64.010);

(4) Board of Nursing (AS 08.68.010);

(5) Board of Dispensing Opticians (AS 08.71.010);

(6) Board of Examiners in Optometry (AS 08.72.010);

(7) Board of Pharmacy (AS 08.80.010);

(8) Board of Veterinary Examiners (AS 08.98.010);

(9) Board of Psychologist and Psychological Associate Examiners (AS 08.86.010);

(10) Board of Nursing Home Administrators (AS 08.70.010);

(11) Physical Therapy Board (AS 08.84.010)

(b) Boards listed in this subsection have a termination date of June 30, 1980:

(1) Board of Public Accountancy (AS 08.04.010);

(2) Board of Barber Examiners (AS 08.12.010);

(3) Collection Agency Board (AS 08.24.011);

(4) Board of Hairdressing and Beauty Culture Examiners (AS 08.28.010);

(5) Board of Electrical Examiners (AS 08.40.010);

(6) State Board of Registration for Architects, Engineers and Land Surveyors (AS 08.48.011);

(7) Guide Licensing and Control Board (AS 08.54.010);

(8) Board of Marine Pilots (AS 08.62.010);

(9) Real Estate Commission (AS 08.88.011);

(10) Board of Welding Examiners (AS 08.99.010);

(11) Board of Governors of the Alaska Bar Association (AS 08.08.01

(c) Upon termination, each board listed in (a) and (b) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs. During this period, termination does not reduce or otherwise limit the powers or authority of each board. One year after the date of termination, a board not continued shall cease all activities.

(d) The termination, dissolution, continuation or reestablishment of a regulatory board shall be governed by the legislative oversight procedures of AS 44.66.050.

(e) A board scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed four years. (§ 2 ch 149 SLA 1977)

which the order was based. State v. Smith, Sup. Ct. Op. No. 1838 (File Nos. 3797, 3893), 593 P.2d 625 (1979).

Severability of order. — Where some of the provisions of an order were limited to forbidding illegal acts and that some of them were not, and where it was possible to elide the excessive portions, it was not necessary that the entire order be vacated. State v. Smith, Sup. Ct. Op. No. 1838 (File Nos. 3797, 3893), 593 P.2d 625 (1979).

Finality of order. — An order of the superior court that merely vacated modified order of the commissioner without ruling on the original order would not have resulted in the original order becoming final. Only if the person involved had failed to request a hearing within 15 days would that result have occurred. State v. Smith, Sup. Ct. Op. No. 1838 (File Nos. 3797, 3893), 593 P.2d 625 (1979)

Chapter 02. Miscellaneous Provisions.

Sec. 08.02.020. Limitation of liability for members of licensing boards.

Cross reference. — As to constitutionality of ch. 102, SLA 1976, see notes to AS 09.55.536 and Alas. Const., art. II, § 14.

Chapter 03. Termination, Continuation and Reestablishment of Regulatory Boards.

Section		Section	
10.	Termination, continuation and reestablishment of regulatory boards	20.	Procedures governing termination, transition and continuation

Sec. 08.03.010. Termination, continuation and reestablishment of regulatory boards. (a) Boards listed in this subsection have a termination date of June 30, 1979:

(1) Board of Chiropractic Examiners (AS 08.20.010);

(2) Board of Dental Examiners (AS 08.36.010);

(3) State Medical Board (AS 08.64.010);

(4) Repealed by § 3 ch 74 SLA 1979;

(5) Board of Dispensing Opticians (AS 08.71.010);

(6) Board of Examiners in Optometry (AS 08.72.010);

(7) Board of Pharmacy (AS 08.80.010);

(8) Board of Veterinary Examiners (AS 08.98.010);

(9) Board of Psychologist and Psychological Associate Examiners (AS 08.86.010);

(10) Board of Nursing Home Administrators (AS 08.70.010);

(11) Physical Therapy Board (AS 08.84.010).

(c) The following board has the termination date provided by this subsection: Board of Nursing (AS 08.68.010) — June 30, 1983.

(d) Repealed by § 3 ch 74 SLA 1979.

(e) Repealed by § 3 ch 74 SLA 1979.

(am §§ 1, 3 ch 74 SLA 1979)

Cross reference. — For present provisions covering the subject matter of subsection (c) as it read prior to the 1979 amendment and of former subsections (d) and (e), see AS 08.03.020.

Effect of amendment. — The 1979 amendment, effective June 1, 1979, repealed paragraph (4) of subsection (a), which read: "Board of Nursing (AS 08.68.010)," rewrote subsection (c), and repealed subsections (d) and (e), which read: "The termination, dissolution, continuation or reestablishment of a regulatory board shall be governed by the legislative oversight procedures of AS 44.66.050" and "A board scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed four years," respectively.

Sec. 08.03.020. Procedures governing termination, transition and continuation. (a) Upon termination, each board listed in AS 08.03.010 shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs. During this period, termination does not reduce or otherwise limit the powers or authority of each board. One year after the date of termination, a board not continued shall cease all activities.

(b) The termination, dissolution, continuation o reestablishment of a regulatory board shall be governed by the legislative oversight procedures of AS 44.66.050.

(c) A board scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed four years. (§ 2 ch 74 SLA 1979)

Revisor's note (1979). — AS 08.03.020 as added by sec. 2, ch. 74, SLA 1979 derives from former AS 08.03.010(c), (d) and (e) which were repealed by ch. 74, SLA 1979.

Effective date. — Section 4, ch. 74, SLA 1979, makes this section effective June 1, 1979, in accordance with AS 01.10.070(c).

Chapter 08. Alaska Integrated Bar Act.

Article 2. The Board of Governors and Officers.

Sec. 08.08.080. Powers of board.

Final power and authority to determine standards for admission to the practice of law in Alaska resides in the supreme court, which has the inherent power to intercede at any time in admission matters. In re Luna, Sup. Ct. Op. No. 1503 (File No. 2789), 569 P.2d 789 (1977).

Practice of law not defined. — There is no rule defining the practice of law. Nor is there a statute defining the term except in the context of the requirements of active practice of law as a qualification for justices. In re Robson, Sup. Ct. Op. No. 1573 (File No. 3448), 575 P.2d 771 (1978).

Activities constituted practice of law in violation of supreme court's suspension order. — Where a person held himself out as a lawyer, performed legal services and gave legal advice in setting up a prepaid legal service plan, completing and filing necessary forms, signed a letter of the type usually written by an attorney with "attorney at law" printed aside his name, permitted another person to refer to him in court as his attorney without making any clarifying comments and typed and edited a newsletter indicating his availability to serve as attorney for a union and its members, the cumulative effect of these activities leads to the inescapable conclusion that he was engaged in the practice of law in violation of the supreme court's order suspending him from practice. In re Robson, Sup. Ct. Op. No. 1573 (File No. 3448), 575 P.2d 771 (1978).

Board exceeded its authority in requiring a cash deposit before allowing an unsuccessful applicant to the Alaska Bar to

Effect of amendment. — The 1973 amendment deleted "or second" preceding "class city."

Legislative committee report. — For report on ch. 53, SLA 1973 (CSHP 382), see 1973 House Journal, pp. 793, 885.

Article 4. Alaska Blue Book.

Section	Section
250. Alaska Blue Book	280. Regulations
260. Furnishing information	290. Definitions
270. Distribution	

Sec. 14.56.250. Alaska Blue Book. The division of state libraries shall compile and issue biennially, beginning in 1973, an official directory of all state officers, state departments, agencies, institutions, boards and commissions and municipal officials, to be known as the Alaska Blue Book, and include in the book information regarding the functions of these officers and agencies that are considered most valuable to the people of the state, together with other data and information that is usually included in similar publications of other states. The book shall also include official reports of state agencies in the form prescribed by the division and a synopsis of all studies undertaken by each of the agencies listed. (§ 1 ch 135 SLA 1972)

Sec. 14.56.260. Furnishing information. In order to carry out the purposes of §§ 250 — 290 of this chapter, a state or municipal official shall furnish information for inclusion in the Alaska Blue Book concerning his agency, including a concise report of activities, when requested to do so by the division. (§ 1 ch 135 SLA 1972)

Sec. 14.56.270. Distribution. (a) The division may distribute a limited number of copies of the Alaska Blue Book free of charge to libraries, schools, members of the legislature and to state and municipal officials in the state.

(b) The division shall determine a reasonable price, and charge that price for each copy of the Alaska Blue Book distributed, except for those distributed free of charge. The money collected shall be deposited in the general fund. (§ 1 ch 135 SLA 1972)

Sec. 14.56.280. Regulations. The division shall adopt regulations necessary to carry out the purposes of §§ 250 — 290 of this chapter. (§ 1 ch 135 SLA 1972)

Sec. 14.56.290. Definitions. In §§ 250 — 290 of this chapter

(1) "division" means the division of state libraries;

(2) "municipal" includes cities and organized boroughs of every class;

(3) "state agency" includes state departments, divisions, agencies, boards, associations, corporations, authorities, commissions, universities, institutions and offices. (§ 1 ch 135 SLA 1972)

Introduced: 2/29/80
Referred: State Affairs and Finance

IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND AUDIT COMMITTEE

HOUSE BILL NO. 927

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act designating programs and activities for review and termination under AS 44.66; and providing for an effective date."

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

* Section 1. LEGISLATIVE PURPOSE. The purpose of this Act is to identify and designate the agency programs and activities which will be subject to the legislative oversight process, as required under AS 44.66.030. Before the termination of an agency program identified in this Act, hearings must be held in the same manner and following the same procedures as are followed in the termination hearings for boards and commissions. This Act causes the legislative oversight procedures established for boards and commissions to be applied to the designated executive branch agency programs and activities.

* Sec 2. The following laws relating to mechanical inspection functions of the Department of Labor are repealed:

(1) AS 18.60.220 - 18.60.395 (boiler and pressure vessel inspection);

(2) AS 18.60.600(a)(2), 18.60.600(b), and 18.60.610 - 18.60.650 (electrical wiring inspection);

(3) AS 18.60.715(b), 18.60.720(b), 18.60.725, 18.60.730 and 18.60.740(4) (plumbing code inspection);

(4) AS 18.60.800(b)(2) and 18.60.820 (elevator safety inspection).

* Sec. 3. AS 18.80.010 - 18.80.160, 18.80.270 - 18.80.290, and AS 39.50.200(9)(N) (State Commission for Human Rights) are repealed.

* Sec. 4. AS 23.35 (Fishermen's Fund) is repealed.

* Sec. 5. AS 44.19.870 - 44.19.881 (division of policy development and planning, Office of the Governor) are repealed.

* Sec. 6. AS 45.50.491 - 45.50.521 (consumer protection - Department of Law) are repealed.

* Sec. 7. AS 45.50.531(b) is amended to read:

(b) A person entitled to bring an action under this section may, [AFTER INVESTIGATION BY AND APPROVAL OF THE ATTORNEY GENERAL,] if the unlawful act or practice has caused similar injury to numerous other persons similarly situated and if he adequately represents the similarly situated persons, bring an action on behalf of himself and other similarly injured and situated persons to recover actual damages. [A PERSON PLANNING TO BRING AN ACTION UNDER THIS SUBSECTION SHALL FIRST SUBMIT TO THE ATTORNEY GENERAL A COPY OF HIS PROPOSED COMPLAINT, AND HE MAY NOT FILE THE COMPLAINT IN COURT WITHOUT THE ATTORNEY GENERAL'S APPROVAL.] In an action brought under this subsection, the court may in its discretion order, in addition to damages, injunctive or other equitable relief.

* Sec. 8. AS 47.10.150, 47.10.160, and 47.10.180 - 47.10.220 (programs of the Department of Health and Social Services relating to the confinement of juveniles) are repealed.

* Sec. 9. A claim for an injury compensable under AS 23.35, repealed by this Act, may be paid by the commissioner of labor if the claim for compensation is made within one year of the effective date of this Act. A claim shall be paid in accordance with the provisions of AS 23.35 as the provisions read at the time of repeal. On July 1, 1981, the balance in the fishermen's fund (AS 23.35.060, repealed, and AS 37.05.155(a)(6)) lapses into the general fund.

* Sec. 10. The inspection responsibilities of the Department of Natural

Resources under AS 03.05 are terminated.

* Sec. 11. The inspection responsibilities of the Department of Health and Social Services under AS 18.35 are terminated.

* Sec. 12. The water inspection responsibilities of the Department of Environmental Conservation under AS 46.03 are terminated.

* Sec. 13. The responsibility of the Department of Labor under AS 18.60 for programs related to the Occupational Safety and Health Act (OSHA) is terminated.

performance audit

* Sec. 14. The Board of Fisheries, established under AS 16.05.221, is terminated.

* Sec. 15. The Board of Game, established under AS 16.05.221, is terminated.

* Sec. 16. AS 14.58.010 - 14.58.090 (relating to the Alaska Public Broadcasting Commission) are repealed. The Alaska Public Broadcasting Commission, established under AS 14.58.010, is terminated. The activities and programs of the Department of Education funded by the Alaska Public Broadcasting Commission appropriation in the fiscal year 1980 general appropriation Act, as found on page 9, line 23, of ch. 80, SLA 1979, are terminated.

* Sec. 17. AS 44.19.900 - 44.19.950 (relating to the Alaska State Council on the Arts) are repealed. The Alaska State Council on the Arts, established under AS 44.19.900, is terminated. The activities and programs of the Office of the Governor funded by the Alaska Arts Council appropriation in the fiscal year 1980 general appropriation Act, as found on page 8, lines 15-17 of ch. 80, SLA 1979, are terminated.

* Sec. 18. AS 14.20.380 - 14.20.510 (relating to the Professional Teaching Practices Commission) are repealed. The Professional Teaching Practices Commission, established under AS 14.20.380, is terminated. The activities and programs of the Department of Education funded by the Professional Teaching Practices Commission appropriation in the fiscal year 1980

general appropriation Act as found on page 8, line 29, of ch. 80, SLA 1979, are terminated.

* Sec. 19. The activities and programs of the Department of Education funded by the administrative and program support appropriation in the fiscal year 1980 general appropriation Act as found on page 8, lines 36-38 and page 9, line 4, of ch. 80, SLA 1979, are terminated.

* Sec. 20. The activities and programs of the Department of Education funded by the executive administration appropriation in the fiscal year 1980 general appropriation Act, as found on page 9, lines 30-33, of ch. 80, SLA 1979, are terminated.

* Sec. 21. The activities and programs of the Department of Education funded by the student financial aid appropriation in the fiscal year 1980 general appropriation Act, as found on page 9, line 37 and page 10, lines 4-6, of ch. 80, SLA 1979, are terminated.

* Sec. 22. AS 14.40.901 - 14.40.919 (relating to the Alaska Commission on Postsecondary Education) are repealed. The Alaska Commission on Post-secondary Education, established under AS 14.40.903, is terminated. The activities and programs funded by the Postsecondary Education Commission appropriation in the fiscal year 1980 general appropriation Act, as found on page 10, lines 7-9, of ch. 80, SLA 1979, are terminated.

* Sec. 23. The activities and programs of the Department of Commerce and Economic Development, division of economic enterprise, funded by the economic enterprise appropriation in the fiscal year 1980 general appropriation Act as found on page 36, lines 34-39, of ch. 80, SLA 1979, are terminated.

* Sec. 24. Sections 1 - 13 and sec. 24 of this Act take effect July 1, 1980.

* Sec. 25. Sections 14 - 23 and sec. 25 of this Act take effect July 1, 1981.

Original sponsor: All members of the Senate

IN THE SENATE BY THE RULES COMMITTEE

HOUSE CS FOR SENATE BILL NO. 86

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to legislative oversight and designating programs and activities for review and termination under AS 44.66; and providing for an effective date."

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

* Section 1. LEGISLATIVE PURPOSE. The purpose of secs. 1 - 16 of this Act is to identify and designate the agency programs and activities which will be subject to the legislative oversight process, as required under AS 44.66.030. Before the termination of any agency program identified in this Act, hearings must be held in the same manner and following the same procedures as are followed in the termination hearings for regulatory boards. This Act causes the legislative oversight procedures established for boards and commissions to be applied to the designated executive branch agency programs and activities.

* Sec. 2. The following laws relating to mechanical inspection functions of the Department of Labor are repealed:

(1) AS 18.60.220 - 18.60.395 (boiler and pressure vessel inspection);

(2) AS 18.60.600(a)(2), 18.60.600(b), and 18.60.610 - 18.60.650 (electrical wiring inspection);

(3) AS 18.60.715(b), 18.60.720(b), 18.60.725, 18.60.730 and 18.60.740(4) (plumbing code inspection);

(4) AS 18.60.800(b)(2) and 18.60.820 (elevator safety inspection).

* Sec. 3. AS 18.80.010 - 18.80.160, 18.80.270 - 18.80.290, and AS 39.50.-200(9)(M) (State Commission on Human Rights) are repealed.

* Sec. 4. AS 23.35 (Fisherman's Fund) is repealed.

* Sec. 5. AS 44.19.870 44.19.881 (division of policy development and planning) are repealed.

* Sec. 6. AS 45.50.491 - 45.50.521 (consumer protection - Department of Law) are repealed.

* Sec. 7. AS 45.50.531(b) is amended to read:

(b) A person entitled to bring an action under this section may, [AFTER INVESTIGATION BY AND APPROVAL OF THE ATTORNEY GENERAL,] if the unlawful act or practice has caused similar injury to numerous other persons similarly situated and if he adequately represents the similarly situated persons, bring an action on behalf of himself and other similarly injured and situated persons to recover actual damages. [A PERSON PLANNING TO BRING AN ACTION UNDER THIS SUBSECTION SHALL FIRST SUBMIT TO THE ATTORNEY GENERAL A COPY OF HIS PROPOSED COMPLAINT, AND HE MAY NOT FILE THE COMPLAINT IN COURT WITHOUT THE ATTORNEY GENERAL'S APPROVAL.] In an action brought under this subsection, the court may in its discretion order, in addition to damages, injunctive or other equitable relief.

* Sec. 8. AS 47.10.150, 47.10.160, and 47.10.180 - 47.10.220 (programs of the Department of Health and Social Services relating to the confinement of juveniles) are repealed.

* Sec. 9. A claim or an injury compensable under AS 23.35, repealed by this Act, may be paid by the commissioner of labor if claim for compensation is made within one year of the effective date of this Act. A claim shall be paid in accordance with the provisions of AS 23.35 as the provisions read at the time of repeal. On July 1 1981 the balance in the fishermen's fund (AS 23.35.060, repealed and AS 37.05.155(a)(6)) lapses into the general fund.

* Sec. 10. The inspection responsibilities of the Department of Natural

Resources under AS 03.05 are terminated.

* Sec. 11. The inspection responsibilities of the Department of Health and Social Services under AS 18.35 are terminated.

* Sec. 12. The water inspection responsibilities of the Department of Environmental Conservation under AS 46.03 are terminated.

* Sec. 13. The responsibility of the Department of Labor under AS 18.60 for programs related to the Occupational Safety and Health Act (OSHA) is terminated.

* Sec. 14. The Board of Fisheries, established under AS 16.05.221, is terminated.

* Sec. 15. The Board of Game, established under AS 16.05.221, is terminated.

* Sec. 16. AS 14.58.010 - 14.58.090 (relating to the Alaska Public Broadcasting Commission) are repealed.

* Sec. 17. AS 44.62 is amended by adding a new section to read:

Sec. 44.62.195. FISCAL NOTES ON REGULATIONS. If the adoption, amendment, or repeal of a regulation would result in the state requiring increased appropriations, the department or agency affected shall prepare an estimate of the appropriation increase for the fiscal year of adoption, amendment or repeal and for at least two succeeding fiscal years.

* Sec. 18. AS 44.62.200(a) is amended by adding a new paragraph to read:

(5) a summary of the fiscal information required to be prepared under AS 44.62.195.

* Sec. 19. AS 44.62.320(b) is amended to read

(b) At the same time a regulation is filed by the lieutenant governor, the lieutenant governor shall submit the regulation to the chairman of the Administrative Regulation Review Committee for review under AS 24.20.400 - 24.20.460 <u>together with the fiscal information</u>

required to be prepared under AS 44.62.195.

* Sec. 20. Sections 2 - 13 of this Act take effect July 1, 1980.

* Sec. 21. Sections 14 - 16 of this Act take effect July 1, 1981.

COMMITTEE REPORT

March 12, 1980

Dear Mr. Speaker:

The Committee on State Affairs has had under consideration HB 927, "An Act designating programs and activities for review and termination under AS 44.66; and providing for an effective date." Following local and teleconferenced hearings on the bill it was the decision of the Committee to amend the bill by deleting sections 2 through 6 and sections 8 through 16. Sections 2 through 6 and sections 8 through 13 were deleted because the various agencies and organizations scheduled for appraisal and "sunset" review had indeed already undergone a performance audit this year by the Legislative Audit Division. Upon consideration of the performance audits and testimony received both locally and from around the state it was decided that these particular agencies and organizations were deserving of continuation and it would not be in the best interests of the state to initiate still another performance audit or to terminate them under the terms of Alaska "sunset" legislation.

In the case of sections 14 through 16 it was recommended that the Board of Fisheries, Board of Game and Alaska Public Broadcasting Commission be amended out of the bill -- thus eliminating them from "sunset" review -- but that the three entities nevertheless be designated for performance audit by the Legislative Budget and Audit Committee.

Section 17, dealing with the Alaska State Council on the Arts, was also removed from the bill in the State Affairs Committee substitute, the feeling of the committee being that at the present time the council is undergoing a change of management and that the review would not show a "typical" operation by the council. It is suggested that with the designation of a new executive director in the very near future, the council should probably undergo a performance audit and "sunset" review next year.

Because sections 18 through 21 of the bill included specific requests for "sunset" review by members of the Budget and Audit Committee -- as authorized by the "sunset" statutes -- the State Affairs Committee made no deletions among these sections.

CHAIRMAN

•
IBEW JNU

IBEW KET

3/10/80

ATTN: TOM CASHEN

PLEASE FORWARD THE FOLLOWING MESSAGE TO MR DARRELL MILLER.

THANK YOU

FRAN

DARRELL MILLER, DIRECTOR
OCCUPATIONAL SAFETY & HEALTH
DEPARTMENT OF LABOR
SEALASKA PLAZA, 3 RD FLOOR
TEL. 465-4855

3/10/80

ATTN: REPRESENTATIVE JIM DUNCAN, CHAIRMAN
LEGISLATIVE BUDGET & AUDIT COMMITTEE

REPRESENTATIVE MIKE MILLER
ALASKA LEGISLATIVE COUNCIL

RE: SUNSET REVIEW, HOUSE BILL 927

WE STRONGLY URGE YOUR SUPPORT OF STATE ADMINISTRATION AND COMPLIANCE FOR CONTINUANCE OF ENFORCEMENT OF ALASKA OCCUPATIONAL HEALTH AND SAFETY. LOCAL COMPLIANCE OFFICER, JOE STOVER, IS A DEFINITE ASSET TO THIS AREA AND WITHOUT THE CONTINUANCE OF THE STATE OSHA OUR INSPECTION IN COMPLIANCE UNDER FEDERAL OSHA WOULD NEXT TO IMPOSSIBLE.

PEOPLE OF THIS AREA NEED THE PROTECTION IN TERMS OF OCCUPATIONAL AND HEALTH SAFETY, AND TO REVERT BACK TO FEDERAL ADMINISTRATION OF OSHA, WOULD BE A GIANT STEP BACKWARD. PLEASE DO NOT EVEN CONSIDER TAKING AWAY SOMETHING THAT THE PEOPLE OF THIS COMMUNITY WORKED HARD FOR AND DESERVE TO KEEP.

SINCERELY

FRAN BOYD
PRESIDENT
KETCHIKAN BUILDING TRADES
•
IBEW JNU

IBEW KET
V

LA61 1965 12.31 JA01 0062 12.31 03/11/80

TO: ALL MEMBERS OF THE HOUSE STATE AFFAIRS COMMITTEE

DEAR SIRS:

WE FEEL THAT THE DOSH REGULATIONS ARE ADEQUATE FOR OUR NEEDS AND THAT WE CANNOT SEE ANY NEED FOR FEDERAL REGULATIONS DOING THE SAME JOB.

HAVING LOCAL OFFICES AND PEOPLE GIVES BETTER COMMUNICATIONS AND ENABLES US TO WORK WITH LOCAL REPRESENTATIVES IN A MORE TIMELY AND LESS COSTLY MANNER.

SINCERELY,

JOHN TYHUIS, BEI
BOX 2392
KODIAK, AK. 99615

FBX/L10/MW

3

LA01 3051 14.49 JA01 0094 14.49 03/11/80

TO: SENATOR BOB MULCAHY
TO: REPRESENTATIVE FRED ZHAROFF
TO: ALL MEMBERS OF THE HOUSE STATE AFFAIRS COMMITTEE Chairman Miller

IN REGARDS TO HOUSE BILL 927 ART. 13 DROPING OF STATE OCCUPATIONAL SAFETY PROGRAM. I DO NOT SUPPORT THIS AND BELIEVE THE EXISTING PROGRA
M
SELF SERVES THE PEOPLE OF THIS STATE, WORKERS AND CONTRACTORS.

LOUIS SCHNITZER
A.J.S. CONST. INT. SUPERINTENDANT ALASKA DIV.
L.J. SCHNITZER & SONS, INC. PRES.
ALEX COAST LUMBER, INC. PRESIDENT
[illegible] MECHANICAL, INC. VICE PRES.

3

JAN 2000 14:43 JAN 2000 14:44 03/11/90

TO: SENATOR BOB HULCAN
TO: REPRESENTATIVE FRED BARRETT
TO: ALL MEMBERS OF THE HOUSE STATE AFFAIRS COMMITTEE Chairman Miller

I STRONGLY SUPPORT THE OCCUPATIONAL SAFETY PROGRAM AND URGE YOU TO SUPPORT KEEPING THE PROGRAM IN FORCE.

IDEAL PAINTING AND PAPER, INC.
P.O. BOX 127
MOSIER, OR. 97041
JOHN H. WELCH

Moore Business Forms, Inc.

JA01 2742 14.37 JA01 0089 14.37 03/11/00

3

TO: SENATOR BOB MULGAN
TO: REPRESENTATIVE FRED ZHAROFF
TO: ALL MEMBERS OF THE HOUSE STATE AFFAIRS COMMITTEE Chairman Miller

I STRONGLY SUPPORT THE OCCUPATIONAL SAFETY PROGRAM AND URGE YOU TO SUPPORT KEEP NO THE PROGRAM IN FORCE.

LLOYD D. FRIEND
VOTER AND CONCERNED CITIZEN

Introduced: 2/29/80
Referred: State Affairs and Finance

IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND AUDIT COMMITTEE

HOUSE BILL NO. 927

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act designating programs and activities for review and termination under AS 44.66; and providing for an effective date."

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

* Section 1. LEGISLATIVE PURPOSE. The purpose of this Act is to identify and designate the agency programs and activities which will be subject to the legislative oversight process, as required under AS 44.66.030. Before the termination of an agency program identified in this Act, hearings must be held in the same manner and following the same procedures as are followed in the termination hearings for boards and commissions. This Act causes the legislative oversight procedures established for boards and commissions to be applied to the designated executive branch agency programs and activities.

* Sec. 2. The following laws relating to mechanical inspection functions of the Department of Labor are repealed:

(1) AS 18.60.220 - 18.60.395 (boiler and pressure vessel inspection);

(2) AS 18.60.600(a)(2), 18.60.600(b), and 18.60.610 - 18.60.650 (electrical wiring inspection);

(3) AS 18.60.715(b), 18.60.720(b), 18.60.725, 18.60.730 and 18.60.740(4) (plumbing code inspection);

(4) AS 18.60.800(b)(2) and 18.60.820 (elevator safety inspection).

* Sec. 3. AS 18.80.010 - 18.80.160, 18.80.270 - 18.80.290, and AS 39.50.200(9)(N) (State Commission for Human Rights) are repealed.

* Sec. 4. AS 23.35 (Fishermen's Fund) is repealed.

* Sec. 5. AS 44.19.870 - 44.19.881 (division of policy development and planning, Office of the Governor) are repealed.

* Sec. 6. AS 45.50.491 - 45.50.521 (consumer protection - Department of Law) are repealed.

* Sec. 7. AS 45.50.531(b) is amended to read:

(b) A person entitled to bring an action under this section may, [AFTER INVESTIGATION BY AND APPROVAL OF THE ATTORNEY GENERAL,] if the unlawful act or practice has caused similar injury to numerous other persons similarly situated and if he adequately represents the similarly situated persons, bring an action on behalf of himself and other similarly injured and situated persons to recover actual damages. [A PERSON PLANNING TO BRING AN ACTION UNDER THIS SUBSECTION SHALL FIRST SUBMIT TO THE ATTORNEY GENERAL A COPY OF HIS PROPOSED COMPLAINT, AND HE MAY NOT FILE THE COMPLAINT IN COURT WITHOUT THE ATTORNEY GENERAL'S APPROVAL.] In an action brought under this subsection, the court may in its discretion order, in addition to damages, injunctive or other equitable relief.

* Sec. 8. AS 47.10.150, 47.10.160, and 47.10.190 - 47.10.220 (programs of the Department of Health and Social Services relating to the confinement of juveniles) are repealed.

* Sec. 9. A claim for an injury compensable under AS 23.35, repealed by this Act, may be paid by the commissioner of labor if the claim for compensation is made within one year of the effective date of this Act. A claim shall be paid in accordance with the provisions of AS 23.35 as the provisions read at the time of repeal. On July 1, 1981, the balance in the fishermen's fund (AS 23.35.060, repealed, and AS 37.05.155(a)(6)) lapses into the general fund.

* Sec. 10. The inspection responsibilities of the Department of Natural

Resources under AS 03.05 are terminated.

* Sec. 11. The inspection responsibilities of the Department of Health and Social Services under AS 18.35 are terminated.

* Sec. 12. The water inspection responsibilities of the Department of Environmental Conservation under AS 46.03 are terminated.

* Sec. 13. The responsibility of the Department of Labor under AS 18.60 for programs related to the Occupational Safety and Health Act (OSHA) is terminated.

* Sec. 14. The Board of Fisheries, established under AS 16.05.221, is terminated.

* Sec. 15. The Board of Game, established under AS 16.05.221, is terminated.

* Sec. 16. AS 14.58.010 - 14.58.090 (relating to the Alaska Public Broadcasting Commission) are repealed. The Alaska Public Broadcasting Commission, established under AS 14.58.010, is terminated. The activities and programs of the Department of Education funded by the Alaska Public Broadcasting Commission appropriation in the fiscal year 1980 general appropriation Act, as found on page 9, line 23, of ch. 80, SLA 1979, are terminated.

* Sec. 17. AS 44.19.900 - 44.19.950 (relating to the Alaska State Council on the Arts) are repealed. The Alaska State Council on the Arts, established under AS 44.19.900, is terminated. The activities and programs of the Office of the Governor funded by the Alaska Arts Council appropriation in the fiscal year 1980 general appropriation Act, as found on page 8, lines 15-17 of ch. 80, SLA 1979, are terminated.

* Sec. 18. AS 14.20.380 - 14.20.510 (relating to the Professional Teaching Practices Commission) are repealed. The Professional Teaching Practices Commission, established under AS 14.20.380, is terminated. The activities and programs of the Department of Education funded by the Professional Teaching Practices Commission appropriation in the fiscal year 1980

general appropriation Act as found on page 8, line 29, of ch. 80, SLA 1979, are terminated.

* Sec. 19. The activities and programs of the Department of Education funded by the administrative and program support appropriation in the fiscal year 1980 general appropriation Act as found on page 8, lines 36-38 and page 9, line 4, of ch. 80, SLA 1979, are terminated.

* Sec. 20. The activities and programs of the Department of Education funded by the executive administration appropriation in the fiscal year 1980 general appropriation Act, as found on page 9, lines 30-33, of ch. 80, SLA 1979, are terminated.

* Sec. 21 The activities and programs of the Department of Education funded by the student financial aid appropriation in the fiscal year 1980 general appropriation Act, as found on page 9, line 37 and page 10, lines 4-6, of ch. 80, SLA 1979, are terminated.

* Sec. 22. AS 14.40.901 - 14.40.919 (relating to the Alaska Commission on Postsecondary Education) are repealed. The Alaska Commission on Post-secondary Education, established under AS 14.40.903, is terminated. The activities and programs funded by the Postsecondary Education Commission appropriation in the fiscal year 1980 general appropriation Act, as found on page 10, lines 7-9, of ch. 80, SLA 1979, are terminated.

* Sec. 23. The activities and programs of the Department of Commerce and Economic Development, division of economic enterprise funded by the economic enterprise appropriation in the fiscal year 1980 general appropriation Act as found on page 36, lines 34-39, of ch. 80, SLA 1979, are terminated.

* Sec. 24. Sections 1 - 13 and sec. 24 of this Act take effect July 1, 1980.

* Sec. 25. Sections 14 - 23 and sec. 25 of this Act take effect July 1, 1981.

Print out of line items from SLA 1979 for HB 927:

*Sec. 16 page 9, line 23, of ch. 80, SLA 1979
Department of Education:
PUBLIC BROADCASTING COMMISSION (7 POSITIONS)
$3,844,400

*Sec. 18 page 8, line 29, of ch. 80, SLA 1979
Department of Education
SOS ASHA PAYMENTS
$286,000

*Sec. 19 page 8, limes 36-38 and
page 9, line 4, of ch. 80, SLA 1979
Department of Education
ADMINISTRATION & PROGRAM SUPPORT
ADMINISTRATIVE SERVICES (19 POSITIONS)
FINANCIAL ACCOUNTING & AUDIT (13 POSITIONS)
GENERAL OVERHEAD
$1,881,100

*Sec. 20 page 9, lines 30-33, of ch. 80, SLA 1979
Department of Education
EXECUTIVE ADMINISTRATION
COMMISSIONER (1 POSITION)
PLANNING INFORMATION & RESEARCH (13 POSITIONS)
BOARD & COMMISSIONS (2 POSITIONS)
$1,544,900

*Sec. 21 page 9, line 37 and
page 10, lines 4-6, of ch. 80, SLA 1979
Department of Education
STUDENT FINANCIAL AID
SCHOLARSHIP LOAN PROGRAM
WICHE - STUDENT EXCHANGE PROGRAM
STUDENT INCENTIVE GRANT PROGRAM
$9,269,300

*Sec, 22 page 10, lines 7-9, of ch. 80, SLA 1979
Department of Education
POST SECONDARY EDUCATION COMMISSION
GENERAL ADMINISTRATION (10 POSITIONS)
STUDENT FINANCIAL AID ADMINISTRATION (17 POSITIONS)
$1,150,700

*Sec. 23 page 36, lines 34-39, of ch. 80, SLA 1979
Department of Revenue
ECONOMIC ENTERPRISE
GENERAL OPERATIONS (23 POSITIONS)
$1,674,500

STATE OF ALASKA

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

THE LEGISLATURE

FINANCE DIVISION
POUCH WF—STATE CAPITOL

BUDGET AND AUDIT COMMITTEE

JUNEAU, ALASKA 99811

February 13, 1980

TO: The Legislative Budget and Audit Committee

FROM: Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

SUBJECT: Legislative Responsibilities for Identifying Agency Programs to be Subjected to Sunset Review

According to AS 44.66.030, the Legislative Budget and Audit Committee is to designate, not later than March 1, 1980, the programs and activities within the Education and University of Alaska Budget Categories, which shall be subject to termination in the next fiscal year. In addition, it is our interpretation that the Committee may select any program from within the Executive Branch.

The programs and sub-programs of the two agencies mentioned above are listed in Attachment A.

Suggested criteria that may be used in selecting programs are listed in Attachment B.

During the First Session of the Eleventh Legislature, the Committee selected the Board of Fisheries, the Board of Game and the Alaska Public Broadcasting Commission for termination in Fiscal Year 1981. However, the legislation passed (HCSSB 86) was subsequently vetoed by the Governor. The Committee may wish to re-elect these three agencies.

Based upon the Division's workload, it is recommended the Committee not select more than eight programs or activities for sunset review.

ATTACHMENT A

EDUCATION BUDGET CATEGORY

OFFICE OF THE GOVERNOR

Alaska Historical Commission
Alaska Arts Council

DEPARTMENT OF ADMINISTRATION

Teacher Retirement - Regular TRS State

DEPARTMENT OF EDUCATION

Financial Support Programs

Pupil Transportation
Debt Retirement - Local
Student Lunch Program
Fine Arts Camps
Tobacco Tax Distribution
Local Formula - REAA
SOS - ASHA Payments
Regional Resource Centers
Federal Programs
Tuition Students
Board Home Grants
State Contract Programs
Rural Student Vocational Program

Administration and Program Support

Administrative Services
Financial Accounting and Audit
General Overhead

Foundation Program Components

Student Administrative Support
Special Education Adjustments
Vocational Education Adjustments
Correspondence Study - DOE
Correspondence Study - Local
Community Schools Adjustments
Bilingual Program Adjustment

DEPARTMENT OF EDUCATION (cont'd)

Museums

State Library

- Regular Operations
- Anchorage Media Center
- Alaska Health Science Library
- Blue Book

Public Broadcasting Commission

Program Evaluation

- K-12 Education Program
- Career and Vocational Education
- Special Education
- Supplemental Programs

Professional Teaching Practices Commission

Executive Administration

- Commissioner
- Planning Information and Research
- Boards and Commissions

Project Educational Telecommunications

Cross-Cultural Education - Adult and Postsecondary Education

Student Financial Aid

- Scholarship Loan Program
- WICHE-Student Exchange Program
- Student Incentive Grant Program

Postsecondary Education Commission

- General Administration
- Student Financial Aid Administration

Adult Education and Vocational Training

- Adult Basic Education
- Fire Service Training
- Adult Vocational Education
- CETA Vocational Education Grants
- Grants Administration

DEPARTMENT OF EDUCATION (cont'd)

Skill Center

Vocational Rehabilitation

- Counseling and Placement
- Services to Clients
- Administration
- Specialized Facilities
- State Supported Facilities
- Disability Determination
- Employment of the Handicapped
- Independent Living Rehabilitation

UNIVERSITY OF ALASKA

Board of Regents

- Regent Staff and Support
- Faculty Sabbatical Leave Program
- Recruitment - Relocation
- Inter-collegiate Athletics

Statewide Administration

- Statewide Staff and Support
- Data Processing Services
- Risk Management
- Staff Benefits

University Center - Fairbanks Academic

- Institution
- Research and Professional Centers
- Public Service - KUAC
- Academic Support

University Center - Fairbanks Other

- Student Services
- Administration and Plant

University Center - Anchorage Academic

- Instruction
- Research and Professional Centers
- Academic Support

University Center - Anchorage Other

- Student Services
- Administration and Plant

UNIVERSITY OF ALASKA (cont'd)

University Center - Juneau Academic

- Southeast Senior College Instruction
- Juneau-Douglas Community College Instruction
- Public Service
- Academic Support

University Center - Juneau Other

- Student Services
- Administration and Plant

Community College - Statewide Administration

Anchorage Community College - Academic

- Instruction
- Public Service
- Academic Support
- Chugiak/Eagle River College Extension

Anchorage Community College - Other

- Student Services
- Administration and Plant

Kenai Peninsula Community College - Academic

- Instruction
- Academic Support

Kenai Peninsula Community College - Other

- Student Services
- Administration and Plant

Ketchikan Community College - Academic

- Instruction
- Academic Support

Ketchikan Community College - Other

- Student Services
- Administration and Plant

UNIVERSITY OF ALASKA (cont'd)

Kodiak Community College - Academic

Instruction
Academic Support

Kodiak Community College - Other

Student Services
Administration and Plant

Kotzebue Community College - Academic

Instruction
Academic Support

Kotzebue Community College - Other

Administration and Plant

Kuskokwim Community College - Academic

Instruction
Academic Support
Yupik Language Center

Kuskokwim Community College - Other

Student Services
Administration and Plant

Mat-Su Community College - Academic

Instruction
Academic Support

Mat-Su Community College - Other

Student Services
Administration and Plant

Northwest Community College - Academic

Instruction
Academic Support

UNIVERSITY OF ALASKA (cont'd)

Northwest Community College - Other

Administration and Plant

Prince William Sound Community College - Academic

Instruction
Academic Support

Prince William Sound Community College - Other

Administration and Plant

Sitka Community College - Academic

Instruction
Academic Support
Sheldon Jackson Consortium

Sitka Community College - Other

Student Services
Administration and Plant

Tanana Valley Community College - Academic

Instruction
Academic Support

Tanana Valley Community College - Other

Student Services

Rural Education

Instruction
Research and Professional Centers
Academic Support
Cooperative Extension Service

Student Loans, Scholarships

University Center
Community Colleges

Auxiliary Services

University Center
Community Colleges

UNIVERSITY OF ALASKA (cont'd)

Organized Research

- Institute of Water Resources
- Agricultural Experiment Station
- Institute of Social and Economic Research
- Center for Cross-Cultural Studies
- Arctic Environmental Information Data Center
- Mineral Industry Research Laboratory
- WAMI Medical Program
- Geophysical Institute
- Institute of Marine Science
- Institute of Arctic Biology
- Biome Center
- Cooperative Wildlife Research
- Sea Grant Porgram
- Naval Arctic Research Laboratory
- Developemnt Programs and Projects

University Debt Service - Other

- Revenue Bonds
- Other than Revenue Bonds

ATTACHMENT B

RECOMMENDED CRITERIA FOR SELECTING PROGRAMS SUBJECT TO SUNSET REVIEW

1. Duplication of program's objectives.
2. Duplication of efforts.
3. Degree of public exposure.
4. Dollars spent.
5. Dollar impact on consumer and/or private industry.
6. Availability/success of complaint function.
7. Results of assessment of alternative methods to achieve program's objectives.
8. Question of who should provide the service - State government, local government, or private sector.
9. Age of program.
10. Number of positions in program.
11. Existence of recent legislative review.
12. Indication of program deficiencies from constituent complaints and internal/external audits.
13. Source of funding.
14. Recent change in legislation affecting the responsibilities of the program.

Alaska State Legislature

House of Representatives

Committee on State Affairs

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

March 11, 1980

On Wednesday, March 19, 1980 from 1:30 to 5:00 p.m. PST the HOUSE STATE AFFAIRS COMMITTEE will hold hearings on HB 927, "An Act designating programs and activities for review and termination under AS 44.66." The hearing will be held in Room 102 of the Capitol and teleconferenced to all sites. For more information contact your local legislative information office.

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

To the attention of:
Rep. Mike Miller, Chairman
House State Affairs Committee

Attached please find copies of correspondence relative to H.B. 927, for your consideration.

Dennis Gallagher
by Corinne Jones

Member
National Safety Council

Member American Society
of Safety Engineers

Gallagher-Jones & Associates, Inc.
1025 H Street, Anchorage, Alaska 99501
Phone (907) 274-6708

February 1, 1980

Representative Russ Meekins, Jr.
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Meekins,

Please be advised that we are concerned about the possibility that the Division of Occupational Safety and Health of the State of Alaska Department of Labor be phased out.

We understand that an audit was conducted and that recommendations were made to eliminate AOSH and turn the handling of division matters back to the federal government.

We are opposed to such handling of a fire prevention phase prime concern is the welfare of all business in Alaska.

Very truly yours,

GALLAGHER-JONES & ASSOC. INC.
D. C. Gallagher, Safety Consultant

DCG:cmj
cc: Commissioner of Labor Edmund W. Orbeck

Dennis C. Gallagher, Professional Safety Engineer Consultant
GENERAL AND INDUSTRIAL SAFETY
Associate Member Alaska Chapter Associated General Contractors of America, Inc.
Certified State of Alaska First Aid Instructor
Notary Public

Member
National Safety Council

Member American Society
of Safety Engineers

Gallagher-Jones & Associates, Inc.
1025 H Street, Anchorage, Alaska 99501
Phone (907) 274-6708

February 1, 1980

Senator Bill Sumner
State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Sumner,

When we met, last fall during the AGC convention at the Captain Cook, we talked briefly about the proposed elimination of the Division of Occupational Safety and Health, State of Alaska Department of Labor. Now, with the legislature in session again, and the matter having become critical, we are concerned.

Please consider the importance of keeping the State of Alaska in control of the program, rather than committing the federal government to repair and maintain it.

Elimination of many jobs, held by capable people, is a necessary consentary on our government, particularly with such an increase in funds.

Thank you for your consideration.

Very truly yours,

D. C. Gallagher, Safety Consultant

DCG:cmj
cc: Commissioner of Labor, Edmund L. Orbeck

Dennis C. Gallagher, Professional Safety Engineer Consultant
GENERAL AND INDUSTRIAL SAFETY
Associate Member Alaska Chapter Associated General Contractors of America, Inc.
Certified State of Alaska First Aid Instructor
Notary Public

BILL SUMNER

Alaska State Senator

DISTRICT 7 E

DURING SESSION
POUCH V
JUNEAU ALASKA 99811
(907) 465 3701

OUT OF SESSION
1018 WEST 6TH AVENUE
SUITE 618
ANCHORAGE ALASKA 99501
(907) 272 4841

COMMITTEES
RESOURCES
CHAIRMAN
FINANCE
RULES
COMMITTEE ON COMMITTEES
JOINT INTERIM COMMITTEE
ON GAS PIPELINE FINANCING

February 11, 1980

D.C. Gallagher
Gallagher-Jones and Associates
1025 H Street
Anchorage, Alaska 99501

Dear Mr. Gallagher:

I appreciate your again getting in touch about possible changes in the OSHA program. Be assured I'll do everything I can to assure the state maintains its control over the program. Its record thus far has been impressive and merits the legislature's support.

Good to hear from you. Do continue to keep in touch -- I appreciate the input.

Sincerely,

Bill Sumner

BILL SUMNER
Senator

BS/cf

BILL SUMNER

Alaska State Senator

DISTRICT P E

DURING SESSION:
POUCH V
JUNEAU ALASKA 99811
(907) [illegible] 3701

OUT OF SESSION
1018 WEST 6TH AVENUE
SUITE 418
ANCHORAGE ALASKA 99501
(907) 272 4841

COMMITTEES
RESOURCES
CHAIRMAN
FINANCE
RULES
COMMITTEE ON COMMITTEES
JOINT INTERIM COMMITTEE
ON GAS PIPELINE FINANCING

February 11, 1980

D.C. Gallagher
Gallagher-Jones and Associates
1025 H Street
Anchorage, Alaska 99501

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Good to hear from you. Do continue to keep in touch -- I appreciate the input.

Sincerely,

Bill Sumner

BILL SUMNER
Senator

BS/cf

Member
National Safety Council

Member American Society
of Safety Engineers

Gallagher-Jones & Associates, Inc.
1025 H Street, Anchorage, Alaska 99501
Phone (907) 274-6708

February 1, 1980

Senator Terry Stimson
State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Stimson,

We wish to go on record as being opposed to the proposed removal of the Division of Occupational Safety and Health from the State Department of Labor, with transfer of their authority back to the Federal government.

It seems that statewide enforcement by out of state people will work a hardship on all of the business community of Alaska. Please consider this very grave matter and help to keep our capable Alaskans on their jobs.

Very truly yours,

D. C. Gallagher, Safety Consultant
GALLAGHER-JONES & ASSOCIATES, Inc.

DCG:cmj
cc: Commissioner of Labor, Edmund W. Orbeck

Dennis C. Gallagher, Professional Safety Engineer Consultant
GENERAL AND INDUSTRIAL SAFETY
Associate Member Alaska Chapter Associated General Contractors of America, Inc.
Certified State of Alaska First Aid Instructor
Notary Public

Alaska State Legislature

SENATOR
TERRY STIMSON
POUCH V
JUNEAU ALASKA 99811

WHILE IN ANCHORAGE
1610 E STREET
ANCHORAGE ALASKA 99501

Senate

February 29, 1980

D. C. Gallagher
Safety Consultant
Gallagher-Jones and
Associates Inc.
1025 "H" Street
Anchorage, Alaska 99501

Dear Mr. Gallagher,

Thank you for your letter dated February 1, 1980 in regards to the Division of Occupational Safety and Health.

I am aware of your concerns pertaining to this particular issue. I want to assure you that I also oppose the removal of the Division of Occupational Safety and Health.

For your additional information, the fourth Wednesday of each month during this session, there will be an Anchorage Democrat, District 7 teleconference. This will be held at the Anchorage Legislative Affairs Information Office at 1024 West 6th Avenue from 5:00 pm - 7:00 pm, so that constituents will be able to relay their concerns to their legislators.

Thank you for taking the time to voice your opinion on this issue. Should you have any further concerns please feel free to contact me. Your input is much appreciated.

Sincerely,

Terry Stimson
State Senator
District E

TS:lfp

Alaska State Legislature

SENATOR
TERRY STIMSON
POUCH V
JUNEAU, ALASKA 99811

WHILE IN ANCHORAGE
1610 E STREET
ANCHORAGE, ALASKA 99501

Senate

February 29, 1980

D. C. Gallagher
Safety Consultant
Gallagher-Jones and
Associates Inc.
1025 "B" Street
Anchorage, Alaska 99501

Dear Mr. Gallagher,

Thank you for your letter dated February 1, 1980 in regards to the Division of Occupational Safety and Health.

I am aware of your concerns pertaining to this particular issue. I want to assure you that I also oppose the removal of the Division of Occupational Safety and Health.

For your additional information, the fourth Wednesday of each month during this session, there will be an Anchorage Democrat, District / teleconference. This will be held at the Anchorage Legislative Affairs Information Office at 1024 West 6th Avenue from 5:00 pm - 7:00 pm, so that constituents will be able to relay their concerns to their legislators.

Thank you for taking the time to voice your opinion on this issue. Should you have any further concerns please feel free to contact me. Your input is much appreciated.

Sincerely,

Terry Stimson
State Senator
District E

TS:lfp

Member
National Safety Council

Member American Society
of Safety Engineers

Gallagher-Jones & Associates, Inc.
1025 H Street, Anchorage, Alaska 99501
Phone (907) 274-6708

February 1, 1980

Representative Bill Parker
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Parker,

There is activity going on which may mean the dissolution of the Division of Occupational Safety and Health, Department of Labor. Should that happen, many state employees would be job hunting in a labor market that is grim at best.

State handling of safety in industrial and occupational fields has been excellent. We feel that federal employees coming in could not do as capably as our Alaskans.

Thank you for your consideration and help in this matter.

Very truly yours,

D. C. Gallagher, Safety Consultant

DCG:cmj
cc: Edmund W. Grimes

Dennis C. Gallagher, Professional Safety Engineer Consultant
GENERAL AND INDUSTRIAL SAFETY
Associate Member Alaska Chapter Associated General Contractors of America, Inc.
Certified State of Alaska First Aid Instructor
Notary Public

Bill Parker

state representative

pouch V
Juneau
99811

200 denali
Anchorage
99501

February 8, 1980

D.C. Gallagher
Gallagher-Jones and Associates
1025 H St.
Anchorage, Alaska 99501

Dear Mr. Gallagher;

I received you letter of February 1, and I checked into the situation surrounding the Division of Occupational Safety and Health.

Any threat to DOSH stems from a performance review conducted by the Division of Legislative Audit last year that was critical of the practices and procedures of DOSH. The report opined that the mandatory enforcement functions of the division were redundant in light of the capability and primary legal responsibility of the Federal OSHA program. The audit recommended that the DOSH mandatory enforcement functions be terminated for that reason, and estimated the potential savings to the State at $800,000 if such action were taken. It is my understanding that this would virtually eliminate DOSH.

Additionally, SB 86, which passed the legislature last session, would make the division subject to Sunset review. However, that bill was vetoed by the governor (for technical deficiencies and not for intent), and there is no movement now to override the veto.

Darryl Miller, commissioner of DOSH, thinks that the audit does indeed pose a threat to his division, although there is no action now based on its findings. He said that DOSH is attempting to initiate public hearings on the matter to counteract what he believes to be an inaccurate audit.

I will be following this issue in the coming months. I agree that Alaska poses unique problems to business and industry, and Alaskans have the knowledge to deal with them in the best interests of the state. Please contact me if you have any other questions or concerns.

Best regards,

Bill Parker

printed at expense of Bill Parker, state representative, 800 Denali St., Anchorage 99501

Member
National Safety Council

Member American Society
of Safety Engineers

Gallagher-Jones & Associates, Inc.

1025 H Street, Anchorage, Alaska 99501
Phone (907) 274-6708

February 1, 1980

Representative Mike Pierre
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Pierre,

Of grave concern and worry is the proposed changeover from state to federal control of our Division of Occupational Safety and Health, Department of Labor. We cannot agree that the competence of state employees is less than federal personnel sent here from outside.

We feel that the needs of business and industry within Alaska can best be served by Alaskans aware of the peculiar needs and problems of our state.

Please give some serious thought to the matter and help in any way possible.

Very truly yours,

GALLAGHER-JONES & ASSOCIATES, Inc.
D. C. Gallagher, Safety Consultant

DCG:mj
cc: Commissioner of Labor

Dennis C. Gallagher, Professional Safety Engineer Consultant
GENERAL AND INDUSTRIAL SAFETY
Associate Member Alaska Chapter Associated General Contractors of America, Inc.
Certified State of Alaska First Aid Instructor
Notary Public

ALASKA STATE LEGISLATURE - HOUSE OF REPRESENTATIVES

IN SESSION

POUCH V
JUNEAU, ALASKA 99811
TELEPHONE (907) 465-4948

SUITE 1, 1020 "I" STREET
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 277-6219

REP. M. F. "MIKE" BEIRNE
DISTRICT 7, ANCHORAGE

MEMBER OF
FIFTH STATE LEGISLATURE
NINTH STATE LEGISLATURE
TENTH STATE LEGISLATURE
ELEVENTH STATE LEGISLATURE

COMMITTEES
HEALTH
EDUCATION AND
SOCIAL SERVICES
COMMITTEE FOR REVIEW
OF REGULATIONS

February 18, 1980

D. C. Gallagher, Safety Consultant
Gallagher-Jones & Associates, Inc.
1025 "H" Street
Anchorage, Alaska 99501

Dear Mr. Gallagher:

Thank you for your recent correspondence concerning your Division of Occupational Safety and Health, I appreciate receiving your views on this matter. I will study it very carefully and give it every possible consideration.

If you have further comments, please do not hesitate to contact me.

Very truly yours,

M F Beirne

M. F. "Mike" Beirne
State Representative
District 7

MFB:lmk

Member
National Safety Council

Member American Society
of Safety Engineers

Gallagher-Jones & Associates, Inc.

025 H Street, Anchorage, Alaska 99501
Phone (907) 274-6708

February 1, 1980

Repre[illegible]ative Bill Miles
House [illegible] Representatives
Couch V
Juneau, Alaska 99811

Dear Representative Miles,

We are very much opposed to the elimination of the Division of Occupational Safety and Health, a very vital part of the state Department of Labor, staffed by many capable and dedicated people.

Following an audit, the consensus seems to be that the state should turn OSH back to OSH, so that out of state personnel will come in as Alaskans lose their jobs. If this is the case as it seems to be, please be good enough to give the matter your consideration and help in keeping the program as it is.

Very truly yours,

[illegible]
D. C. Gallagher, Safety Consultant

DCG:mf
cc: [illegible]

Dennis C. Gallagher, Professional Safety Engineer Consultant
GENERAL AND INDUSTRIAL SAFETY
Associate Member Alaska Chapter Associated General Contractors of America, Inc.
Certified State of Alaska First Aid Instructor
Notary Public

Alaska House of Representatives

COMMITTEE ON NATURAL RESOURCES
POUCH V • JUNEAU ALASKA 99811

February 13, 1980

Mr. D. C. Gallagher
Gallagher-Jones and Associates, Inc.
1025 H Street
Anchorge, AK 99501

Dear Mr. Gallagher:

Thank you for your letter voicing your opposition to the elimination of the Division of Occupational Safety and Health.

I will look into the subject and see what are the pros and cons of the issue.

Please keep in touch with me; I appreciate hearing from you.

Sincerely,

Bill Miles

CO CHAIRMEN
REP. ALVIN OSTERBACK (469-3719) • REP. BILL MILES (465-3779)
VICE CHAIRMAN
REP. FRED ZHAROFF
REP. PAT CARNEY • REP. C.V. CHAT CHATTERTON • REP. SAM COTTEN
REP. DICK ELIASON • REP. JACK FULLER • REP. RICK HALFORD

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

Alaska State Legislature

House of Representatives

Committee on State Affairs

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

February 13, 1980

M E M O R A N D U M

TO: House State Affairs Committee Members

FROM: Kristine Harder

The staff continued with the teleconference on the Sunset reviews and the informal reviews of the Boards and Commissions yesterday afternoon despite the absence of the committee members. We heard testimony from two pawn brokers in Anchorage, LaVerne Cooper and Doris Steele, both of whom were irate with the Consumer Protection Agency for the same reasons expressed by the pawn brokers who testified on Monday. We also received comments from Maxine Brittell of Sitka who expressed dissatisfaction with the way the Consumer Protection Agency was handling her case. Our final testimony came from Phyllis Hendricks who testified from Soldotna that she felt stricter control was needed of the Collections Agencies.

HB
931

(7)

COMMITTEE REPORT

HOUSE

3/4/80

FURTHER:

Date: 3-12-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 931

"An Act transferring the Council on Science and Technology from the Department of Environmental Conservation to the Department of Administration; 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 HB 931 [ ] same title [X] new title

and recommends CSHB 931

[ ] AND attaches a "letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

ACST
THE ALASKA COUNCIL ON SCIENCE AND TECHNOLOGY

March 13, 1980

Representative Mike Miller, Chairman
House State Affairs Committee
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Miller:

The Alaska Council on Science and Technology, while cognizant of the intents behind H.B. 931 is very concerned with the potential implications of restating the entire statute which established the Council in the last legislature. In addition, we are concerned with specific language which might be interpreted to mean or imply that the Council is subject to the authorities of the Commissioner of Administration in subjective policy and program matters.

As you know, the Council is unique in United States experience relevant to science policy and program development in that we currently report on our activities to both the executive and legislative branches of Alaskan government. We believe that this system has worked satisfactorily thus far in our experience and should be continued so that a dialogue for responsive and progressive science policies and programs may involve the Council with the concerns of both the governor's office and the legislature.

Accordingly, we propose to you only a modest amendment to the Council's authorizing legislation contained in AS 44.21. Amendment to AS 44.21 to read:

> "Section 44.21.200 COUNCIL ESTABLISHED
>
> a) The Alaska Council on Science and Technology is hereby established. The Council is assigned to the Department of Administration for administrative purposes and services only."

Additionally, we comment that the several minor changes in AS 44.21 and the recodification of grant authorities pertinent to the Council are unnecessary per se and may unnecessarily limit future activities of the Council as originally envisioned by the legislature.

Christopher Noah, Executive Director Pouch AV, Juneau, Alaska 99811

Thank you for this consideration.

Sincerely,

T. Neil Davis
Chairman

cc: Representative Terry Gardiner
Speaker of the House

DH:TND:ljm

HB
972

(7)

COMMITTEE REPORT

HOUSE

3/24/80

FURTHER: JUDICIARY

Date: 4-21-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 972

"An Act relating to legislative procedures; 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)

[X] replace with CS for HB 972 [ ] same title [ ] new title

and recommends CS/HB 972 Do Pass

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Tony Martin-Hanson

CHAIRMAN

H 60 (Rev. 12/78)

Article 6. Agency Meetings Public.

Section
310. Agency meetings public
312. State policy regarding meetings

Sec. 44.62.310. Agency meetings public. (a) All meetings of a legislative body, of a board of regents, or of an administrative body, board, commission, committee, subcommittee, authority, council, agency, or other organization, including subordinate units of the above groups, of the state or any of its political subdivisions, including but not limited to municipalities, boroughs, school boards, and all other boards, agencies, assemblies, councils, departments, divisions, bureaus, commissions or organizations, advisory or otherwise, of the state or local government supported in whole or in part by public money or authorized to spend public money, are open to the public except as otherwise provided by this section. Except when voice votes are authorized, the vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote. This section does not apply to any votes required to be taken to organize the afore-mentioned bodies.

(b) If excepted subjects are to be discussed at a meeting, the meeting must first be convened as a public meeting and the question of holding an executive session to discuss matters that come within the exceptions contained in (c) of this section shall be determined by a majority vote of the body. No subjects may be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. No action may be taken at the executive session.

(c) The following excepted subjects may be discussed in an executive session:

(1) matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the government unit;

(2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;

(3) matters which by law, municipal charter, or ordinance are required to be confidential.

(d) This section does not apply to

(1) judicial or quasi-judicial bodies when holding a meeting solely to make a decision in an adjudicatory proceeding;

(2) juries;

(3) parole or pardon boards;

(4) meetings of a hospital medical staff; or

(5) meetings of the governing body or any committee of a hospital when holding a meeting solely to act upon matters of professional qualifications, privileges, or discipline.

(e) Reasonable public notice shall be given for all meetings required to be open under this section.

(f) Action taken contrary to this section is void. (§ 1 art VI (ch 1) ch 143 SLA 1959; am § 1 ch 48 SLA 1966; am § 1 ch 78 SLA 1968; am § 1 ch 7 SLA 1969; am §§ 1, 2 ch 98 SLA 1972; am § 2 ch 100 SLA 1972; am § 1 ch 189 SLA 1976)

Effect of amendments. — The first 1972 amendment inserted "a legislative body or" in the first sentence of subsection (a) and substituted "clearly have an adverse effect upon" for "adversely affect" in subsection (c)(1).

The second 1972 amendment inserted "a board of regents or of" near the beginning of subsection (a).

The 1976 amendment added the second and third sentences of subsection (a).

Legislative committee reports. — For legislative committee report on ch. 78, SLA 1968 (SB 395), see House Journal (1968), p. 707. For report on ch 7, SLA 1969 (HB 32), see 1969 House Journal, p. 142. For report on ch 98, SLA 1972 (SB 253), see 1972 House Journal, p. 158. For report on ch. 100, SLA 1972 (CSHB 605 am), see 1972 House Journal, p. 643.

Am. Jur. reference. — 42 Am. Jur., Public Administrative Law, § 94.

Sec. 44.62.312. State policy regarding meetings. (a) It is the policy of the state that

(1) the governmental units mentioned in § 310(a) of this chapter exist to aid in the conduct of the people's business;

(2) it is the intent of the law that actions of those units be taken openly and that their deliberations be conducted openly;

(3) the people of this state do not yield their sovereignty to the agencies which serve them;

(4) the people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know;

(5) the people's right to remain informed shall be protected so that they may retain control over the instruments they have created.

(b) Section 310(c)(1) of this chapter shall be construed narrowly in order to effectuate the policy stated in (a) of this section and avoid unnecessary executive sessions. (§ 3 ch 98 SLA 1972)

Revisor's note (1972). — AS 44.62.312(a) is based on Cal. Gov't C.A., sec. 54950.

Legislative committee report. — For report on ch. 98, SLA 1972 (SB 253), see 1972 House Journal, p. 158.

Article 7. Legislative Review of Rules.

Section

320 Legislative annulment of regulations and review

Sec. 44.62.320. Legislative annulment of regulations and review. (a) The legislature, by a concurrent resolution adopted by a vote of both houses, may annul a regulation of an agency or department.

(b) Within 45 days after a regulation is filed by the lieutenant governor, the lieutenant governor shall submit the regulation to the

Open and Executive Sessions

RULE 22. (a) All meetings of a legislative body are open to all legislators, whether or not they are members of the particular legislative body that is meeting, and to the general public except as provided in (b) of this rule.

(b) A legislative body may call an executive session at which members of the general public may be excluded for the following reasons:

(1) discussion of matters, the immediate knowledge of which would adversely affect the finances of a government unit;

(2) discussion of subjects that tend to prejudice the reputation and character of a person;

(3) discussion of a matter that may, by law, be required to be confidential.

(c) When a legislative body desires to call an executive session in accordance with (b) of this rule, the body shall first convene as a public meeting and the question of holding an executive session shall be determined by a majority vote.

(d) The provisions of this rule shall not be interpreted as permitting the exclusion of a legislator from an executive session, whether or not he is a member of the body that is meeting. A legislator not a member of the body holding an executive session shall, however, be subject to the same rules of confidentiality and decorum as pertain to regular members of the body.

(e) Minutes shall be kept of each meeting of a standing or special committee. Meetings may be electronically recorded at the option of the committee. Committee minutes and other materials of research value shall be delivered to the legislature's reference library at the end of each session for appropriate disposition.

(f) To the maximum extent feasible, the time, place and subject matter of meetings of standing or special committees shall be announced by the committee chairman in advance. The announcement should be, if possible, made on the floor of the House or Senate during sessions. Posting of notices and other forms of announcement are encouraged. The presiding officer of each house shall enforce compliance with this subsection.

Committee Referral and Action

RULE 23. (a) A committee acts on all bills referred to it and reports its actions and recommendations to the house as soon as practicable. Committee reports must be in writing and the report must be signed by a majority of the members of the committee. The report will note the recommendation of each member signing the report.

(b) When a bill is reported back by a committee without at least one "Do Pass", unless the bill has a subsequent referral or referrals of record, the presiding officer shall put the question "Shall the bill be

League of Women Voters of Alaska

April 16, 1980

Honorable Mike Miller
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Miller:

The League of Women Voters supports HB 972 with some modifications.

We believe that standardized record keeping of committee meetings should be instituted. We further believe that minutes of the meetings should be made abailable to the public in a timely manner.

However, we do have some reservations regarding the oath taking sections of the bill. We believe that requiring the representational lobbiest to swear and oath before giving testimony to a committee would intimidate the majority of citizen lobbiest so much so that they would refrain from giving testimony. We believe that committees now have statutory authority to require an oath, under certain circumstances, and we believe that authority should be invoked when the need arises.

Therefore, we would support HB 972, if the sections requiring everyone giving testimony before a committee to swear an oath are deleted.

Sincerely,

Margaret E. Holland

Margaret E. Holland
Action Chairperson

HB
1013

(7)

COMMITTEE REPORT

HOUSE

4/21/80

FURTHER: FINANCE

Date: 4-22-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HB 1013

"An Act making a special appropriation to the Department of Commerce and Economic Development for a loan to the White Pass and Yukon Corporation for upgrade of the White Pass and Yukon route; and providing for an effective date."

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

[X] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

FY '80 LWCF Local Projects

Sponsor	Project	LWCF		Bond Fund
Division of Parks	SCORP	$ 48,700		
Division of Parks	Chena Rec.	275,400		
Division of Parks	Chugach Visitor	225,000		
Division of Parks	Cohoe Wayside	162,820		
Division of Parks	Silver King	129,200		
Division of Parks	Kachemak Acq.	100,000		
		$941,120		
LOCAL PROJECTS				
ADF&G	Rifle Range	75,000		
Anchorage	Fish Creek Amend.	126,880	funded	
Anchorage	Lynn Ary	75,000		
Anchorage	Taylor & Tarwater	175,000		
Anchorage	Cheney Dev.	50,000		
Anchorage	Huffman	235,000		
Anchorage	Seppala	50,000		
Anchorage	Creekside	75,000		
Anchorage	Hamilton	20,000		
Barrow	Outdoor Recreation	96,500		48,250
Cordova	Nirvana	56,000		28,000
Cordova	Harborview	49,400		
Craig	Tot-Lots	14,500		7,250
English Bay	Recreation Area	25,000		12,500
Haines	Tlingit Amend.	2,500	funded	
Homer	Sportsfield	15,000		
Ketchikan	Dudley Amend.	41,093	funded	
Mat-Su	Butte Trail	14,040		
Mat-Su	Field Shelters	21,924		
Mat-Su	Houston Camper	17,763		8,881.50
Mat-Su	Lazy Mt. Trail	36,244		
Mat-Su	Storage Building	20,800		
Mat-Su	Talkeetna Park	12,818		
Mat-Su	Tot-Lot	2,500		
Mat-Su	Palmer Multi-Use	20,800		
Mat-Su	Trapper Creek	12,142		
Mat-Su	Wasilla Lake	46,800		23,400
Mat-Su	Wasilla Townsite	15,600		7,800
Nome	Recreation Area	55,055		13,169*
Nulato	Recreation	12,500		6,250
Port Graham	Aleut Baseball	18,200		9,100
Saxman	Playground	10,000		5,000
Valdez	Neighborhood Park	30,000		
Wrangell	Baseball	13,350		6,675
Yakutat	Recreation Area	99,580		24,895*
		$1,641,989		$201,170.50
Not to be funded at this time:				
Mat-Su	West Park			
Delt. Jct.	Bike Trail	$2,442,161		FY 80
Anchorage	Demond Est.			
Denali Funding:				
Bethel	Outdoor Rec. Ph II	$165,000		Denali Development from FY 79 apportionment balance
Craig	Camper Park			
Mat-Su	Four Tot Lots			
Mat-Su	Wasilla Historic Park			
Port Penrhsula	Kibishli Ph II			

*Bond funding is less than 50% of LWCF funding.

Alternate State Liaison Officer

November 16, 1979
(Date)

Alaska State Legislature

House of Representatives

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

Reel #41 - Side 1 - 1172
April 16, 1980 1:30 p.m. - Wednesday

Present: Miller, Martin, Eliason, Gardiner, Fuller, Parker
Absent: Metcalfe

Special hearing with Division of Parks regarding federal cuts in National Historic Preservation Grant Program.

Testifying: William S. Hanable, State Historic Preservation Officer

Mr. Hanable presented a brief overview of the cut that was made by the federal government in the National Historic Preservation Grant Program on April 1, 1980. Usually in October the state starts making preparation for grants and in March receives notification of the hard figures which will be available for the state. This year notification was given in March that funds were available and the state notified applicants that their proposals were approved. On April 1 the federal government by direction of President Carter froze many federal grant programs. At this time the state was notified that any grants not already under agreement were not to be funded. This amounted to $367,000 lost to the state. The Planning and Survey grants were under one blanket agreement with the state from which sub-grants were made. The Planning and Survey grants do not require architectural plans to be pre-filed before money is made available. However, the individual project grants require architectural plans to be filed and approved before receiving grant funds. This resulted in these projects being left without funds. Some of these individuals had already incurred expenses in getting the architectural plans drawn up and some had borrowed money for the matching 50 per cent required for these grants. This left the projects only funded by the 50 per cent matching.

Funds under agreement	$365,000	planning and survey grants
Funds cut	$367,000	individual projects

Mr. Hanable would not recommend funding by individual project, as this would not allow for those projects going a little bit over or under. The list which is attached to his (Mr. Hanable's) letter is the priority list.

It was decided to send a committee bill up to finance. One objection was noted -- Rep. Martin objected on the grounds that it would set a dangerous precedent for funding all federal programs which may be cut in the future.

DO PASS: Miller, Eliason, Parker, Gardiner, Fuller
DO NOT PASS: Martin

#1387

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

274-4676

619 Warehouse Dr., Suite 210
Anchorage, Alaska 99501

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF PARKS

April 15, 1980

Re: 3800-80

Honorable Mike Miller
Chairman, House State Affairs Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Miller:

I appreciate the invitation to report to your committee on the National Historic Preservation Fund grant program in Alaska.

Since 1969, Alaska has received over $2,000,000 in federal dollars from the Fund for historic site identification and restoration. Those dollars have been allocated to 119 projects with a total value of over $4,100,000. Project allocations have ranged from Ketchikan to Barrow and from Kennecott to Atka. Eighty percent of the projects have been in the local government and private sectors. Twenty percent have been State projects.

Twenty-five applicants requested over 1.9 million dollars for development projects in 1980. Alaska's allocation from the federal fund--for development uses--in 1980 was $367,000. The State Historic Sites Advisory Committee allocated the available money to 15 applicants. On April first, President Carter's budget cuts pulled the rug from under them. Although the State had received documents from the U. S. Department of the Interior advising that Alaska would receive $367,000 in development funds for historic preservation projects in 1980, the money was withdrawn due to the budget cuts.

Quite apart from the fact that the funds were to be used to stabilize significant historical buildings, and that stabilization must now be delayed indefinitely, the withdrawl of funds is also resulting in personal hardship for Alaskans. Many of the grant applicants spent considerable time and money in developing their requests for the federal funds; and, after we had notified them that the Historic Sites Advisory Committee had assigned funds to their projects, spent even more money on atchitectural fees and so forth. At least one prospective recipient of the grant dollars is now--having needed "front" money for her project--faced with a bank loan at 19½% interest for total project costs.

A mechanism exists by which the Legislature can provide relief for these 15 Alaskans. AS 41.35.040 authorizes State grants for privately owned historic sites, to be used for stabilization and restoration. An appropriation to the Department of Natural Resources for that purpose could do two things: (1) assist the Alaskans who were adversely impacted by the Presidential cuts in the federal grant program; (2) help to preserve the Historic buildings in question.

If the Legislature chooses to make such an appropriation, the State Historic Sites Advisory Committee--which is charged with allocating AS 41.35.040 funds to specific projects--has pledged to assign the appropriation dollars to those 15 applicants who had the rug pulled from under them by President Carter.

Because of that pledge, and because our experience has been that nearly every project will require some change, I recommend than an appropriation, if made, be written as a total dollar amount to the AS 41.35.040 grant program, rather than specifying particular projects. This will allow some flexibility as plans change, while assuring that the Alaskans hurt by the federal action are assisted.

Thank you.

Sincerely,

William S Hanable

William S. Hanable, Chairman
State Historic Sites Advisory Committee

WSH:at

enclosure

cc: Members, House State Affairs Committee
Alaska State Legislature

PROJECTS WHICH WERE ALLOCATED, BUT HAVE LOST FEDERAL MATCHING GRANT FUNDS DUE TO PRESIDENT CARTER'S BUDGET CUTS

Project	Owner	Historical Significance
Pact Train Inn, Skagway, Phase III ($29,000 received in FY 78, $115,000 received in FY 80) continued stabilization of structure; foundation work, roofing.	Mrs. Shelia Brena Skagway	Built in 1908, this is one of the dominant architectural features of the Skagway Historic District.
Dedman's/Keller Curio Shop, Skagway Tentative prior approval to begin work. $34,775 for foundation, heating, insulation, and roofing, Architectural planning.	Ms. Barbara Kalen Skagway	Built in 189[illegible] this originally housed the studio of [illegible] A. Hegg, famous photographer.
Seattle Hotel, Skagway $5,042 for window repair and replacement of siding.	Mr. Steven Jaklitsch Skagway	An early gold rush building, this is one of several smaller commercial structures which contribute to the historical character of Skagway.
Rainey/Skarland Cabin $4,160 for exterior repair, roof replacement and insulation, fire alarm installation.	University of Alaska Fairbanks	This small cabin was built for noted anthropologist Froelich Rainey, and since then has housed many of his professional colleagues who have contrib- history.
Red Onion Curio Shop $8,025 for architectural planning, sprinkler system, wiring, heater installation.	Ms. Janice Wrentmore Skagway	An early Skagway saloon, this colorful structure is being restored by its owner.
McCarthy Powerhouse, Phase II $11,385 for structural repairs, roof window, wall repairs.	Haven Holsapple Hondo Rast and Co. Hamilton, Montana	Built to increase production of the Motherlode Mine before its takeover by giant Kennecott, this was the first and only powerplant at McCarthy.
Independence Mine Stabilization, $75,500 Architectural planning, historical research, emergency stabilization. (Special approval secured for use of donated vale of property over two year period.	Alaska Division of Parks Anchorage	The second largest gold lode mine operation in Alaska, this extensive complex has been given to the State for development as an historical park.

Project	Owner	Historical Significance
Chitina Tin Shop $25,070 for architectural planning, structural engineering, and emergency stabilization. Tentative prior approval secured.	Mr. Art Koeninger, Owner Chitina	Originally constructed to supply tin ware for the great Kennecott Mines to the east, this building now serves as a small craft shop.
Knik Museum, Phase II, $39,790 for roof repair, weather damage, foundation work.	Matanuska-Susitna Borough Palmer	At first a roadhouse on the Iditarod Trail, this is now a dog mushing museum.
Kennecott #8, Richards $4,500 for repair, interior.	Chris R. Richards Kennecott via Glenallen	Among the many buildings surviving from the Kennecott copper operation, these are in private ownership today, held by owners who value their historical character.
Kennecott #38, Doherty/Sloan, $3,769 for roof repair, foundation replacement, transportation.	J. B. Doherty/Susan Sloan Kennecott via Glenallen	" " "
Kennecott #79, Kirkwood, $9,897 for roofing, foundation, paint and rebuilding front steps.	Richard W. Kirkwood Kennecott via Glenallen	" " "
St. Peter's See House, Phase II, $669 for emergency wiring.	St. Peter's Church Episcopal Bishopric of Alaska	Planned and partially built as the attractive parish and first headquarters of the Episcopalian church in Alaska by the renowned Bishop Peter Trimble Rowe.
McCarthy General Store, Phase III $12,675 for plumbing, wiring, shelving, painting.	Sally Gibert Anchorage	Pioneer meatmarket, hardware and general store, this was a major commercial structure in the Kennecott mines satellite city of McCarthy.
St. Michael's Cath[illegible] Reconstruction, Phase V, $26,750 for icon restoration, inventory, evaluation.	St. Michael's Cathedral Bishopric of Sitka and Alaska Orthodox Church in America	Smoke damaged by the tragic 1966 fire which destroyed the original St. Michael's Cathedral at Sitka, these icons will be the finishing reconstruction project after their preservation treatment.

Total - $367,007

TELEGRAM

APR 80 4: 20

02149 ANCHORAGE ~~ALASKA 03 04=03~~ 325P AST

PMS THE RED ONION STABILIZATION

MS JANICE C WRENMORE OWNER THE RED ONION

PO BOX 271 00691

SKAGWAY AK 99840

PRESIDENT CARTER HAS CUT NATIONAL HISTORIC PRESERVATION GRANT PROGRAM BY 16.5 MILLION DOLLARS. FEDERAL GOVERNMENT IS UNABLE TO HONOR PREVIOUS COMMITTMENT OF GRANTS TO STATE. AS A RESULT, YOUR GRANT PROJECT OF DLRS8,025 FROM FY80 FUNDS CANNOT BE FUNDED.

IF YOU WISH TO CONTINUE APPLICATION ON CHANCE THAT CONGRESS MAY RESTORE FUNDS, PREVIOUS DEADLINES APPLY. MORE INFORMATION WILL FOLLOW BY MAIL WHEN AVAILABLE.

WILLIAM S HANABLE

STATE HISTORIC PRESERVATION OFFICER

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF PARKS

619 Warehouse Dr., Suite 210
Anchorage, Alaska 99501

Re: 3800-80 Historic Preservation Grants-in-Aid Program
The Red Onion Stabilization

Ms. Janice C. Wrentmore, Owner
The Red Onion
P.O. Box 271
Skagway, Alaska 99840

Dear Ms. Wrentmore:

The Heritage Conservation and Recreation Service has notified us of Alaska's Fiscal Year 1980 apportionment under the Historic Preservation Grants-in-Aid Program.

Therefore, in accord with national preservation objectives and priorities recommended by the Historic Sites Advisory Committee, this document serves as notice that $8,025 in Federal funding has been allocated for The Red Onion Stabilization under the Historic Preservation Grants-in-Aid Program.

Funding constraints of the Historic Preservation Grants-in-Aid Program demand plans and specifications required for project initiation be in our office as soon as possible. At the latest, plans and specifications must be in our office at the close of business, Friday afternoon, May 30, 1980. Under no circumstances can this deadline be extended.

The only costs that will be recoverable are those incurred after federal approval of plans and specifications and execution of the formal grant agreement.

Please contact us if you have questions.

Sincerely,

William Hanable

William S. Hanable
State Historic Preservation Officer

LSG clk

Please note -
I already have incurred @ $2000
in architectural cost in order to comply
with request requirements related to
the commitment made to me for a grant.
Jan Wrentmore

TELEGRAM

3 APR 80 4:20

02149 ANCHORAGE ~~ALASKA 03 04-03~~ 325P AST

PMS THE RED ONION STABILIZATION

MS JANICE C WRENTMORE OWNER THE RED ONION

PO BOX 271 09891

SKAGWAY AK 99840

PRESIDENT CARTER H CUT NATIONAL HISTORIC PRESEGVATION GRANT PROGRAM BY 16.5 MILLION DOLLARS. FEDERAL GOVERNMENT IS UNABLE TO HONOR PREVIOUS COMMITTMENT OF GRANTS TO STATE. AS A RESULT, YOUR GRANT PROJECT OF DLRS6,025 FROM FY80 FUNDS CANNOT BE FUNDED.

IF YOU WISH TO CONTINUE APPLICATION ON CHANCE THAT CONGRESS MAY RESTORE FUNDS, PREVIOUS DEADLINES APPLY. MORE INFORMATION WILL FOLLOW BY MAIL WHEN AVAILABLE.

WILLIAM S HANABLE

STATE HISTORIC PRESERVATION OFFICER

1980 GRANT PROGRAM STATUS

Ed Crittenden moved that the FY 1980 grant priorities be revised as follows:

Pack Train Inn	$115,000	
Dedmons Photo	34,775	
Seattle Hotel	5,042	
Rainey Skarland Cabin	4,159	
Red Onion	8,025	
Eagle's Hall	5,350	(Planning Grant)
Golden North Hotel	6,150	(Planning Grant)
Fairbanks F.O.B	82,134	(Planning Grant)
Bergmann Hotel	24,893	(Planning Grant)
Independence Mine	183,500	
Knik Museum Ph II	80,663	
Chitina Tin Shop	25,070	
Wasilla Elementary School	4,642	
Kennicott #38	3,769	
McCarthy Powerhouse	11,385	
Knik Bar	37,657	
Kennicott #79	9,897	

Motion was seconded by Richard Engen, whose proxy vote was cast by Ed Crittenden. Committee approved the motion unanimously. Marian Johnson moved an amendment to delete Fairbanks F.O.B. because it had already been awarded a planning grant. Seconded by Richard Engen, Ed Crittenden casting the proxy vote. The amendment was approved unanimously.

Break for dinner: 4:45 p.m.

Reconvene: 7:30 p.m.

Committee members in attendance for the evening session were: Chairman William Hanable, Marian Johnson, Ed Crittenden, Renee Blahuta, Anne Shinkwin, Richard Engen, and Chris D'Arcy. Also present were Jan Wrentmore, Gerald Clark, Michael Kennedy, and Bob Mitchell.

AMERICAN CEMETERY, KODIAK

Marian Johnson moved that the American Cemetery, Kodiak be determined to meet the criteria of eligibility under A.
Richard Engen seconded with criteria A qualified by D.
Motion passed unanimously.

HULL AK7258-BRISTOL BAY DOUBLE ENDER

Ed Crittenden moved that Hull AK7258 be determined to meet the criteria of eligibility under C. Seconded by Marian Johnson. Discussion followed. Voting on motion was: Ed Crittenden, Marian Johnson, Anne Shinkwin, in favor; Renee Blahuta, opposed. Richard Engen abstained. Richard Engen moved that nomination be tabled pending introduction of further information. Renee Blahuta seconded. Motion passed unanimously.

from minutes of January 1980
meeting of Hist. Sites Adv. Committee

STATE OF ALASKA
THE LEGISLATURE

POUCH V STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M April 18, 1980

SUBJECT: Appropriation for a loan for the White Pass and Yukon Corporation (Work Order No. 8476)

TO: Representative Mike Miller
Chairman, House State Affairs Committee

FROM: Tamara Brandt Cook TBC
Legislative Counsel

Enclosed please find the appropriation you requested. I wish to point out that this appropriation raises a serious constitutional problem. Article IX, sec. 6 of the Alaska Constitution provides:

> No tax shall be levied, or appropriation of public money made, or public property transferred, nor shall the public credit be used, except for a public purpose. (Emphasis added).

While it is true that "public purpose" is a term of great imprecision (DeArmond v. Alaska State Development Corporation, 376 P.2d 717 (Alaska 1962), I feel that a good argument could be made that this appropriation does not serve a public purpose since it is for a loan to a private corporation, a foreign corporation at that.

Possible constitutional problems aside, this appropriation also seems to violate the provisions of AS 37.10.085:

> FINANCIAL AID TO CORPORATIONS BY STATE OR POLITICAL SUBDIVISION. Neither the state or a political subdivision of the state may
>
> (1) make a subscription to the capital stock of a corporation;
>
> (2) lend its credit for the use of a corporation; or
>
> (3) borrow money for the use of a corporation.

The Supreme Court of Alaska has suggested that if significant controls and restrictions are imposed upon a corporation to insure the effectuation of the public purpose, a state or political subdivision may be able to provide financial aid to a corporation without violating AS 37.10.085. Wright v. City of Palmer, 468 P.2d 326 (Alaska 1970). However, it remains unclear what type of controls would have to be imposed before financial aid could be provided to a corporation without violating AS 37.10.085. It should be realized that the case cited above did not involve a direct loan to a private corporation, and maybe, a direct loan to a private corporation would never be found to be consistent with AS 37.10.085.

If I can be of any further assistance, please contact me.

TBC:ljb

Enclosure

Mike for what it's worth, here's an expanded version of the one I'm airing today... though it's more comprehensive (and will be published in the All-Alaska Weekly), there are, needless to say, huge gaps, and only a full reading of the entire report will truly suffice. This may be of some help in the meantime.

joe la rocca

White Pass - one

la rocca

by JOE La ROCCA

JUNEAU - Both Gov. Jay Hammond and U.S. Sen. Mike Gravel have turned down the Canadian government's request for state or federal aid to the financially-troubled White Pass and Yukon Railway. But U.S. Sen. Ted Stevens is seeking a low or no-interest loan from the federal government to help keep the railroad, which employes most of Skagway's labor force, in operation.

That's according to the "Report of the Inquiry into the White Pass and Yukon Railway and other Surface Transportation into and out of the Yukon" recently completed by the Canadian Transport Commission (CTC). It has concluded, among other things, that for the first time in its 80-year history, the historic 110-mile railroad connecting Skagway and Whitehorse must immediately secure up to $15 million in government subsidies in the form of loans, or shut down its operations.

A copy of the two-volume report has just been received by Rep. Mike Miller, D-Juneau and chairman of the House State Affairs Committee. Miller has scheduled a meeting for Thursday to consider further a resolution co-sponsored by him and Rep. Jim Duncan, D-Juneau, proposing assistance to the railroad, in light of the CTC report's findings.

In a letter to the CTC last December, Gov. Hammond said the state "does not feel it appropriate to participate with the Canadian government" in any plan to subsidize a foreign corporation. Sen. Gravel echoed the governor's refusal, while Sen. Stevens has introduced special legislation in Congress seeking a $5 million interest-free loan.

While the White Pass and Yukon Railway is a privately-owned Canadian company based in Whitehorse and only 21 miles of its 110 miles of tracks lie within Alaska, three-fourths, or 169, of its 213 employees are residents of Skagway. Mayor Bob Messegee told the State Affairs Committee recently that closure of the railroad would destroy Skagway, because virtually all of its 800 residents are directly or indirectly dependent for their livelihood upon the half million dollar monthly payroll it provides.

-more-

According to the report, the Yukon territorial government has pledged a $15 million conditional loan to the railroad, and is willing to advance whatever loan funds Sen. Stevens is eventually able to secure from Congress.

The report says Gov. Hammond also rejected the Canadian government's request to seek repeal of Alaska's "five-man crew law," which requires five crew members to be aboard the train while it's operating within Alaska's borders.

Typically, the five-man American crews run the train between Skagway and the Alaska-Canada border, where a three-man Canadian crew takes over for the stretch in Canada between Lake Bennett and Whitehorse.

The report says that Alaska is the only state in the nation with a five-man crew law. White Pass officials claim that the requirement to maintain the two extra crew members costs them about half a million dollars per year.

The main purpose of the CTC report was to determine the current financial conditions of the White Pass railroad and its parent Co., Federal Industries, Ltd. of Winnepeg, and to recommend whether, and if so, what kind of government assistance should be provided.

In 1978, the railroad owners informed the Canadian federal government that, without financial assistance, the railway would be closed, but their appeal was rebuffed. Railroad officials later appealed to the Yukon territorial government for help, which has recently expressed fears that the system might indeed collapse and terminate the existence of the Yukon Territory's most vital transportation link, unless government aid were rendered.

That led to the Canadian Transport Commission's inquiry by two government railroad experts, Keith Thompson and Edward Weinberg, which was completed last month.

They reported, among other things, that while the White Pass has never received "a single penny of subsidy from any level of government" in its 80-years of existence, other Canadian railroads were bestowed more than $3 billion in government subsidies during the past 20 years.

more

Moreover, the report says, the railroad's financial difficulties were exacerbated by heavy government subsidies to the competing trucking industry in the form of massive road system improvements costing hundreds of millions of dollars which enabled truckers to take over some of the railway's most lucrative markets.

The report cites other factors which have brought the White Pass railway to the brink of bankruptcy, including "colossal mismanagement" (which has recently been remedied), declining mineral production in the Yukon, frequent and prolonged miners' strikes, rising energy costs and decline of Canadian currency against the U.S, dollar.

The biggest and most crippling blow came in 1978, when Cassiar Corp., a major customer of the White Pass for more than 20 years, closed its Clinton Creek mine near Dawson.

The loss of the southbound asbestos haul forced the White Pass to raise its freight rates by 30 percent, thus rendering it more vulnerable to competition from trucks, and reducing its revenues below operational costs.

The CTC report says "there are only two alternatives open to the White Pass Railway. Either it receives government assistance, or it will go bankrupt." Moreover, the report says, "the decline of the railway would bring about a concurrent, and probably irreversible demise of the community of Skagway."

Said the report: "The subsidy-free performance to date of the White Pass Railway is nothing short of astounding." It points out that continued operation of the railway is essential to the economic development of the Yukon Territory, and its potential as a free world supplier of vital industrial metals and other minerals.

Another debilitating influence in recent years has been the foreign exchange factor favoring U.S. currency, currently arond 17 percent. The White pass paid more than $5½ million in wages to U.S. citizens in 1978 in U.S. dollars,

while the railway receives its revenues in Canadian dollars, thus suffering a monetary penalty of more than $1 million annually. Some of the things the parent firm did to reduce its expenses was to dismiss nine senior executives, abandon their "palatial" offices in Vancouver, relocate its main offices in Whitehorse, and lay off 350 of its 1,000 employees.

The CTC report found no evidence to suggest that funds were bled from the White Pass to sustain other subsidiaries, and determined that an interest-free loan of nearly $150,000 to the parent company's president to purchase a home did not come from railway operations.

Contrary to public opinion in the Yukon, the report says, railway rates for the movement of general cargo have been "extremely reasonable." Rate increases leading up to its present difficulties, the report said, have been significantly less than the increased costs of running the railway. According to the report, the railway geared its pricing policy to securing freight, rather than to operating costs.

Increased competition, heavily subsidized by both the Canadian and Alaska governments, came from three directions. One was the establishment, maintenance and continual upgrading of the Stewart-Cassiar Highway, which enabled a competing trucking firm to snatch away from White Pass an important contract for hauling asbestos for Cassiar Mines; an increase in gross vehicle weights on both the Alaska and British Columbia highways which made trucking much more competitive by doubling payloads into the Yukon; and completion of the Skagway to Whitehorse Highway in 1978 by both the Alaska and Canadian governments, which lured away an estimated 28,000 railroad passengers in the summer of 1979.

One of the reasons the federal Canadian government rejected the White Pass plea for assistance in 1978 was because it was generally believed then that a major soure of potential new revenues would soon come from the construction of the Yukon portions of the Alaska Highway Gas Pipeline and the Dempster Highway lateral by Foothills Pipeline.

According to the CTC report, Foothills is planning to ship 415,000 tons of pipe and 40,000 tons of construction equipment and other materials to 38 stockpile and staging sites in the Yukon between 1981 and 1984, utilizing five routes, including the White Pass. However, Foothills does not expect any substantial pipe or other tonnage to be moved by the White Pass for logistical reasons. Truck movements are believed to be "considerably cheaper" than rail. Moreover, curves on the railroad route as well as docking facilities at Skagway are too restrictive to accommodate pipe lengths. Foothills also said Alaska's five-crew law is a contributing factor in making the White Pass route uncompetitive with trucking.

The report found that the White Pass will not only enjoy very little benefit from pipeline construction, but will at the same time suffer as a result of the overall increase in wages and inflation resulting from it.

On assumption underlying the report's recommendation for government aid for the White Pass is that the new Skagway-Whitehorse Highway will continue to be closed to year-round truck traffic. Should the Alaska and Canadian governments permit the road to be open year-round, the report says, "this would be tantamount to their having made a decision that the railway was no longer necessary for the Yukon, because it is clear that the opening of the road (year-round to truck traffic) would most certainly bring about the extremely hurried demise of the railway." Said the report, "[redacted] "The opening of the road on a year-round basis would be synonymous with the economic destruction of the railway." According to the report, the various levels of government have given assurances that the "Canadian portion of the road would not be opened to year-round traffic," adding that "It is extremely difficult for a railway to compete successfully with trucking operations when the trucks are able to travel on a road paid for out of public funds." The White Pass has suffered from competition from other modes "whose own existence and continuing viability are assured only because of huge contributions from the public treasury," the report said.

HCR

2

(7)

COMMITTEE REPORT

HOUSE

FURTHER:

February 7, 1979 Date: 12 Feb. 79

Mr. Speaker:

The Committee on STATE AFFAIRS has had HCR 2

Approving certain recommendations of the Salary Commission.

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)

[X] replace with CS for HCR 2 [X] same title [ ] new title

and recommends HCR 2 Do Pass

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

60 (Rev. 12/78)

STATE
of ALASKA

MEMORANDUM

TO: The Honorable Mike Miller
Chairman
House State Affairs Committee
Alaska State Legislature

DATE: February 9, 1979

FILE NO:

TELEPHONE NO:

FROM: Commissioner B. B. Allen
Department of Administration

SUBJECT: HCR 2

Comparison of subject resolution with the text of the Salary Commission's final report to the Legislature shows some substantive differences in language. Although these changes may have been intentional, I am calling them to your attention on the chance they were not.

Language in HCR 2:

> "Whereas Recommendation Number (5)(A) proposes that there be no change in the salary level of division directors; the Salary Commission recognizes that promotions from deputy director of a division may sometimes necessitate that those receiving a promotion move into a step other than 'A' in order to be assured a salary increase; in such cases, that person receiving the promotion should enter at the lowest step necessary to receive a salary increase;"

Language in Salary Commission Recommendation (5)(A):

> "Directors remain on state pay plan (AS 39.27.011). We continue to recommend entry level of new Directors be in the 'A' step of the salary range at which they are hired. We recognize that promotions to Director may sometimes necessitate that those receiving the promotion move into a step other than 'A' in order to be assured a salary increase. In such cases, that person receiving the promotion should enter at the lowest step necessary to insure a salary increase."

It looks as if some lines may have been omitted when the Resolution was typed. Also, in the era of magnetic card typing capability it appears some language from the 1977 Resolution was used in preparing HCR 2. For example, the 1977 Resolution listed promotions from "deputy director." After hearing about our problems in promoting anyone else to division director, the Salary Commission removed all reference to class titles in preparing its recommendations to the Legislature.

Language in HCR 2:

> "Whereas Recommendation Number (5)(C) proposes that directors who, as of December 31, 1978, have their salaries frozen [emphasis added] shall, as of January 1, 1979, be placed within the state salary schedule in AS 39.27.011 at the range

closest to, but not less than, their current salary and their salary progression shall follow the steps outlined in the salary schedule to a maximum of $50,000 annually;"

Language in Salary Commission Recommendation (5)(C):

"All Division Directors who, as of December 31, 1978, are on frozen salary [emphasis added] shall, as of January 1, 1979, be placed within the salary schedule at the appropriate range closest to but not less than their current salary and shall progress in step according to the schedule within that salary range, provided that their salary shall not exceed a maximum of $50,000/year."

This recommendation was designed to correct situations whereby non deputy directors who are promoted to director had their salaries frozen rather than cut to achieve step 'A' of the higher salary range. Recommendation (5)(B) provides that director salaries above $50,000 will be frozen without further increase. To substitute the words "have their salaries frozen" for "are on frozen salary" for Recommendation (5)(C) would contradict Recommendation (5)(B).

I am available at your convenience to discuss these topics.

BBA/bc
P2-N

February 5, 1979

Mr. Myrton R. Charney
Executive Director
Legislative Affairs Agency
Pouch Y
Juneau, Alaska 99811

Dear Mr. Charney:

I understand there are interpretive problems with Item 12C of the Salary Commission's 1979 Final Report:

> "Legislators receive an annual allowance to a maximum of $4,320."

Please be assured that it was not the intent of the Salary Commission to imply a requirement to voucher expenses. The words ". . . to a maximum . . ." only allow a Legislator to accept an amount less than $4,320 for expenses if that is his/her desire.

Sincerely,

Kathleen Diebels

Kathleen (Kay) Diebels, Chairman
Alaska Salary Commission

KD/bc
cc: Salary Commission Members
Pl-K

Salary Commission

Embargoed for 12:00 Noon Release

WAGE AND PRICE STANDARDS

Revised

Council on Wage and Price Stability
December 13, 1978

INTRODUCTION

These standards amend the regulations of the Council on Wage and Price Stability to implement the President's anti-inflation program by adding a new part 705 to title 6 and an appendix to that part specifying voluntary standards for noninflationary wage and price behavior. These standards supersede those released by the Council on October 31, 1978, published in the Federal Register November 7, 1978.

§705.1 Authority. The provisions of this part are promulgated under the Council on Wage and Price Stability Act, P.L. 93-387, as amended by P.L. 94-78, and P.L. 95-121 (12 U.S.C. 1904 note), and particularly in furtherance of §2(c), §3(a)(4), and §3(a)(5) of that Act.

705A Price Standard

705A-1 General Applicability of the Price Standard. The price standard applies to all goods and services (products) sold in the United States and its territories and possessions, including goods and services sold by Federal, State, and local government entities.

705A-2 Price Deceleration Standard. A company complies with the general price deceleration standard if its program-year rate of price change is no greater than (1) the base-period rate of price change minus the deceleration percentage or (2) 9.5 percent, whichever is less. However, a company with a program-year rate of price change of 1.5 percent or less will be considered to be in compliance with the price deceleration standard regardless of its base-period rate of price change. For purposes of this standard:

(a) The program-year rate of price change is the sales-weighted average of the percentage changes of a company's product prices measured from the last calendar or fiscal quarter completed prior to October 2, 1978, through the same quarter of 1979.

(b) The base-period rate of price change is the sales-weighted average of the percentage changes of a company's product prices from the last calendar or complete fiscal quarter of 1975 to the corresponding quarter of 1977, expressed at annual rates.

(c) The deceleration percentage is 0.5 percentage points unless a company experiences pay deceleration that is greater than 0.5 percentage points, in which case full passthrough of the additional pay deceleration is required for compliance with the general price deceleration standard. In such instances, the total price deceleration percentage is 0.5 percentage points plus the multiple of the company pay share and the rate of pay deceleration that is in excess of 0.5 percentage points.

705A-3 Exclusions from Company Price Calculations. Sales by producers of goods and services included in the following categories are excluded from the calculation of a company's average price change:

(a) Agricultural, fishing, forestry and mineral products included in the 1972 Standard Industrial Classification Manual, Major Groups 01, 02, 08 (except 085), 09, 10 (except 108), 11 (except 1112), 12 (except 1213), 13 (except 1321 and 138), and 14 (except 148).

(b) Recyclable scrap materials including, but not limited to, ferrous and nonferrous metal scrap, waste paper, textile waste, scrap rubber, scrap plastics, and glass cullet.

(c) Commodities whose historical and current price cnanges are closely tied to price movements on an organized open exchange market, either domestic or foreign.

(d) Exports of goods and services.

(e) Products delivered at prices determined by contracts existing before October 2, 1978. If the contract allows for seller discretion to adjust prices, the product is not excluded. Products delivered under preexisting contracts that do not specify delivery prices are not excluded.

(f) Products exchanged in other than open and arms-length transactions.

(g) New or discontinued products. For the purpose of this exclusion, new and discontinued products are those products that were introduced or discontinued during either the base period or the program year. That is, products that existed throughout the base period or that exist throughout the program year should be included in the calculations of the respective rates of price change for those periods. A product does not become new or discontinued merely because of altered specifications, style, packaging, or quality changes. Such changes should be reflected in price changes (for example, quality decreases should be reflected as price increases and quality increases should be reflected as price decreases).

(h) Custom or one-time product sales (products specially produced to particular-buyer specifications). Such products must have characteristics that are substantially different from any other products previously sold by the company. To qualify for the exclusion, custom products must meet the same criteria as those for new products. If the custom product is produced and delivered over the duration of the entire base period or program year, it does not qualify for exclusion.

(i) Interest rates.

705A-4 Six-month Standard for Price Increases. During the first half of the program year, the average rate of price change for a company should not exceed 50 percent of the allowable program-year rate of price change, as defined in Section 705A-2. However, a company need not comply with this six-month limit if it can demonstrate that the increases in excess of 50 percent of the allowable program-year change can be justified on grounds of seasonal variations in business operations, historical business practices, or unusual business conditions; and will not prevent compliance with the general price deceleration standard by the end of the program year. However, if a company exceeds the six-month price standard, a company must also be able to show that its pricing actions are consistent with adherence to the profit margin limitation (for the program year), defined in Section 705A-6(a).

705A-5 Insufficient Company Coverage.

(a) If adjusted revenues during the four quarters prior to the program year are less than 25 percent of the total company revenue, the company need not comply with the price standard or the profit margin limitation.

(b) If products excluded under 705A-3(f)-(i) account for one-third or more of a company's adjusted revenue for the program year, the company need not comply with the general price deceleration standard but should comply with the profit margin limitation described in section 705A-6(a).

For the purpose of this section, the adjusted revenues are defined as the company's revenues minus revenues from the sale of products identified in Section 705A-3(a)-(e).

705A-6 Exceptions

(a) Profit Margin Limitation. (1) If a company is unable to comply with the price deceleration standard because it is impossible to calculate its average price change or because of uncontrollable price increases in goods and services it buys, it should satisfy the following two-part profit limitation.

(i) The program-year profit margin should be no higher than the average profit margin for any two of the company's last three fiscal years prior to October 2, 1978.

(ii) Program-year profit should not exceed base-year profit by more than 6.5 percent plus any positive percentage growth in physical volume from the base year to the program year. Base-year profit can be either profit earned during the four complete fiscal or calendar quarters prior to the program year, or the average profit margin determined in (i) above multiplied by sales or revenues in the last four complete fiscal quarters prior to the program year.

(2) A company's profit margin is the ratio of profit to net sales and/or revenues.

(i) Profit is defined as the sum of item 14 and items 11 through 13 minus items 7 through 10 in 17 CFR Section 210.5-03. Briefly, profit is "income or loss before income tax expense" minus dividend income, interest or profit on securities, and miscellaneous other income, plus interest expense and amortization of debt discount and expense, losses on securities, and miscellaneous income deductions.

(ii) Net sales and/or revenues consist of (1) net sales of tangible products (gross sales less discounts, returns, and allowances); (2) operating revenues of public utilities; and (3) other revenues such as royalties, rents, and the sale of services and intangible products (e.g., engineering, research and development, and other professional services). This definition is consistent with 17 CFR Section 210.5-03, items 1A, 1B, and 1C.

(b) Undue Hardship and Gross Inequity. The Council may except a company from the application of the price deceleration standard, make adjustments to the base-period rate of price change, or alter application of the profit margin limitation to avoid extreme situations of hardship or gross inequity. Procedures for such exceptions and adjustments are set forth in Part 706 of this Chapter.

705B Pay Standard

705B-1 Pay Standard. For each employee unit, the annual increase in average pay rates should be 7 percent or less.

705B-2 Employee Units. For the purpose of establishing compliance with the pay standard, a company must identify three types of employee units:

(a) Each group of the company's employees subject to a particular collective bargaining agreement to which the company is a party constitutes a separate employee unit.

(b) All management employees (not under a collective bargaining agreement) constitute an employee unit.

(c) All other employees constitute an employee unit.

A company need not identify separately collective bargaining units accounting for less than 5 percent of its employees. However, if a collective bargaining unit is not separately identified, the workers must be included in the "all other employees" category.

705B-3 Application of the Pay Standard to Collective Bargaining Agreements.

(a) A company complies with the pay standard if the annual rate of pay-rate change over the life of each collective bargaining agreement negotiated during the program year is 7 percent or less.

(b) In addition, the annual pay-rate increase may be no greater than 8 percent in any year of a multi-year agreement.

(c) For purposes of determining whether the annual rate of pay-rate change complies with the pay standard, formulas for cost-of-living adjustments should be computed on the assumption of a 6-percent annual rate of inflation in the Consumer Price Index over the life of the contract.

(d) The cost of private fringe benefit programs should be measured by employer contribution rates.

(e) Pay-rate increases dictated by agreements signed prior to October 25, 1978, are exempted from the pay standard.

(f) A contract that includes a provision for a future wage reopening will be assumed to be terminating on that date.

705B-4 Application of the Pay Standard to Employees Not Under Collective Bargaining Agreements.

(a) A company complies with the pay standard if, for each employee unit, the pay rate in the last quarter of the program year does not exceed the pay rate in the base quarter by more than 7 percent.

(b) Compliance may be determined by computing pay-rate changes for the fixed population of continuing employees employed in the beginning and end of the program year. In this case pay-rate increases may exclude the effects of legitimate promotions and qualification increases.

(c) If pay-rate increases for recognized employee groups are dictated by the continuation of a formal annual pay plan in operation as of October 1, 1978, and, solely due to the continuation of this plan, the dictated pay components for the employee group increase by more than 7 percent during the program year, then the dictated increase in these components above 7 percent may be excluded in determining compliance.

(d) If companies communicated to recipient employees prior to October 25, 1978, the details of a formal annual plan to take effect during the program year, the pay rate increases dictated by this plan will be treated as in (c). However, the company should be prepared to demonstrate that it is an established practice to announce pay-plan changes in this time period and should continue this practice by communicating a subsequent annual pay plan in compliance with the pay standard prior to October 25, 1979.

(e) In determining compliance, adjustments may be made for shifts in the composition of the work force among distinct functional employee subgroups within the employee unit.

705B-5 Pay Standard for Future Value Incentive Plans.

(a) A future value incentive plan is any long-term plan under which the compensation value of the units (such as shares, stock options, and awards) granted or issued will not be known until some future time.

(b) Any such units granted or issued prior to October 25, 1978 under such plans are not subject to the pay standard.

(c) The number of units granted or issued in the program year under any continuation of, or modification to, existing plans or creation of successor plans may not exceed 107 percent per recipient of the number granted or issued in the twelve-month period prior to the program year or the annual average of the units granted over the last five years.

(d) With respect to plans covered by (c), any spread between an option or purchase price and fair market value at the time of the grant is included as pay.

(e) For any new plans introduced during the program year for which there is no historical precedent, companies should place a value on units granted or issued in the program year consistent with generally accepted accounting practices and include these amounts in pay.

705B-6 Maintenance of Health Plan Benefits. In the program year or over the life of a new collective bargaining agreement, changes in the costs of maintaining existing health benefits should be charged against the pay standard up to a 7 percent annual increase in such costs; any increases above 7 percent are excluded from computations for purposes of measuring compliance with the standard. Any changes in costs due to changes in benefits should be fully included as pay-rate changes.

705B-7 Changes in Pension Funding Costs. For pension plans that pay specified benefits at retirement (qualified defined benefit plans), changes in employer costs due to (1) changes in funding methods, (2) changes in amortization periods, (3) changes in actuarial assumptions, and (4) plan experience (other than year-to-year wage or salary changes) are not included as pay-rate changes. Changes in employer costs due to plan amendments, changes in the benefit structure, or changes in benefit levels due to wage or salary changes are included as pay-rate changes.

705B-8 Low-Wage Exemption. Employees earning $4.00 or less per hour in straight-time hourly wages on October 1, 1978, must be excluded from each employee unit in making pay-rate computations.

705B-9 Tandem Pay Rate Changes. Pay-rate changes in one employee unit that have been regularly linked to pay rate changes in another employee unit in a leader-follower relationship can be excepted either where pay-rate increases in the leader unit were agreed to prior to October 25, 1978, or where pay-rate increases agreed to for the leader unit after October 24, 1978 are in compliance with the pay standard. Employee units need not be in the same company. In order to establish such a linkage, the parties must demonstrate that the past pay-rate increases of the two employee units have been equal in value and directly related in timing.

705B-10 Pay-Rate Increases Traded for Productivity-Improving Work-Rule Changes. In determining compliance, that part of a pay-rate change that is in return for changes in contractual work-rules and practices that alter productivity may be deducted from the total pay-rate change. In order to comply in this manner, it must be demonstrated that the cost reductions generated by the work-rule changes are equal to or greater than the excess of the pay-rate change over the pay standard.

705B-11 Pay-Rate Increases Attributable to Acute Labor Shortages. Where pay-rate increases in excess of the standard are necessary to attract or retain employees in a particular job category because of an acute labor shortage, the amount of such excess may be excepted if the following conditions for these job categories are met:

(a) the proportion of vacancies during the preceding quarter has increased abnormally over that experienced during the past two years;

(b) the time required to fill vacancies has increased abnormally over that required during the past two years, despite intensive recruiting;

(c) pay rates for entry-level employees in these categories have increased abnormally over the past two years; and

(d) the local Employment Service Agency has certified that such an acute labor shortage exists.

705B-12 Undue Hardship or Gross Inequities. The Council may grant an exception from the application of the pay standard or may make appropriate adjustments in the standard to avoid situations or undue hardship or gross inequity.

705C Alternatives to the Price Standard for Selected Industries

705C-1 General. This subpart provides alternatives to the price standard for industries that have special problems in meeting the general price standard. Companies that cannot comply with these alternatives are eligible for exceptions under the conditions specified in 705A-6.

705C-2 Margin Standards for Wholesale and Retail Trade and for Food Manufacturing and Processing.

(a) Eligibility. A percentage margin standard is available as an alternative to the price standard to the entire wholesale and retail trade sector, including food service operations (SIC 50-59). A separate margin standard is available as an alternative to the price standard for all firms in the food manufacturing and processing industries (SIC 20, excluding 2082, 2083, 2084 and 2085). This includes nonalcoholic but excludes alcoholic beverage industries. Any company or subsidiary or operating division of a company doing more than one-half of its business within one of the above industries may apply the appropriate margin standard for those operations. However, any company in these industries that is able to comply with the general price standard prescribed in 705A-2 is encouraged to do so.

(b) Definitions

(1) The gross margin is equal to net sales adjusted for discounts, returns, coupons, and other allowances, less the cost of food products purchased, and the cost of goods purchased for resale.

(2) The average percentage gross margin for a year is the total gross margin divided by net sales for the year.

(3) The base year is the four calendar or fiscal quarters ending prior to October 2, 1978.

(4) The program year is the year immediately following the base year.

(5) The margin trend is the compound annual rate of growth of the average percentage gross margin between the base year and the comparable year prior to October 2, 1976.

(c) Percentage Margin Standard for Wholesale and Retail Trade. A company satisfies the percentage margin standard if

(1) the growth in its average percentage gross margin between the base year and the program year is no greater than its margin trend minus 0.5 percentage points, or

(2) the average percentage gross margin for the program year does not exceed that of the base year.

(d) Margin Standard for Food Manufacturing and Processing Industries.

(1) A company satisfies the margin standard if the rate of increase in the company's dollar margins between the base quarter (the last complete calendar or fiscal quarter ending prior to October 2, 1978) and the corresponding quarter of 1979 does not exceed 6.5 percent plus any positive percentage growth in physical volume over the same period.

(2) The company may substitute for the base-quarter margin the base-quarter sales multiplied by the average percentage gross margin for the base year.

(3) Physical volume increases to be used in justifying increases in gross margins may be computed by deflation of revenues using a measure of price increases as the deflator, or by computing changes in units or tonnage sold when such units are price weighted by major product categories.

(e) Application of the Margin Standards. A company may compute its margin after adjustment for changes in the composition of sales at any reasonable level of aggregation, such as division, department, product category, or individual products, as long as such adjustments are consistently applied.

705C-3 Price Standards for Professional Fees

(a) Coverage. These standards apply to fees and charges for the services of physicians dentists, lawyers, accountants, engineers, architects, and other professionals. They include

all activities included in Major Groups 80 (except 805, 806, 808 and 809), 81, 891, and 893 of the 1972 Standard Industrial Classification Manual.

All companies that provide professional services on a fee-for-service basis, regardless of the proportion of total company revenue that is derived from professional services, are expected to comply with the professional fee standard. If a company is unable to comply with this professional fee standard, it should satisfy the profit margin limitation exception.

(b) Standards. A company complies if the following two-part price standard is met: (1) the program-year average rate of change in fees charged, weighted by sales and/or revenues, does not exceed 6.5 percent and (2) the increase in the fee for any single service does not exceed 9.5 percent. The period used to determine dollar volume weights should be based on a period of time that is representative of normal business operations.

705D Definitions

Base-period rate of price change. The base-period rate of price change is a sales-weighted or revenue-weighted average of the percentage price change over the two-year period, 1976-1977, expressed at an annual rate. If desired, it may be using the following formula:

$$BPRC = \left(\sqrt{\sum_i S_i \frac{P_i(77)}{P_i(75)}} - 1 \right) \times 100$$

where

BPRC = the base-period rate of price change;

$P_i(77)$ = price of the ith product in the last complete fiscal or calendar quarter in 1977;

$P_i(75)$ = price of the ith product in the last complete fiscal or calendar quarter of 1975;

S_i = ith-product sales or revenue share (i.e., the ith-product sales or revenue divided by total sales or revenue) in the last complete fiscal or calendar quarter in 1975; and

$\sum$ = the summation operator, where the subscript i runs over all products not excluded by section 705A-3.

The choice of fiscal or calendar quarters must be consistent throughout the company's calculations. If seasonal factors are important, the weights, S_i, can be calculated using data for the entire base period.

Base quarter. The base quarter is either (1) the company's last complete fiscal quarter prior to October 1, 1978, or (2) the calendar quarter July 1, 1978, to September 30, 1978.

Company -- The term "company" is defined as any person, sole proprietorship, partnership, corporation, association, joint venture, estate, trust, or any other entity, however organized, including Federal, State, and local government entities. Entities that are consolidated should be consolidated in accordance with 17 CFR Section 210.4-01 to -09 prescribed by the Securities and Exchange Commission. The term "company" applies only to domestic business operations.

One or more parts contained within a consolidated company may be treated as a separate, single company, in which case the standards apply separately to each of those unconsolidated companies. However, this option is available only if:

(1) the unconsolidated companies maintain accounting records which permit the Council to ascertain whether the prices and profits of the unconsolidated companies accurately reflect the economic realities of their operations;

(2) allocation of overhead is made in a consistent and reasonable manner, as if the unconsolidated companies were not commonly owned;

(3) transfers between unconsolidated companies are valued as if they were arms-length transactions; and

(4) internal accounting procedures adhere to generally acceptable accounting principles and procedures, consistently and historically applied.

In situations involving acquisitions and divestitures, the following procedures should be used. If historical financial records exist for companies acquired after September 30, 1975, and prior to the base quarter, the data for the acquisition may be combined with data of the acquiring company or treated as a separate company. In either case, the acquisition should be treated as if it had been acquired on September 30, 1975.

Companies acquired between September 30, 1975, and prior to the base quarter, for which historical financial records do not exist should be included in the calculations for the program year. That is, products of the acquired company should be treated in much the same manner as a new product.

In the case of companies acquired during the base quarter or program year, they should be treated as a separate company for the entire program year for price and profit calculations.

For divestitures, the parent company should exclude the divested entity from all calculations made with respect to the price standard.

Company Pay Share. The company pay share is the pay for all employees in the base quarter divided by company net sales and/or revenues in the base quarter. For purposes of this calculation, pay and net sales and/or revenues should represent total domestic operations unless the company cannot determine pay for domestic operations, in which case total pay and total sales should be used.

Employee. An employee is any individual residing in the United States who is either an employee within the meaning of Section 3121(d) of the Internal Revenue Code 26 U.S.C. or the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151 et seq.

Future-Value Incentive Plans. Future-value incentive plans include any long-term plans under which units (shares, stock options, awards, shares subject to option or investment amounts) are granted or issued, the compensation value of which will not be known until some future time. Examples of these include qualified and nonqualified stock options, performance share plans, performance unit plans, stock appreciation rights, restricted stock or property plans, phantom stock plans, and book value plans.

Pay. Pay includes the following items:

(a) The straight-time wage and salary paid during the company's customary pay period, including, where applicable, payments for shift differentials, skill differentials, and cost-of-living adjustments.

(b) Incentive pay and other forms of income such as

(1) sales commissions and production incentive pay;

(2) bonuses and other annual incentive compensation charged when earned (that is, when the services are performed that generate the compensation);

(3) compensation from long-term incentive plans (other than those covered under 705B-5), new future-value incentive plans, or other similar compensation arrangements when accrued;

(4) job perquisities and other forms of compensation not covered elsewhere in this definition but reported as income under the Internal Revenue Code and its interpretive regulations and rulings.

(c) Employer contributions or costs for the following fringe benefit items:

(1) pay for time not worked (e.g., paid vacations and holidays, sick leave and other paid leave);

(2) saving and thrift plans such as qualified stock bonus plans, qualified profit sharing plans, employee stock ownership plans, and other qualified defined contribution plans;

(3) qualified defined benefit retirement plans;

(4) health benefit plans;

(5) life insurance, accident insurance, legal assistance, educational assistance, and other plans resulting in benefits to employees but not treated as income until a later time.

Pay does not include overtime wages as long as the conditions of that pay are unchanged. Also, pay does not include employer contributions for legally mandated benefit programs.

Pay rate. An employee unit's pay rate in any quarter should be determined in a manner consistent with the employer's accounting practices. Pay rates should be constructed as pay per straight-time hour worked. Pay rates should be the average rates for the employee unit over the quarter or as of the last customary pay period within the quarter. When employer costs for certain pay elements are incurred irregularly (for example, bonus payments and vacation pay) these items should be included according to the pay programs in effect at the end of the quarter and should be included in pay-rate computations as though they were incurred evenly overtime. For employees not compensated on an hourly basis, an estimate of straight-time hours worked should be made and consistently applied.

The method used to compute pay rates should be consistently applied in all measurement periods.

Product. A product is any aggregation of goods (or services) established by the company for purposes of complying with the price deceleration standard, which reflects the company's customary pricing unit. In establishing the product grouping

within a company, the price changes for each product group must reasonably reflect the changes in the prices of the products contained within the category. The method of establishing product groups must be consistently applied during the base period and the program year.

Product price. The price of a product during a quarter is computed by dividing the revenues from sale or lease of the product by the number sold or leased. Sampling of products may be used by a company provided that the methods used comply with sound statistical procedures. Changes in list prices may be used only if percentage changes in them are representative of percent changes in actual transaction prices. Furthermore, prices may be measured at the end of the calendar or fiscal quarter provided that prices do not fluctuate substantially during the quarter.

Program year. For a company, the program year is the twelve-month period immediately following the company's base quarter.

Program-Year Rate of Price Change. The program-year rate of price change is a sales-weighted or revenue-weighted average of percentage changes in prices of products. If desired it may be computed using the following formula:

$$PRPC = \left(\sum_i S_i \frac{P_i(79)}{P_i(78)} - 1 \right) \times 100$$

where

PRPC = the program-year rate of price change;

$P_i(79)$ = the price of the ith product in the 1979 quarter corresponding to the base quarter;

$P_i(78)$ = the price of the ith product in the base quarter;

S_i = ith product sales or revenue share in the base quarter; and

$\sum$ = the summation operator, where the subscript i runs over all products not excluded in 705A-6.

The choice of fiscal or calendar quarters must be consistent throughout the company's calculations. If seasonal factors are important, the weights, S_i, can be calculated using data for the entire base year. Alternatively, the same weights as used to calculate the base-period rate of change can be used.

Rate of pay deceleration. The rate of pay deceleration is the difference between the base rate of change of the company pay rate and the program-year rate of change of the company pay rate where

(a) the base rate of change of the company pay rate is the annual rate of change of the company pay rate over the two-year period starting in the last complete fiscal or calendar quarter of calendar 1975 and ending in the last complete fiscal or calendar quarter of calendar 1977,

(b) the program-year rate of change of the company pay rate is the percentage change in the company pay rate from the base quarter to the last quarter of the program year, and

(c) the company pay rate in any quarter is its employment cost per hour worked for all employees, including all legally mandated costs excluded from the definition of pay.

QUESTIONS AND ANSWERS

The following questions and answers are substantive interpretations of the price and wage standards as they apply to individual situations. They can be used as guidance for actions in similar situations that would be consistent with the intent of the program. But companies and employee units will need to examine their own situations in light of the program to determi e how they can best comply with its objectives. Since the burden of interpretation must lie with private parties, actions taken under a good faith interpretations of the wage and price standards will generally be considered in compliance.

I. THE PRICE STANDARD

A. Coverage of Standards

Q1. Are farmers' prices covered?

A. Prices of individual farm products are excluded from a company's price calculations. However, major farm commodity prices will be monitored jointly by the Department of Agriculture and the Council on Wage and Price Stability. Where sustained price increases for major commodities in excess of the overall inflation rate are not justified by changes in costs, administrative actions to expand supply and moderate price increases will be considered. The potential actions would depend upon the specific situation.

Q2. Are food middlemen -- meat packers, canners, supermarket chains, etc., -- covered?

A. Yes. Because these industries have special problems in meeting the general price standard, they may instead comply with a margin standard.

Q3. Are cooperatives covered?

A. Yes. They are expected to comply with pay and price standards.

Q4. Are U.S. operations of foreign companies included?

A. Yes. U.S. subsidiaries of foreign companies are covered.

Q5. Are foreign operations of U.S. companies included?

A. No. The standards apply only to domestic operations of these companies.

Q6. Do the standards apply to United States territories and possessions?

A. Yes. The standards apply to operations of domestic or foreign companies in Puerto Rico, Guam, American Samoa, and the Virgin Islands. They do not, however, apply to operations in United Nations Trust Territories administered by the United States.

Q7. Does the program apply to tuition and fees?

A. Yes. Schools, colleges, and other nonprofit organizations are expected to comply with the pay and price standards. Increases in tuition and fees are, however, averaged in with other charges, such as room and board.

Q8. Are utility rates and other regulated fees covered by the anti-inflation program?

A. Yes. Prices determined through a Federal, State, or local government regulatory process are covered by the program. The regulatory agencies are asked to assure compliance to the fullest extent possible.

Q9. How are joint ventures to be treated?

A. A joint venture may be aggregated only if a firm owns more than 50% of that venture's equity. If no one firm owns greater than 50% of a joint venture, then this joint venture should comply with the program as a separate company.

Q10. May a firm aggregate a nonconsolidated subsidiary?

A. No. The standards call for the aggregation only of entities which normally would be aggregated in accordance with SEC reporting requirements (17 CRF, Section 210.4-01 to 09). The Council wishes to avoid abnormal accounting practices.

Q11. Does the fact that the price standard applies to the average rate of price increase for all goods and services sold by a company mean that there is no constraint on individual product prices?

A. Price increases for individual products can exceed the price deceleration standard so long as these increases are offset by lower rates of price increase for other products. The Council, however, will monitor individual product prices and will investigate the causes of sustained increases in major categories of the price indexes that exceed an annual rate of 10 percent.

Q12. Are crude oil, natural gas, and coal included in the calculation of a company's average price change?

A. No. The prices of these products will be monitored by the Council at the overall market level.

Q13. Is it possible to be more precise about the exclusion of commodities "whose historical and current price changes can be shown to have been closely tied to price movements on an organized open exchange market, either domestic or foreign"?

A. This exclusion applies to any commodity for which there is an active organized spot market and the producer price moves closely with the exchange price. If a firm excludes a product in this category, it should be prepared to explain to CWPS the basis for that decision. The exclusion would not ordinarily apply to commodities for which there is only a futures market, nor where customer discounts are given.

Q14. How do custom products differ from new products in applying the price standards?

A. The main difference is that custom products are one-time sales of products built to the specifications of a particular buyer. Custom and new products are treated identically under the standards.

Q15. Are imports covered?

A. Goods sold to a domestic company by a foreign entity are not included in the program. Subsequent sales of imported goods by domestic companies are covered, regardless of where the goods are when title changes.

Q16. Export prices are excluded. What about goods intended for export that are first sold to a domestic firm --for example a broker?

A. As a company cannot know for sure whether a broker will resell a product abroad or domestically, these sales are included in the price calculations.

Q17. Are air fares U.S. citizens pay to foreign carriers covered?

A. As imports, they are excluded.

Q18. Is a public utility that distributes natural gas exempt?

A. No.

Q19. Does the program apply to utility rates?

A. Yes.

Q20. Does the program apply to taxes?

A. No. But government service fees and charges are included.

Q21. Does the program apply to rents?

A. Yes. The landlord's average rent increase for all of his units should be consistent with the price standards.

Q22. Does the program apply to companies that build and sell new houses.

A. Yes. But in most cases such firms will not be able to compute a measure of price change because of the customized nature of their products. Thus, they will be expected to comply with the profit limitation.

Q23. Does the program apply to insurance premiums?

A. Yes. But, because there are some difficulties in measuring prices in this sector, some special standards may need to be developed. These will be developed and issued in the near future.

Q24. Are interest rates covered by the program? Are banks covered?

A. Interest rates are excluded from the price calculation. But banks must meet the profit margin limitation and the pay standard. There are some special problems of computing the profit margin for financial institutions. These issues will be examined and an interpretation of the profit margin limitation as it applies to their situation will be issued in the near future.

B. Compliance

Q1. Suppose a company is forced to accept a union contract in excess of the standards. Must it still comply with the price standard?

A. Yes. If these higher labor costs preclude meeting the price deceleration standard, the firm should comply with the profit margin limitation. In any case, the company is out of compliance with the pay standard.

Q2. Does the exclusion of some product prices from the price calculations under 705A-3(a)-(e) cause problems for companies that use large amounts of these products as inputs?

A. If a company cannot comply with the price deceleration standard because of increases in the prices of these products, it may comply with the profit margin limitation.

Q3. If a company has just (after October 1) raised prices and is now not in compliance, must the company roll back prices to be in compliance?

A. Yes.

C. Computation of the Price Standard

Q1. When does the program year begin for price increases? What is the base quarter?

A. If the company's fiscal quarter corresponds to the calendar quarter, the "base quarter" is the third quarter of 1978 (July through September) and the program year runs through the third quarter of 1979.

If a company has fiscal quarters that do not correspond with calendar quarters it may use as a base quarter the most recent fiscal quarter which ended before October 2, 1978. The program year for the company then includes the next four fiscal quarters.

Q2. If business is done on a contract basis, in making price calculations, should prices be included when contracts are signed or when payment is received?

A. At the time of payment. However, delivery prices determined by contracts signed before October 2, 1978, are excluded unless the contract allows for seller discretion to adjust prices, thereby allowing the seller to meet the price standard.

Q3. Must a consolidated company, which decides to separate its entities, use the same separation for compliance with the pay and with price standards?

A. Yes.

Q4. One company has many operating subsidiaries and divisions. Another company is equally complex, but it is not divided into subsidiaries and divisions. Can both of these companies disaggregate units for compliance purposes?

A. Yes, but it would be easier for the first company. At the option of the company, but subject to review by the Council on Wage and Price Stability, one or more subsidiaries or divisions may be treated as a separate, single company. Such separate entities are allowed if an accounting basis exists for separating them from the parent firm. Two separate kinds of allowable cases should be distinguished. First, if a company has followed an historical practice of separate accounting

treatments with regard to the entities it wants to treat separately, such practices may be continued for purposes of measuring compliance with the program. Second, if a firm has maintained records which allow it to disaggregate historical accounting data into separate entities, such data may be used as a basis for disaggregating its entities. Newly adopted accounting procedures cannot be used to rework accounting data into new formats for purposes of separating units.

Q5. Can a diversified company comply by meeting the price standard on some operations (separate subsidiaries of operating divisions) and the profit limitation on others?

A. Yes. If the company decides to treat subsidiaries or divisions as separate entities, those units unable to meet the price standard can comply by meeting the profit margin limitation.

Q6. Should I use list or transaction prices in making price deceleration calculations?

A. Transaction prices are preferred. If, however, list prices move closely with transaction prices, they may be used.

Q7. The price standard requires full pass through of pay deceleration in excess of 0.5 percentage points. How can a firm calculate its rate of pay deceleration or pay share before the end of the program year

A. The principle described in Section 705A-2(c) is that a company should pass through pay deceleration in excess of 0.5 percentage on the basis of expected changes or actual changes as they occur. If a company follows a reasonable and good-faith procedure, actual departure from the standard would not be treated as a failure to comply with the program.

D. Profit Margin Limitation

Q1. What recourse from the profit margin limitation is available if the best two out of the last three years is abnormally low?

A. No specific provisions have been made to cover this situation. You may have a basis for claiming undue hardship under 705A-6.

Q2. Can the profit margin limitation be applied to the domestic market only, or must it be applied to all operations, domestic and international?

A. Foreign operations should be excluded from calculations of prices, profits, and revenues.

Q3. Are revenues and costs from new and/or discontinued products included in the computation of profit margins for the profit margin limitation?

A. Yes.

Q4. How should a change in depreciation accounting methods affecting profits be treated?

A. If a company has changed methods between the last 3-year period and the program year, it should recompute its profits for the two periods on a consistent basis.

Q5. Are any firms selling goods and services in the United States exempt from both the price standard and the profit limitation?

A. Yes. If products excluded under 705A-3(a)-(e) account for more than 75 percent of the company's total revenues during the four quarters prior to the program year, the company need not comply with the price standard or the profit limitation. The company would, however, be expected to comply with the pay standard.

Q6. How does the profit margin limitation apply to non-profit organizations?

A. Instead of a profit margin limitation, a nonprofit organization would be expected to comply with an operating surplus limitation. Operating surplus is defined as operating funds less total costs and expenses including wages. The operating margin is operating surplus divided by operating funds.

II. THE PAY STANDARD

A. General Standard

Q1. Does the pay standard mean that the average pay rates of all employee units should rise by 7 percent?

A. No. The 7-percent standard represents a ceiling for pay-rate increases. It is not a suggested target. A firm which grants 7-percent increases or less is in compliance with the standard.

Q2. Does the standard mean no one can receive more than a 7-percent raise?

A. No. In general, the pay standard imposes no limit on individual employee pay rates. Instead the standard applies to average pay rates for employee units.

B. Employee Coverage

Q1. How do you distinguish the nonunion management group of employees from the nonunion nonmanagement group?

A. Companies can determine this in a fashion consistent with their past practices. In general, management employees should be those whose duties are primarily of a supervisory nature. For example, the Fair Labor Standards Act distinction between exempt and nonexempt employees could be used. Firms should not, however, alter or stretch previously used categories in order to permit pay increases above the standard for some workers at the expense of others. The intent of this provision is to ensure that nonmanagement personnel are not treated inequitably. If firms can provide alternative verification of equitable treatment of employees, they may combine these groups for purposes of determining their compliance.

Q2. Can a company define smaller employee units than management and nonmanagement?

A. Yes. Any further breakdown consistent with a company's accounting procedures is acceptable. To determine overall compliance, the firm may compute a weighted average of the pay-rate increases for these groups, using as weights the percentages of the total pay bill paid to each group.

Q3. Does the 7-percent limit on the pay increase apply to new employees?

A. The limit does not apply to individual workers, whether they are new or old employees. But the average rate paid by a firm should not rise by more than 7 percent during the year, regardless of turnovers or increases in its workforce.

Q4. In the case of mergers, can the parent company treat its newly acquired companies as separate entities for pay standard computations?

A. Yes, if this is the method applied to price computations as well.

Q5. Are U.S. employees assigned to work in other countries subject to the pay standard?

A. No, they should be excluded from the employee groups.

Q6. Does the pay standard apply to Federal, State, and local government workers?

A. Yes.

Q7. Are pay increases mandated by State and local government regulations exempt from the pay standard?

A. Public sector employees are covered by the pay standard. If legally mandated pay increases determined under regulations existing prior to October 25, 1978 exceed 7 percent, the amount above 7 percent is excluded from the pay calculations.

C. Pay and Pay Rates

Q1. Increased employer contribution costs for legally mandated employee benefits are not charged against the 7-percent pay standard. Which employer costs are excluded?

A. Excluded are costs of legally mandated payroll taxes such as Social Security, Worker's Compensation, and Unemployment Insurance. In addition, the increased costs during the program year of new legally required benefits, such as paid maternity leave, changes in benefits under the recently amended Age Discrimination Act, and remaining ERISA mandated pension plan amendments should not be charged against the 7-percent standard.

Q2. With respect to the exclusion of overtime pay, what does the language "as long as the conditions of that pay are unchanged" mean?

A. A change in the conditions of overtime pay occurs when the overtime premium pay rate is changed or when the timing requirements are altered (for example by defining overtime as work beyond 38 hours rather than 40 hours). When such a change occurs during the program year, an estimate of the increased pay due to the change must be included as a pay-rate increase.

Q3. Are cost-of-living differentials received if an employee is transferred to a higher cost-of-living area included as pay-rate increases?

A. Not if they represent continuation of an established practice to pay such differentials.

Q4. Should moving expense reimbursements be included as a component of pay?

A. No.

D. Collective Bargaining Units

Q1. If workers in one union in a company are out of compliance, is the company out of compliance?

A. Yes. Each collective bargaining contract should meet the pay standard; a firm is out of compliance if any of its collective bargaining agreements exceed the pay standard. However, if this group represents less than 5 percent of of the firm's work force, the group can (at the company's discretion) be included within the category of nonunion employees.

Q2. What about a small firm that is a party to a large collective bargaining agreement?

A. If the firm is a participant in the collective bargaining negotiations or a member of the employer association that negotiates the agreement and the agreement exceeds the standards, the firm is not in compliance.

Q3. Does the pay standard apply to collective bargaining settlements which were being negotiated prior to the President's announcement on October 24, but in which no formal agreement was signed?

A. The pay standard does not apply under any of the following circumstances:

(1) there was a written memorandum of agreement covering wages and benefits prior to October 25;

(2) there was a written management offer outstanding on October 24, and the contract is later signed with wage and benefit terms that are no higher; or

(3) there was evidence of an oral agreement covering wages and benefits prior to October 25.

Q4. Is there any power to invalidate contracts that exceed the standard?

A. No, the government has no authority or intention to invalidate labor contracts.

E. Nonunion Standard

Q1. When does the program year begin for wage increases?

A. For nonunion and supervisory workers, the program year is the same for wage increases as for price increases -- typically from the third quarter of 1978 through the third quarter of 1979. If a company uses a fiscal year other than the calendar year, it may use as a base quarter the last complete fiscal quarter prior to October 2, 1978.

Q2. The pay standard for nonunion employee groups compares the base-quarter pay rate with the pay rate in the last quarter of the program year. Does this mean the company is unconstrained over the first three quarters of the program year?

A. No. Having an annual compliance standard minimizes the administrative burden placed on firms and eliminates some compliance problems which might be caused by seasonal factors and the timing of pay-rate changes. However, at

any time during the program year, companies should be prepared to demonstrate that their pay situation is consistent with the 7-percent annual standard.

Q3. If a pay plan is communicated to pay-plan supervisors prior to October 25, but it is not in operation prior to that date, are increases in excess of 7 percent under this plan excluded from the pay standard?

A. No. It must either be in operation or communicated to the employees.

Q4. Section 705B-5(e) says that companies may make adjustments for shifts in the composition of the work force among distinct functional employee subgroups. What does this mean?

A. Under this option, a separate pay-rate increase may be calculated for each functional employee subgroup. If a weighted average of the resulting pay-rate increases is 7 percent or less, the employee unit is in compliance. For purposes of computing this weighted average, the subgroups' base-quarter shares of total employee-unit pay may be used as weights.

Q5. What is the effect of these adjustments on the nonunion pay standard?

A. Under the general standard as applied to nonunion groups, changes in the composition of the work force toward higher-paid employee subgroups could carry the employee unit as a whole over 7 percent even though the 7-percent limitation is satisfied for each job category. This adjustment provides nonunion groups with treatment similar to that allowed for collective bargaining units by permitting companies to assume no changes in the composition of the work force during the program year.

Q6. What is a distinct functional employee subgroup?

A. Within an employee unit, a distinct functional subgroup would be identified by type of work (for example, engineers, accountants, secretaries, production workers, etc.). As a rule, these subgroups should be those regularly identified in the company's accounting practices and pay plans as separate employee groups.

Q7. Section 705B-4(b) says that compliance may be determined on the basis of the average pay rates for continuing employees. What is the implication of this option?

A. This option allows the company to follow pay rates for the fixed population of continuing employees employed throughout the program year. This approach may be especially useful to small businesses that have changes in the composition of the work force but do not typically perform the cost-accounting analyses needed to adjust for these compositional shifts.

When excluding promotion and qualification increases under this method, the company should be prepared to demonstrate that such increases granted during the program year are consistent with historical practices.

Q8. Are step-rate increases or longevity increases legitimate promotions?

A. No. In all cases, step-rate or other similar pay-rate increases that represent moves through a pay hierarchy for work that is not substantially changed are included as pay-rate increases.

Q9. What is a qualification increase, and is it included in determining compliance with the pay standard under 705B-4(b)?

A. Qualification increases include automatic progression increases from entry levels to job-rate levels and other increases associated with discrete improvements in an employee's job-related credentials, such as completion of an educational or vocational training program. Such increases are not included in determining compliance.

Q10. Can a company demonstrate compliance with the pay standard for nonunion employee groups on a prospective basis?

A. Yes. If a company bases its pay projections on its standard budgetary practices and assumes continuation of well-established historical relationships, then it can demonstrate compliance on a prospective basis for nonunion units.

Compliance must still be determined retrospectively by comparing the last quarter of the program year with the base quarter. However, failure to meet the 7-percent

standard will not constitute noncompliance if there has been a good-faith effort to comply, but unforeseen events beyond the company's control have caused the failure.

Q11. Can a nonunion unit make multi-year agreements?

A. Yes, provided they are binding on both parties. The rules for multi-year collective bargaining agreements should be applied in evaluating compliance of such agreements with the standards.

F. Variable Compensation

Q1. How are sales commission and production incentive plans treated under the standard?

A. Employees operating under these plans are subject to the standard. If the unit's compensation exceeds the standard, companies must be able to demonstrate that they would have been in compliance had the unit's sales or production experience, based on physical volume, been the same as in the year prior to the program year.

Q2. Is compensation from annual incentive plans included as pay?

A. Yes. Pay from annual incentive plans, such as annual bonuses, is included as pay in the base quarter and during the program year.

Q3. How are annual incentive awards to be treated in computing pay rates?

A. This depends on whether the awards are made pursuant to a plan or on a discretionary basis. Annual bonuses or awards made according to a plan previously announced, consistently administered, and based on past practice, should be treated as pay over the period earned. For example, a bonus paid in early 1979 depending on performance over calendar-year 1978 should be treated as pay received evenly over 1978.

If the bonus payment is discretionary (not under a plan) and there is no demonstrable objective performance criterion, it should be treated as pay when payment is made (or when accrued if it is deferred). For example, all discretionary bonuses paid (or accrued) in the program year should be included as pay received evenly over the program year. Similarly, one-fourth of all bonuses paid (or accrued) in the preceding year should be treated as pay in the base quarter.

Q4. In determining the bonus amount to be included in the base rate of pay, must the company use the amortized bonus amount which was earned in the base quarter?

A. No. In determining the bonus amount to be included in the base rate of pay, the company may choose either the amortized bonus amount earned in the base quarter or the average of the corresponding amounts earned in any two of the five most recent years.

Q5. How is deferred compensation treated under the standard?

A. Deferred forms of compensation are treated as pay in the period earned regardless of when payment actually occurs. This applies to deferred compensation earned over, or averaged into, the base quarter as well as to compensation earned in the program year.

G. Future-Value Compensation

Q1. How are future-value incentive plans treated under the pay standard?

A. Future-value incentive plans are long-term plans under which units are granted whose value will not be known until some future time. The plans involve qualifications or contingencies which make their exact valuation uncertain, but increases in their value can be subjected to a rough 7-percent limit by limiting the number of units granted during the program year to a 7-percent increase per recipient.

During the program year, changes in the number of recipients eligible to receive units under these plans must be based on plans in existence prior to October 25, 1978 or on the continuation of well established past eligibility practices.

Q2. What constitutes a unit of future-value incentive compensation?

A. A unit includes shares, awards, shares subject to option, or investment amounts. In most cases, units under these plans are the number of shares under options or shares awarded. Where plans involve investment amounts, this means the number of shares times the share price at the time of award.

Q3. How do stock splits affect the limitation on the number of units to be issued under future-value plans?

A. The number of units should be adjusted to reflect stock splits and stock dividends.

Q4. Some long-term incentive plans do not run on an annual basis and have not been in place five years but do have a regular grant cycle -- for example, every other year. How should the percent-increase limitation be applied to continuation of these plans?

A. The percent-increase limitation should be applied to the number of units issued in the last regular grant period under the plan.

H. Health and Welfare Benefits

Q1. If, based on actual experience, the cost of maintaining existing health benefits increases by less than 7 percent, does this mean that more than a 7-percent increase in other pay components may be granted?

A. Yes.

Q2. If new health benefits are added, are these included in pay-rate computations?

A. Yes. For example, if the cost of maintaining the old benefit package increases by more than 7 percent and the new benefits add an additional 3 percent, the combination of the two should be treated as a 10-percent increase on the health-benefit cost base.

Q3. Is it necessary to separate health insurance costs from a general health and welfare benefit package in order to apply the 7-percent maintenance rule?

A. No. In this case, the 7-percent maintenance assumption may be applied to all benefit items in the health and welfare package.

Q4. Can individual items in a health benefit package be considered separately, counting some item increases at 7 percent and others at their actual increase?

A. No. The 7-percent maintenance exclusion must be applied to the health benefit package as a whole.

I. Pensions

Q1. What is a pay-related pension plan?

A. These include final-average pay plans, career-average earnings plans, and other similar plans in which the level of benefits provided by the plan is related to earnings or salaries over a specified period of employment.

Q2. What is a non pay-related pension plan?

A. These include plans where the benefit level is a flat dollar rate which is independent of earnings or salaries over the period employed.

Q3. For pay-related pension plans, how does one determine the employer costs attributable to increased benefits due to changes in salary levels during the program year or over the life of a new collective bargaining agreement?

A. Using standard company accounting procedures, calculate costs for the pension plan at the end of the program period at both the base-quarter and program-year salary rates; the difference between the two is the employer cost attributable to the change in pay levels and is included in the pay-rate change in determining compliance with the pay standard.

Q4. For pay-related pension plans, is it necessary to perform detailed calculations to sort out employer costs for increased benefits related to salary changes, as set forth in the preceding question?

A. No. In those cases where the pension plan is not amended during the program period and the benefit structure remains unchanged, it is consistent with the intent of the pay standard to exclude pension funding costs from all pay-rate calculations. This means that pension funding costs would not be included in the base pay rate nor in the program-year pay rate in determining compliance with the pay standard.

Q5. Why is an increase in benefit levels in a pay-related pension plan charged as a pay-rate increase when there has not been any amendment to the plan?

A. In order to treat pay-related and non pay-related pension plans equitably. For example, a non pay-related plan that provides a pension benefit of $10 per month per year of service would have to be amended in order to increase the pension benefit. In a pay-related plan, however, the amount of pension benefit automatically changes as salary levels change. If no distinction were made, this would generally result in benefit changes in the non pay-related plans being charged as pay-rate increases while the changes in the pay-related plans would not be charged as pay-rate increases.

Q6. For non pay-related plans, if the benefit level remains unchanged, does this mean that more than a 7-percent increase is allowable on the other components of pay?

A. Yes, since under these conditions the company may include the same dollar pension cost per hour in both the base-quarter pay rate and the program-year pay rate.

J. Low-Wage Exemption

Q1. Should employees with wage rates of $4.00 per hour or less at the beginning of the program year be removed completely from all employee units?

A. Yes. They are excluded from each employee unit for the entire program year, even if wage-rate increases carry them over the $4.00 limit during the program year. Further, employees hired during the program year at a wage rate of $4.00 per hour or less are also excluded.

Q2. Is there any ceiling on the pay-rate increases granted to employees exempted under the low-wage provision?

A. No.

Q3. Will employees whose straight-time wage rate is less than or equal to $4.00 an hour, but who earn more due to incentive pay, be excluded from pay-rate computations?

A. Determination of the employee's straight-time hourly wage is based on average straight-time earnings, including incentive pay.

Q4. Should employees exempted under the low-wage provision be included in their respective employee units for the purpose of calculating additional price deceleration required by pay deceleration in excess of 0.5 percentage points?

A. Yes.

K. Tandem Pay-Rate Exception

Q. In what circumstances can the tandem pay-rate exception apply?

A. In any of the following circumstances:

(i) to maintain historical supervisory differentials;

(ii) for union and nonunion groups of the same company;

(iii) for union and nonunion groups in a local labor market, irrespective of whether they belong to the same company; and

(iv) for two separate collective bargaining units.

However, in each of these circumstances, there must be a clear leader-follower relationship and the pay increases must be equal in value and directly related in timing.

L. Productivity Work-Rule Exception

Q1. Is the principle of trading newly negotiated work-rule changes for wage increases to be applied to contract changes that make work rules more restrictive as well as relaxations in work rules or manning requirements?

A. Yes; if such changes produce a demonstrable and measurable decline in productivity growth, they should be deducted from the allowable pay-rate increase.

Q2. Can the principle of productivity increases related to work-rule changes be applied to nonunion units?

A. No. The work-rule exception is intended to apply in those limited situations where companies have no alternative means of eliminating contractual work-rule restrictions that prevent improvements in productivity. This provision does

unfairly discriminate against employee groups that have, in the past, cooperated with management to promote improvements in productivity. Yet, in some circumstances there are no practical alternatives to eliminating previously agreed-to restrictions except through an additional wage increase. In some cases, the unions may have previously foregone a wage increase to obtain the restriction.

Q3. Can wage increases exceed 7 percent for firms that achieve productivity gains in excess of the economy-wide average.

A. No.

III. Special Sectors

A. Food Manufacturers, Retailing and Wholesaling

Q1. Are retail food stores covered?

A. Yes. But, because such stores have severe data problems and may not be able to calculate an adequate measure of price change for the wide range of products that they sell, an alternative standard, based on controlling margins has been provided. However, a retail store is encouraged to comply with the general price standard, if able to do so.

Q2. Must food manufacturers comply with the gross margin limitation?

A. No. They may choose to comply with the general price deceleration standard. If they cannot meet either of these standards, they should, of course, comply with the profit margin limitation.

Q3. May a company elect to comply with the margin standards by controlling markups rather than margins themselves?

A. Yes. A company may choose any alternative method of compliance that is consistent with the manner in which it conducts its business, sets its prices, and keeps its records, as long as the end result yields margins that meet the standard.

Q4. How do food processors and food manufacturers meet their target dollar gross margins during the program year given the seasonal nature of the industry?

A. Food processors and food manufacturers should first calculate their base-quarter dollar gross margin. Next, they should estimate their expected average rate of increase in margin over the next 4 quarters (6.5 percent plus expected increase in physical volume). That overall increase may be divided among the 4 quarters in such a way that seasonality and normal trading patterns are observed. The targets set for each quarter are to be adjusted quarter-by-quarter after observing operating results for each quarter. If a company overshoots its target in one program quarter, it should compensate by undershooting in the next quarter

or quarters, and so on, to achieve a rolling adjustment on a cumulative basis.

Q5. How do I compute the allowable percentage gross margin for a retail company?

A. Assume the percentage gross margin for the 4 quarters prior to October 2, 1978, was 44 percent, and 40 percent for the corresponding four quarters prior to October 2, 1976. The 2-year overall increase is 10 percent and the annual average rate of change is 4.88 percent. Subtract the 0.5 percentage point deceleration (4.88 - 0.5) to get the allowable percentage increase in the margin of 4.38 percent. The allowable percentage margin in the program year is 45.93 percent (44 × 1.0438)

B. Professional Fees

Q1: Does the program apply to doctors' fees, hospital charges and other medical care prices?

A. Yes. Physician, dentist and other health professional fees are covered under the professional fee standard. Drugs, pharmaceuticals, eyeglasses and other health care products are covered under the general price standards.

Hospital and nursing home care are covered under the program but standards for their services have not yet been completed. This is partly due to the more complex nature of payment mechanisms for these services and the need to coordinate the standards with Administration legislative proposals.

Health insurance is also covered under the program and price standards for health insurance as well as other types of insurance will be issued shortly.

Q2. How is the professional fee standard applied by firms which have sales of products for which the general price standard applies?

A. Companies that provide services for which the professional fee standard applies as well as goods or services for which the general price standard applies, should comply with the appropriate standard for each segment of their business separately.

Q3. Why is a 6.5 percent fixed price standard being used for professionals rather than the 0.5 percent deceleration standard applicable to firms in most other sectors?

A. Many professionals do not have the necessary information to calculate weighted average price increases to determine compliance with the general price standards.

For health professions, fee inflation has tended to be considerably higher during recent years than 6.5 percent so that the implementation of this standard should contribute to a more substantial deceleration in medical care costs.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE (2d REVISION)

I. REQUEST
Bill/Resolution No. HOUSE CONCURRENT RESOLUTION NO. 2
Title Approving Certain Recommendations of the Salary Commission
Requested by State Affairs Date 4/19/79

II. FISCAL DETAIL
Agency Affected Legislative Affairs
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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES	35.6	73.6	76.0			
200 TRAVEL	17.4	17.4	17.4			
300 CONTRACTUAL	19.2	19.2	19.2			
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	72.2	110.2	112.6			

FUNDING (Thousands of Dollars)

GENERAL FUND	72.2	110.2	112.6			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-					
PART TIME						
TEMPORARY						

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

Recommendations (12)(A) - Personal Services (100) ---------- $ 35,532
Assumes 7% increase effective 1/1/80
(12)(C) - No change
(12)(D) - Contractual (300) ---------- 19,200
(12)(F) - No change
(12)(G) - Travel (200) ---------- 17,400
Round-trip travel for 60 legislators to home districts

IV. DATE Revised 4/19/79 PREPARED BY Warren W. Endicott, Director
AGENCY Legislative Affairs Agency
PHONE 465-3850

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

33-001 (Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE (REVISED)

I. REQUEST

Bill/Resolution No HOUSE CONCURRENT RESOLUTION NO. 2

Title Approving Certain Recommendations of the Salary Commission

Requested by State Affairs Date 3/21/79

II. FISCAL DETAIL

Agency Affected Legislative Affairs

Program Category Affected General Government

Budget Request Unit(s) Affected

EXPENDITURES (Thousands of Dollars)

		FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES	35.6	73.6	76.0			
200	TRAVEL	11.4	11.4	11.4			
300	CONTRACTUAL	19.2	19.2	19.2			
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	66.2	104.2	106.6			

FUNDING (Thousands of Dollars)

GENERAL FUND	66.2	104.2	106.6			
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME	-0-					
PART TIME						
TEMPORARY						

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

Recommendations (12)(A) - Personal Services (100) ---------- $ 35,532
Assumes 7% increase effective 1/1/80
(12)(B) - No change
(12)(D) - Contractual (300) ---------- 19,200
(12)(F) - No change
(12)(G) - Travel (200) ---------- 11,400

IV. DATE Revised 3/21/79 PREPARED BY Warren W. Indicott, Director
AGENCY Legislative Affairs Agency
PHONE 465-3850

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

33-001 (Rev. 10/78)

ALASKA SALARY COMMISSION

FINAL REPORT

1979

COMMISSION MEMBERS:

KATHLEEN DIEBELS, CHAIRMAN
WILLIAM FELL
CLIFFORD HARTMAN
KARL JOHNSTONE

January 23, 1979

President of the Senate of the State of Alaska

Speaker of the House of the State of Alaska

In accordance with AS 39.23, the Alaska Salary Commission is submitting this report to you. Copies may be otained from the Division of Personnel and Labor Relations, Department of Administration.

Sincerely,

Kathleen (Kay) Diebels
Chairman
Alaska Salary Commission

KD/mlh

PURPOSE OF THE SALARY COMMISSION

The written policy as expressed in House and Senate Committee Substitute for Senate Bill #499, "An Act relating to compensation, benefits and classifications of public officers and employees; creating the Alaska Salary Commission; and providing for an effective date" states that the Commission is to determine salary and retirement benefits for public officers based upon equitable relationships being maintained among various positions.

Employees covered by Salary Commission recommendations are the Governor, Lieutenant Governor, Department Commissioners, Deputy Commissioners, Directors, the Judiciary, Legislature and three of the four Regulatory Commissions (the Alaska Transportation Commission was removed from review by the Legislature in 1978.)

FOREWARD

The Act establishing the Salary Commission calls for a biennial report, with submission of a preliminary report by November 15, and the necessity for soliciting public comments prior to submission of final recommendations within 10 days of the opening of the Legislature.

The Salary Commission met in January and March 1978, to elect a Chairman and reach agreement on a schedule of meetings to develop salary and benefit recommendations for submission to the Legislature in January 1979. The agenda also included a policy question as to whether the Salary Commission should consider submission of 1978 amendments to its recommendations issued January 18, 1977, (as amended on March 2, 1977) in response to Administration and Court System requests for clarification of certain recommendations, and revision of others. By majority vote, the Salary Commission decided not to issue amendments, but limit itself to developing recommendations for 1979, which would include any clarification or revision of the 1977 recommendations deemed necessary.

During 1978, and 1979, the Commission met a total of 13 days.

As provided in AS 39.23, the Division of Personnel and Labor Relations, Department of Administration, provided staff assistance, and the Commission wishes to thank those men and women for their support. Also, as provided by the enabling legislation, the Commissioner of Administration did provide the Commission with recommendations regarding compensation and retirement benefits.

During its organizational meeting, the Commission immediately established:

1. An overall plan for achieving its objective;

2. A timetable consistent with provisions of the Act;

3. Staff liaison and support personnel and facilities;

4. A method of gathering data necessary to meet Commission requirements;

5. Meeting dates.

Again, as provided by the AS 39.23, the Commission called upon various State agencies for information, and the information was provided in a prompt manner. The Salary Commission, therefore, wishes to acknowledge the valuable assistance of numerous individuals and divisions within State government.

The Commission made time available for those who wished to present information to the Commission.

Some of the resource materials utilized include Department of Labor Cost of Living Statistics, comparative data from "The Book of the States," comparative data from the Council of State Governments, statistical data

from the Department of Administration, comparative data from the "1975 Citizens' Conference on State Legislators," returns from research requested by the Commission of certain salaries and benefits from selected states, position paper and analysis provided by the Judicial System. The "Survey of Salaries and Benefits" compiled and published in December, 1977, by the Division of Personnel and Labor Relations also provided valuable aid for the Commission.

A combination of factors was considered in arriving at salary recommendations; among them were: inflation and its affect on cost-of-living, salaries and benefits paid in other states, salary relationships to other State employees and the fact that recommended salaries would prevail for two years without further review. Additionally, on October 13, 1978, President Carter's Council on Wage and Price Stability issued guidelines which established maximum wage levels allowable for both private and public sector employees.

The Commission made a conscious compromise decision in 1976 to bring salaries only to 1977 levels, even though they would be in effect for two (2) years. This was done because the significant raises voted in 1975 by the Legislature were nullified by the August, 1976 referendum and the mood of the taxpayer about those raises was perceived to continue to prevail after the referendum.

The Salary Commission also reviewed substantial public input on its prelimary recommendations received in the form of written comments addressed to the Commission.

Giving due regard to the public input, considering the factors outlined above, and following regulations established by the President's Council on Wage and Price Stability, the Commission recommends salary adjustments listed on the following pages of this report.

RECOMMENDATIONS

1) GOVERNOR

The Salary Commission recommends:

A. A salary of $57,231 annually for the Governor of Alaska.

B. Beginning January 1, 1980, the above salary of the Governor shall be increased in an amount equal to the increase, expressed in terms of percentage, in the United States Department of Labor Consumer Price Index (Urban and Clerical Workers) for Anchorage, Alaska from January, 1979, to January, 1980. Any salary adjustment shall be made in an amount calculated to the nearest tenth of a percentage point increase in the Consumer Price Index.

C. The Governor remain in the Public Employees Retirement System.

2) LIEUTENANT GOVERNOR

The Salary Commission recommends:

A. The salary of $51,089 annually for the Lieutenant Governor of Alaska.

B. Beginning January 1, 198 , the above salary of the Lieutenant Governor shall be increased in an amount equal to the increase, expressed in terms of percentage, in the United States Department of Labor Consumer Price Index (Urban and Clerical Workers) for Anchorage, Alaska from January, 1979, to January, 1980. Any salary adjument shall be made in an amount calculated to the nearest tenth of a percentage point increase in the Consumer Price Index.

C. The Lieutenant Governor remain in the Public Employees Retirement System.

3) DEPARTMENT COMMISSIONERS

The Salary Commission recommends:

A. A salary of $51,088 annually for Department Commissioners.

B. Beginning January 1, 1980, the above salary for Department Commissioners shall be increased in an amount equal to the increase, expressed in terms of percentage, in the United States Department of Labor Consumer Price Index (Urban and Clerical Workers) for Anchorage, Alaska from January, 1979, to January, 1980. Any salary adjustment shall be made in an amount calculated to the nearest tenth of a percentage point increase in the Consumer Price Index.

C. The Department Commissioners remain in the Public Employees Retirement System.

4) DEPUTY COMMISSIONERS

The Salary Commission recommends:

A. A salary of $45,762 annually except that those State employees who accept appointment as Deputy Commissioner whose annual salary exceeds $45,762 shall continue to receive that higher salary.

B. Beginning January 1, 1980, the above salary for Deputy Commissioners shall be increased in an amount equal to the increase, expressed in terms of percentage, in the United States Department of Labor Consumer Price Index (Urban and Clerical Workers) for Anchorage, Alaska from January, 1979, to January, 1980. Any salary adjustment shall be made in an amount calculated to the nearest tenth of a percentage point increase in the Consumer Price Index.

C. The Deputy Commissioners remain in the Public Employees Retirement System.

5) DIRECTORS

The Salary Commission recommends:

A. Directors remain on State pay plan (AS 39.27.011). We continue to recommend entry level of new Directors be in the 'A' step of the salary range at which they are hired. We recognize that promotions to Director may sometimes necessitate that those receiving the promotion move into a step other than 'A' in order to be assured a salary increase. In such cases, that person receiving the promotion should enter at the lowest step necessary to insure a salary increase.

B. Salary progression follow the steps outlined in the State salary schedule in AS 39.27.011 to a maximum of $50,000 annually. Directors whose salaries exceed $50,000 annually on December 31, 1978, remain at that salary without further increases.

C. All Division Directors who, as of December 31, 1978, are on frozen salary shall, as of January 1, 1979, be placed within the salary schedule at the appropriate range closest to but not less than their current salary and shall progress in step according to the schedule within that salary range, provided that their salary shall not exceed a maximum of $50,000/year.

D. Any State employee who, without a break in continuous service, is appointed to a position of Division Director after December 31, 1978, shall be placed at the time of appointment within the salary schedule at the appropriate range and step closest to but not less than his current salary, and shall progress in step according to

schedule within that salary range, provided his salary shall not exceed $50,000/year.

E. Directors remain in the Public Employees Retirement System

F. These recommendations apply to base salaries, exclusive of geographic differential payments.

6) ALASKA PUBLIC UTILITIES COMMISSION

The Salary Commission recommends:

A. That members of the Commission be paid $44,353 annually.

B. The Chairman of the Commission be paid an additional $500 annually, prorated as part of the regular salary.

C. Beginning January 1, 1980, the above salary of each Alaska Public Utilities Commissioner shall be increased in an amount equal to the increase, expressed in terms of percentage, in the United States Department of Labor Consumer Price Index (Urban and Clerical Workers) for Anchorage, Alaska from January, 1979, to January, 1980. Any salary adjustment shall be made in an amount calculated to the nearest tenth of a percentage point increase in the Consumer Price Index.

D. Alaska Public Utilities Commission members remain in the Public Employees Retirement System.

7) ALASKA COMMERICAL FISHERIES ENTRY COMMISSION

The Salary Commission recommends:

A. A salary of $44,353 annually for members of the Alaska Commerical Fisheries Entry Commission.

B. The Chairman of the Commission be paid an additional $500 annually, prorated as part of the regular salary.

C. Beginning January 1, 1980, the above salary of each Alaska Commerical Fisheries Entry Commissioner shall be increased in an amount equal to the increase, expressed in terms of percentage, in the United States Department of Labor Consumer Price Index (Urban and Clerical Workers) for Anchorage, Alaska from January, 1979, to January, 1980. Any salary adjustment shall be made in an amount calculated to the nearest tenth of a percentage point increase in the Consumer Price Index.

D. Commissioners remain in the Public Employees Retirement System.

8) ALASKA PIPELINE COMMISSION

The Salary Commission recommends:

A. A salary of $44,353 annually for members of the Pipeline Commission.

B The Chairman of the Commission be paid an additional $500 annually, prorated as part of the regular salary.

C. Beginning January 1, 1980, the above salary of each Alaska Pipeline Commissioner shall be increased in an amount equal to the increase, expressed in terms of percentage, in the United States Department of Labor Consumer Price Index (Urban and Clerical Workers) for Anchorage, Alaska from January, 1979, to January, 1980. Any salary adjustment shall be made in an amount calculated to the nearest tenth of a percentage point increase in the Consumer Price Index.

D. Commissioners remain in the Public Employees Retirement System.

9) SUPREME COURT JUSTICES

The Salary Commission recommends:

A. Annual salary of $57,231 for Supreme Court Justices.

B. Beginning January 1, 1980, the above salary of each Supreme Court Justice shall be increased in an amount equal to the increase, expressed in terms of percentage, in the United States Department of Labor Consumer Price Index (Urban and Clerical Workers) for Anchorage, Alaska from January, 1979, to January, 1980. Any salary adjustment shall be made in an amount calculated to the nearest tenth of a percentage point increase in the Consumer Price Index.

C. No change in the retirement benefits now applicable to Supreme Court Justices.

10) SUPERIOR COURT JUDGES

The Salary Commission recommends:

A. Annual salary of $52,462 for Superior Court Judges.

B. Beginning January 1, 1980, the above salary of each Superior Court Judge shall be increased in an amount equal to the increase, expressed in terms of percentage, in the United States Department of Labor Consumer Price Index (Urban and Clerical Workers) for Anchorage, Alaska from January, 1979, to January, 1980. Any salary adjustment shall be made in an amount calculated to the nearest tenth of a percentage point increase in the Consumer Price Index.

C. No change in retirement benefits now applicable to Superior Court Judges.

11) DISTRICT COURT JUDGES

The Salary Commission recommends:

A. Annual salary of $44,353 for District Court Judges.

B. Beginning January 1, 1980, the above salary of each District Court Judge shall be increased in an amount equal to the increase, expressed in terms of percentage, in the United States Department of Labor Consumer Price Index (Urban and Clerical Workers) for Anchorage, Alaska from January, 1979, to January, 1980. Any salary adjustment shall be made in an amount calculated to the nearest tenth of a percentage point increase in the Consumer Price Index.

C. No change in retirement benefits now applicable to District Court Judges.

12) LEGISLATORS

The Salary Commission recommends:

A. A salary of $12,690 annually for State Legislators.

B. The Senate President and House Speaker each receive an additional $500 per year payable on the opening day of each regular session of the Legislature or upon confirmation by the House or Senate after the opening of a regular session of the Legislature.

C. Legislators receive an annual allowance to a maximum of $4,320.

D. Beginning January 1, 1980, the above salary of each Legislator shall be increased in an amount equal to the to the increase, expressed in terms of percentage, in the United States Department of Labor Consumer Price Index (Urban and Clerical Workers) for Anchorage, Alaska from January, 1979, to January, 1980. Any salary adjustment shall be made in an amount calculated to the nearest tenth of a percentage point increase in the Consumer Price Index.

E. Participation in the Public Employees Retirement System remain voluntary for Legislators.

F. Legislators receive per diem at the same rate as State employees, including regional variations where applicable. (See per diem rate schedule for administrative State employees. Appendix II.) Legislators who do not live in their city of residence during regular or special legislative sessions will receive per diem at the short-term rate; interim committee work should be paid at the short-term per diem rate; however, per diem is to be paid at

the long-term (lower) rate if Legislators are able to stay in their city of residence while on legislative business.

G. We concur with action by 1978 legislative session adopting a 1977 Salary Commission recommendation that each Legislator shall be reimbursed at cost, and upon presentation of proof, for one round-trip to his home district during each regular session.

APPENDIX I

POSITION	SALARIES EFFECTIVE JANUARY 1, 1977	SALARIES RECOMMENDED FOR JANUARY 1, 1979
Governor	$52,992.00	$57,231.00
Lieutenant Governor	47,304.00	51,088.00
Chief Justice	52,992.00	57,231.00
Associate Justice	52,992.00	57,231.00
Superior Court Judge	48,576.00	52,462.00
District Court Judge	41,068.00	44,353.00
House Speaker	12,250.00	13,190.00
Representative	11,750.00	12,690.00
Senate President	12,250.00	13,190.00
Senator	11,750.00	12,690.00
Commissioner	47,304.00	51,088.00
Deputy Commissioner	42,372.00	45,762.00
Chairman, ACFEC	39,872.00	44,853.00
Commissioner, ACFEC	39,372.00	44,353.00
Chairman, APUC	39,872.00	44,853.00
Commissioner, APUC	39,372.00	44,353.00
Chairman, APC	39,872.00	44,853.00
Commissioner, APC	39,372.00	44,353.00
Division Director	38,868.00 (min.)	50,000.00 (max.)*

* Directors to remain on the State Pay Plan to a maximum of $50,000.00.

APPENDIX II

PER DIEM RATES

(In Effect November, 1978)

LOCATION	HOUSE ELECTION DISTRICT	SHORT-TERM PER DIEM RATE	LONG-TERM PER DIEM RATE
Outside Alaska - U.S. & Canada	0	$50.00	$35.00
Ketchikan - Prince of Wales	1	50.00	35.00
Wrangell - Petersburg	2	52.00	35.00
Sitka	3	52.00	35.00
Juneau	4	55.00	35.00
Lynn Canal - Icy Straits	5	54.00	35.00
Cordova - Valdez	6	58.00	35.00
Palmer - Wasilla - Talkeetna	7	52.00	35.00
Anchorage	8	55.00	35.00
Seward	9	54.00	35.00
Kenai - Cook Inlet	10	54.00	35.00
Kodiak	11	54.00	35.00
Aleutian Islands	12	63.00	38.00
Bristol Bay	13	63.00	38.00
Bethel	14	65.00	39.00
Yukon - Kuskokwim	15	67.00	40.00
Fairbanks - Fort Yukon (South of Arctic Circle)	16-S	58.00	35.00
Fairbanks - Fort Yukon (North of Arctic Circle)	16-N	67.00	40.00
Barrow - Kobuk	17	96.00	58.00
Kotzebue	17	84.00	50.00
Nome	18	82.00	49.00
Wade Hampton	19	65.00	39.00
*Pipeline Corridor (South of Arctic Circle)	PC-S	58.00	35.00
*Pipeline Corridor (North of Arctic Circle)	PC-N	67.00	40.00
City of New York	----	65.00	39.00
City of Washington, D.C.	----	65.00	39.00

* In all communities along the Pipeline Corridor from Valdez to Prudhoe Bay, except the communities of Valdez and Fairbanks, the State will pay either the established per diem or actual costs for lodging and meals. Actual costs must be supported by paid receipts or billings.

STATE of ALASKA

MEMORANDUM

TO: The Honorable Mike Miller
Chairman
House State Affairs Committee
Alaska State Legislature

DATE: February 9, 1979

FILE NO:

TELEPHONE NO:

FROM: Commissioner B. B. Allen
Department of Administration

SUBJECT: HCR 2

Comparison of subject resolution with the text of the Salary Commission's final report to the Legislature shows some substantive differences in language. Although these changes may have been intentional, I am calling them to your attention on the chance they were not.

Language in HCR 2:

> "Whereas Recommendation Number (5)(A) proposes that there be no change in the salary level of division directors; the Salary Commission recognizes that promotions from deputy director of a division may sometimes necessitate that those receiving a promotion move into a step other than 'A' in order to be assured a salary increase; in such cases, that person receiving the promotion should enter at the lowest step necessary to receive a salary increase;"

Language in Salary Commission Recommendation (5)(A):

> "Directors remain on state pay plan (AS 39.27.011). We continue to recommend entry level of new Directors be in the 'A' step of the salary range at which they are hired. We recognize that promotions to Director may sometimes necessitate that those receiving the promotion move into a step other than 'A' in order to be assured a salary increase. In such cases, that person receiving the promotion should enter at the lowest step necessary to insure a salary increase."

It looks as if some lines may have been omitted when the Resolution was typed. Also, in the era of magnetic card typing capability, it appears some language from the 1977 Resolution was used in preparing HCR 2. For example, the 1977 Resolution listed promotions from "deputy director." After hearing about our problems in promoting anyone else to division director, the Salary Commission removed all reference to class titles in preparing its recommendations to the Legislature.

Language in HCR 2:

> "Whereas Recommendation Number (5)(C) proposes that directors who, as of December 31, 1978, have their salaries frozen [emphasis added] shall, as of January 1, 1979, be placed within the state salary schedule in AS 39.27.011 at the range

> closest to, but not less than, their current salary and their salary progression shall follow the steps outlined in the salary schedule to a maximum of $50,000 annually;"

Language in Salary Commission Recommendation (5)(C):

> "All Division Directors who, as of December 31, 1978, are on frozen salary [emphasis added] shall, as of January 1, 1979, be placed within the salary schedule at the appropriate range closest to but not less than their current salary and shall progress in step according to the schedule within that salary range, provided that their salary shall not exceed a maximum of $50,000/year."

This recommendation was designed to correct situations whereby non deputy directors who are promoted to director had their salaries frozen rather than cut to achieve step 'A' of the higher salary range. Recommendation (5)(B) provides that director salaries above $50,000 will be frozen without further increase. To substitute the words "have their salaries frozen" for "are on frozen salary" for Recommendation (5)(C) would contradict Recommendation (5)(B).

I am available at your convenience to discuss these topics.

BBA/bc
P2-N

HCR

12

(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

March 14, 1979 Da 4/4/79

Mr. Speaker:

The Committee on STATE AFFAIRS has had HCR 12

Requesting the governor to give consideration to contract negotiations between the state and the Matanuska-Susitna Borough relating to the relocation of the capital.

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

[ ] do pass [X] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for [redacted] HCR 12 [ ] same title [X] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS: Be Not To Pass - Terry Martin - Do Pass

Ray Metcalfe Do Pass

Jay Kerttula Do Not Pass

Tony Knowles Do Not Pass

CHAIRMAN

H 60 (Rev. 12/78)

Introduced: 3/14/79
Referred: State Affairs and Finance

BY CARNEY, BARNES, BEIRNE, BETTISWORTH, BUCHHOLDT, CHATTERTON, COTTEN, HALFORD, HAYES, MCKINNON, MALONE, MARTIN, MEEKINS, METCALFE, MILES, MONTGOMERY, MUNSON, O'CONNELL, PARR, PHILLIPS AND RANDLOPH

IN THE HOUSE

HOUSE CONCURRENT RESOLUTION NO. 12

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

Requesting the governor to give consideration to contract negotiations between the state and the Matanuska-Susitna Borough relating to the relocation of the capital site

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

WHEREAS, in 1974, the people passed an initiative requiring the relocation of the capital site and requiring that the relocation begin no later than October 1, 1980; and

WHEREAS, in 1976, the people selected the Willow area as the site for the new capital; and

WHEREAS, in 1978, the people passed an initiative allowing the expenditure of state money for the relocation of the present functions of state government only after adoption by the voters of a bond issuance which includes all bondable costs of the relocation;

BE IT RESOLVED by the Alaska State Legislature that contractual negotiations between the state and the Matanuska-Susitna Borough, which would provide for the development of the new capital city by the borough at no expense to the state, ~~are the best~~ are a practical means of complying with the people's wish to relocate the capital site while, at the same time, complying with the 1978 initiative; and be it

FURTHER RESOLVED that the governor is respectfully requested to consider these contract negotiations at the earliest possible time in order to satisfy the October 1, 1980 target for beginning the relocation.

if it is found that:

1. the Matanuska-Susitna Borough has the powers and financial abilities to accomplish the development of a capital city in accordance with AS44.06 and AS44.07, per HCR 12

2. no state funds will be expended for the development of a capital city in accordance with AS44.06 and AS44.07.

STATEMENT BEFORE THE
STATE AFFAIRS COMMITTEE
ELEVENTH LEGISLATURE - FIRST SESSION
FRIDAY, APRIL 6, 1979 AT 1:30 O'CLOCK P.M.

Our name is Carolyn Burg and we are a citizen of the United States and a resident of the City and Borough of Juneau, Alaska for approximately 26 years. With the exception of the 25th Amendment to the United States Constitution (which we are challenging as being unconstitutional and void upon its face) we believe in the Constitution of the United States and the portions of the Constitution of the State of Alaska that are constitutional according to the United States Constitution, and do not consider the United Nations Treaty or any other instrument excepting the Declaration of Independence to be the law of the land. U.S. Constitution Declaration of Independence Contract Theory

We do believe in Sec. 3 of the Alaska Statehood Act which states:

> "...(Constitution.) The constitution of the State of Alaska shall always be republican in form and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence..."

We are appearing here involuntarily inasmuch as we have searched for a lawyer to help us, have been willing to pay for such help, but none can be found within the United States to help us on the various matters we are challenging, including the Capital Move Issue. So we have to continue on our own.

Our Capital in Juneau is property which cannot be reached by an initiative because it is PRIVATE PROPERTY.

Private property does not change with a change from territory to state. That's the gist of this whole case.

In other words, we are alleging that Juneau as the Capital is a private corporation under Federal Eminent Domain and the State of Alaska has no jurisdiction in it, because years ago Congress put this Capital under an interesting set of circumstances which cannot now be changed. Property Which Cannot be Reached by the Power of Eminent Domain for a Public Use or Purpose in the Pennsylvania Law Review, Vol. 28, No. 2, December, 1929 by Milton Colvin.

In this article on page 151 Mr. Justice Story states:

> "...Although the sovereign power in free government may appropriate all the property, public as well as private, for public use, making compensation therefore, yet it has never been understood, at least never in our Republic, that the sovereign power can take the private property of A and give it to B by the right of eminent domain..."

And still further on this article states:

> "...The 'due process' clause of the federal and state constitutions enunciates another principle in behalf of the individual property owner, and when it has come in conflict with the principle of the prerogative of sovereign eminent domain, the latter sometimes has to give way. It has been held that eminent domain power cannot be employed to take property by the kind of undue process of law whose description has found expression in the classical example of 'taking the property of A to convey it to B'. West River Bridge Co. v. Dix, 6 How. 507 (U.S. 1948). The fact that the taking has behind it the prestige and power of eminent domain, and that the property is to be paid for by ample compensation has not been allowed to impair the integrity and applicability of this ancient example..."

Your Speaker, Terry Gardiner, has a copy of our complaint which we issued to the United States District Court and about a dozen of these complaints were delivered by the Marshal around November 1, 1978, at which time the judge, James A. von der Heydt,

dismissed the case. Knowing Judge von der Heydt to be a good judge, this is not normal behavior for him, so we are looking into the laws of Congress to see what legislation is taking away the power of this judge to act, however, we have not had time to research this matter properly, as we have been concerned about our daughter.

Our daughter, Nancy, has been experiencing trouble with her heart and has just recently come out of intensive care at the Bartlett Memorial Hospital. It was required to stabilize her condition before sending her south with a nurse, oxygen, etc. She has undergone open-heart surgery and is now recovering in Seattle, where her husband is with her. Meanwhile we have been taking care of their twins and their home.

Excepting for bringing this before the court the Capital Move Issue is all over. All of the initiatives that have ever been brought, and all of the laws associated with these initiatives are unconstitutional and void, because the police power of the state cannot act in this case.

It would be redundant to repeat all of our authorities which we have given you in in the past, but we will give you the Supreme Court Rule which puts the restriction on the taking of this Capital. Mr. Justice Field, in a very famous opinion which has never been reversed in Williams v. Arlington Hotel, 22 F 2d 669 (a hotel) and People v. Mouse, 265 P 945 (a soldier's home) states that there are three ways in which the United States may acquire and hold land within the confines of a state and Juneau as the Capital comes within the "second way" that this can be done or by the United States purchasing property from private individuals .

Even Governor Jay Hammond in his meeting before the Joint Senate and House in his State of the State message on January 16, 1979, page 14 said:

"...PRIVATE OWNERS SHOULD BE ABLE TO LOCK OTHERS OUT FROM ACCESS TO THEIR LANDS..."

If this precedent were allowed to stand - taking this Capital which is PRIVATE PROPERTY by the police power of the State, none of our homes would be safe from the police power in the Nation. Congress could take your home or ours and give it away to someone else without a deed.

Governor Jay Hammond would not be able to act at all in this situation, as he has to see that the laws are faithfully carried out - that is his function as the top executive of this State.

Therefore the Mat-Su's proposal for moving the capital is completely unconstitutional and void. What the State of Alaska cannot do, neither can a Borough who is under the State accomplish.

We have read the Attorney General's Opinion to The Honorable Samuel R. Cotten and The Honorable Patrick Carney for the State of Alaska, and in the case moving of this Capital would be valid, the Attorney General left out one very important point. We will now ask Mr. Ron Larson one question. In the case that this "move proposal" were constitutional, Mr. Larson, would the Mat-Su Borough also be willing to pay for Juneau's compensation BEFORE moving anything to your Borough? Under condemnation procedures this is what would have to be done. Would your Borough be willing to pay for all this too?

Juneau is controlled by Chapter 561 - An Act to Repeal Timber Culture Laws and for other purposes, 51st Cong. Sess. II. 1891 (March 3) page 1095, Sec. 11-14, 26 Stat (U.S. Comp. Stat. 1901. pp 1467. 1468 relating to Townsites in Alaska WHICH ARE RESERVED BY THE FEDERAL GOVERNMENT and we have a United States Deed in U.S. Survey No. 7 covering this Townsite.

Obtaining a patent for this townsite, possessory rights were immediately begun. Occupants exercise their possessory rights by applying for a deed, which these people did who owned the land underneath Block No. 19 (the Capitol) Excercising possessory rights from September 4, 1897 when this townsite was patented gives a long possessory right to the private property underneath this building.

Sec. 14 of this above law states:

> "That none of the provisions of the last two preceding sections of this act shall be so construed as to warrant the sale of any lands belonging to the United States which shall contain coal or the precious metals, or any townsite, or which shall be occupied by the United States for public purposes, or which shall be reserved for such purposes..."

The controlling statute for Juneau was made by Congress and placed into a trust relationship with the Secretary of the Interior, which we consider exclusive legislation by Congress.

As we stated to The Hon. Terry Miller when he questioned us at the Baranof Hotel in April of 1974 (the first committee set up on the Capital Move) "The Capital Move is completely unconstitutional and void. Even the vote on this issue was without due process because there was no chance to study it - it was brought off in a hurry." It was that night that we gave Frank Harris, who was present at the meeting public notice

that we were looking into this issue further and challenging it. The Southeast Alaska Empire noted this fact approximately April 15 or 16, 1974.

After all the money spent on this issue, nothing has changed. No one can take private property by an initiative. This is property which cannot be reached by one.

We would like a hearing on this in a competent court with a ruling thereon by a competent judge, and we would like everything we do to be judicially noticed by the court.

We are now ready for any questions you may pose.

Respectfully submitted,

Carolyn Burg

(Mrs. Amos) Carolyn Burg

cc: The Hon. Mike Miller, Chairman, State Affairs Committee, Box 1494, Juneau, Alaska 99802
The Hon. John G. "Jack" Fuller, Vice-Chairman, State Affairs Committee, 11th State Legislature, Box 689, Nome, Alaska
The Hon. Terry Gardiner, Speaker of the House of Representatives, Box 6092, Ketchikan, Alaska 99901
The Hon. Richard I. Eliason, Box 143, Sitka, Alaska 99835
The Hon. Terry Martin, 3960 Reka Drive B-6, Anchorage, Alaska 99504
The Hon. Ray H. Metcalfe, Box 4-2766, Anchorage, Alaska 99509
The Hon. Bill Parker, 200 Denali Street, Anchorage, Alaska 99501
The Hon. Solicitor General, Washington, D. C. 20000

State of Alaska)
Greater Juneau Borough) ss.
Juneau, Alaska)

Subscribed and sworn to before me on oath that all the above facts are true to the best of my knowledge and belief, and that these facts are from Carolyn Burg's personal research and study in bringing this before the court and that it has not been in any way for delay.

I am a Notary Public for the State of Alaska, Greater Juneau Borough, Juneau, Alaska, and the above-named Carolyn Burg is known by me to be the person named in this instrument.

Dated April 6, 1979.

Jean F. Boone
Notary Public
My Commission Expires January 21, 1982

My Commission Expires _____

Alaska State Legislature

House of Representatives

Committee on State Affairs

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Thursday

March 29, 1979

Representative Pat Carney
~~Mr. Ron Larson~~
~~Mrs. Carolyn Burg~~
(4) Mr. Bill Overstreet
Ms. Jan Erickson

(2) Carolyn Bushey
(1) Mary Nordale
(3) CB Bettisworth
(5) Carolyn Burg

THERE ARE OTHERS.

Some of the Juneau papers would like to have their readers and the entire country believe that city is the "whole thing." That it is the only place of importance in this vast country, and every town and mining camp in Alaska is tributary to it. The fact is that Juneau was never as dead as she is at the present time. Her business is rapidly decreasing, and many of her merchants are moving away, while others are opening up branch houses in Skagway with the intention of moving their entire business interests to that city. There facts were made voluntarily by one of the prominent business men of that city while here a few days ago. Nearly every person comeing to this place from Juneau or who has passed through that city, says the same thing, "Juneau is dead."

The Record of that city has on recent occasions informed its readers that the Bauer and Turner mines of this place are tributary to Juneau. Capt. Armstrong, the manager of the Turner mine, according to that paper is to reside with his family in Juneau and operate the mine from that place and will purchase his supplies there.

Such is not the case at all. These mines will be operated from Sitka and the supplies for them will be purchased from Sitka merchants. Capt. Armstrong and family will reside in this place, the garden spot of Alaska, and will not make daily trips from Juneau to Silver bay to operate his mine. The Bauer mine is spending $1500 a month here and has only spent $25 in Juneau.

Juneau is a nice city and there are nice people there. Fine business houses and we suppose good mines and we wish for her future success. She covets the capital we know, our fine climate and beautiful scenery, but don't take our mines for we have some good ones as this season's work will prove. Don't try to make the people think you are the "whole thing." There are other diggings just as rich as Juneau and you are not the only nugget in the sluice.

June 21, 1890

ON THE REMOVAL OF THE CAPITAL

From our Capital city, proud Sitka, the Queen,
Jealous Juneau, low born of the hill and the gale,
Unknown both to song and tradition,
Seeks to steal her high place; but it's plain to be seen
That all capital, other than foreign, must fail
To save the poor Jade from perdition.

J.S.B.

May 26, 1900

The Carter Bill, which passed the senate the first of this month, contained a clause, allowing the capital of Alaska to be temporarily located at Juneau, when the necessary buildings therefor are erected at that place.

Legislative bodies rarely incorporated irony into their enactments but all who are familiar with conditions at Juneau will not fail to "see the joke" in this case.

Compliments of
REP. TERRY MARTIN

Compliments of
REP. TERRY MARTIN

The Washington dispatch in yesterday's Post-Intelligencer to the effect that the senate committee on territories had decided to report favorably on the removal of the capital of Alaska from Sitka to Juneau is recognized as a defeat for Gov. Brady, and it is thought brings the fight on the Alaskan capital question almost to an end.

Gov. Brady lived in Sitka years before he became the chief executive. He ran a sawmill, raised potatoes, developed eloquence on prohibition, and identified himself with Rev. Sheldon Jackson and his missionary influence. The governor still runs the sawmill still has his potato patch, and has acquired in the slow passage of years consideralbe land that will be of great value if Sitka should ever shake off its rural semblance and grow to be a city.

The removal of the capital to Juneau means much for that town. It is at present really the central point of Southeastern Alaska. An appropriation of $45,000 has been hanging fire at Washington for a court house and jail at Juneau for nearly two years. The money has been available, but not a cent's worth of work has been done. Juneau people lay the delay at the door of the governor, and the alleged "missionary pull" at Washington, but this has amounted to little more than conjecture. If Juneau is made the capital, not only will the Federal building for which the appropriation has been so long available be elected, but a capital building will also have to be provided. The government now provides living quarters for the principal Alaskan officials, furnishing them with fuel, light, and all the necessaries except provisions

The main activity, support and dignity of Sitka came from the government officials and their families. With the capital removed to Juneau, Sitka will, it is claimed, become little more than a village of Indians and mixed descendants of the early Russian settlers.

The foregoing appeared in the Seattle P.-I. of the Jan. 26.

Seattle is a flourishing young city. It is favorably situated for handling trade and will no doubt become an important commercial center in the near future. Its business is conducted mostly by young men, bright, active, energetic and full of hope. Sitka is proud of the Queen city of the Sound and has none other than good wishes for its prosperity.

However the flavor of immaturity still pervades it. Its youth is manifest in its penchant for boasting. In that line it keeps well abreast of the band wagon, and for making the most out of little has no equal on the coast. But as that is a source of satisfactionto it, and does no injury to any one else we let it pass.

Notwithstanding all its brillant prospects, it realizes that it is not entirely out of the woods yet, and therefore is alert to detect possible rivals. In scanning the northern coast and studying its geography its evidently conceived it had discovered one in the historic city of Alaska, and with a promptness whichis an admirable characteristic of it, decided it must be destroyed.

Seattle has a piece of ordinance. It is used at long or short range as occasion may require. As to whether it is an effective piece of artillery or not we express no opinion; but its detonation is perhaps its most frightful quality. When the possible danger was noticed an attack on the historic city was ordered. Upon a reconnaissance it was found impossible to assail its location, consequently the gun was trained on the personne of the place. To be consistent the first assault was made on the most prominent of themand also the oldest inhabitant. In casting

about for a weak point in his career at which to make the attack, it was discovered that during his long residence in the town he had kept in touch with the forces that make for righteousness, had the enterprise to manufacture lumber, thrift to cultivate potatoes and foresight and prudence to accumulate some property. The offenses were rank, the gun belched forth, and the charge was made.

To be candid however the Alaskan believes the charges are true. It is not authorized to speak for the gentleman referred to, but is of the opinion he will not attempt to palliate or deny them, consequently it rests that part of the case.

But the fight on the Alaska capital question may not be so near an end as over esteemed contemporary imagines. We will gently remind it that there "is many a slip between the cup and the lip." When Congress hears all the facts touching the matter we believe it will hesitate long before taking such an unnecessary, ill advised and costly step. It will observe that Sitka is more centrally located than Juneau. It will learn that its surroundings are more, commodious, healthful and attractive, its climate more salubrious and genial. Also that the government owns a large amount of real estate in Sitka beautifully located and immediately available for use in the erection of public buildings. This property, if the claim set forth in the P.I. should prove correct, would be an almost total loss to the government, for what value has real estate in an Indian village. When the sum of this loss is added to the expense of procuring a site for the capital building in Juneau, and the cost of either leveling a mountain or filling a channel for the edifice to stand on Congress will find that the Salary of the extra clerk, which it is claimed will be necessary if the removal is not made, would be but a bagatelle in comparison.

Compliments of
REP. TERRY MARTIN

REMOVAL OF THE CAPITAL

In our last issue we published a press dispatch which stated, that the Senate committee on territories had decided to recommend the removal of the seat of government for Alaska from Sitka to Juneau. Another dispatch conveying this intelligence stated further that the Land Office located here would probably be moved also. This action of the committee is probably the result of representations made made by persons directly interested in Juneau and who were more anxious to promote their private interests than to advance the public welfare.

The Alaskan believes the step recommended by the Committee is a grave mistake. The reasons that can be urged in its favor, are few, ephemeral and local, while those against it are many, enduring and general.

1st. Sitka is more centrally located than Juneau or any other town east of it. If Lynn Canal and its cognate straits constituted Alaska this statement might not be warranted but it does not. The Alaskan does not want to be understood as disparaging that part of our territory. It is an important and properous section of it. It contains several thriving mining districts and its out put of bullion is considerable and will likely increase for many years to come. There are several fish canning establishments along the shores of its inlets and bays, and it is the artery through which flows the trade between Seattle and other cities on the Sound and the Klondike country. These conditions have caused some smart little towns to spring up along its shores and those of its connecting straits. These things have given it a temporary importance of which it is endeavoring to take advantage, to the detriment of other locations, important now and which promise to be more important than it, in the near future. Nearly all of the great mineral discoveries recently made are far west of it and of Sitka also. Most of the great fish canning plants are to the westward as well. The center of population is fast flowing that way and important mining towns are growing. Soon the route for traffic with and travel to and from these points will not be through the tortuous passages of the inside channels but on the open sea. Sitka will be a much more convenient point for those places to do business with than any inland town. Furthermore if mineral developements along the Yukon river and its tributaries continue, a railroad will probably be constructed at no distant day connecting Prince Wm.-Sound with that great river. This route to the gold bearing fields of the interior will be much shorter than the one from Skagway, will avoid foreign territory and for these reasons will largely supercede it.

2d. The harbor at Sitka is one of the finest in Alaska. It was selected by the Russian American Fur Company as the point for its headquarters, after a careful investigation of the coast. It is said to have the best holding ground for Anchorage of any harbor in Alaskan waters, it is well protected from storms and is an ideal place for vessels to coal and water. This serves to keep Sitka in touch with points to the westward.

3rd. The government owns much valuable property in Sitka which it acquired at the time of the transfer. It has a large warehouse, two large three story and one two story buildings for public offices and a house for the Governor's office and reception rooms. It also has quite an amount of real estate, beautifully situated , for other public

edifices. The ground is comparatively level, cleared and immediately available for use. If the offices are removed to Juneau, rooms for them must be rented or buildings erected. The government owns no land there suitable for them. Nearly all of the available space in that naturally contracted townsite [for at Juneau the mountains crowd the channel] being occupied, a site for public buildings could not be obtained except at a heavy cost, and then places for them to stand would probably have to be cut out of a mountain or or filled up in the channel and in either case at great expense. Furthermore land titles in Juneau are not settled. Because of this the $45,000 appropriated by Congress two years ago for the purpose of building a Court house there has not been used yet. The government will not erect its buildings on land to which the title is not perfect.

4th. With a possible exception, the removal is not desired by the officials or is it demanded by the people, save only a few who hope to be personally profited thereby. The convenience of a great majority would not be promoted in the least while a great many would be incommoded.

5th. The cost of living in Juneau is greater than in Sitka, and the salaries of some of the officials would have to be increased in order for them to meet living expenses, which would make an additional drain on Uncle Sam's pocket. Many other reasons, why the removal should not be made, press for presentation but space forbids. We think when Congress carefully considers the matter, it will discover that as a business proposition it is indefensible, and that the public demand therefor is greatly insufficient to justify it.

That a crisis has come in the history of Sitka is a fact that can no longer be ignored. The dangers of her losing the seat of government with all the prestige it gives, is immenent. The forces that are antagonistic to her are gaining the ascendency. They are organized, active, alert and pulling altogether. They are leaving nothing undone to accomplish their purpose. They have a powerful lobby in Washington which is instant in reason and out of season, ever insistent and persistent for the removal of the Capital to Juneau. What is Sitka doing to counteract this baneful work? Echo answers what? If it hopes to hold its own it must arouse from its lethargy and bestir itself. It should not stand on the order of its doing. Not a moment can be safely lost. Time is precious. The citizens should hold a mass meeting without delay and set forth, in proper form the reasons why the capital and other public offices should not be removed to Juneau or any other town to the eastward. This should be done so that the manifesto might be forwarded to Washington by the next steamer. Who of our citizen will take the initiative in this matter which concerns us all so deeply? Sitka, "awake, arise or be forever fallen."

Compliments of
REP. TERRY MARTIN

JUNEAU NOT THE PLACE FOR THE CAPITAL.

Two Rousing Mass Meetings Held by the Citizens Of Sitka.

The Town Hall was crowded to its utmost capacity by enthusiatic citizens of Sitka who held two rousing mass meetings on Tuesday and Wednesday evenings in regard to the removing of the capital. The meeting was called to order by Dr. Wilbur, and Judge Kelly was anenimously elected as chairman, and W. P. Mills secretary, Judge Kelly then stated the object of the meeting and Dr. Wilbur made a motion that a committee be appointed to draft resolutions to protest against the removal of the capital; motion carried. Remarks were made by Wm. Millmore, W.R. Mills, Wm. Shergen, Capt. Apperson, Will Distin and others.

Juneau was ably represented by George Kyrage but the prevaling wind of Juneau was not sufficient to knock Sitka out of the capital.

The meeting was adjourned until Wednesday evening, when the commitee brought in the following resolutions which were read and adopted.

It having come to our knowledge that the Senate Committee on Territories has decided to recommend the removal of the Capital of Alaska from Sitka to Juneau, we the citizens of Sitka in mass meeting assembled respectfully beg to submit the following reasons why the proposed removal should not be made:-

First. Public convenience does not demand it. Sitka is more centrally located then Juneau or any other point in southeastern Alaska. It is in closer call for all lines of travel than any other. It is situated on a bay on the sea, has an excellent harbor and is the focal point for all water routes of Alaska excepting the one from Puget Sound to Skagway, and is therefore the natural point for concentrating military forces.

Second. The harbor at Sitka is fully protected and according to frequently repeated opinions of Naval and Revenue officers, has the best anchorage of any in Alaska and is absolutely free from ice at all times. Commanders of the Pinta, Perry, Wheeling and Marietta have stated in official reports that it is impossible for a vessel to lie continuously at Juneau.

Third. Economy dictates that the removal should not be made. The Government has buildings in Sitka for all offices and land on which to erect others as occasion may require. The buildings now occupied were provided at a large expense. They are and will continue to be adequate for the purposes for which they are used for some time. If the offices are vacated they will be unproductive for they are not adapted to the uses the business pursuits of the town requires, and therefore could not be leased or rented. Decay would follow disuse, resulting in a total loss to the Government of all that has been expended on them. The Government has no buildings at Juneau or land on which to build them. As available building space is very limited at that place rents are high; and if the offices are removed places must be provided for them either by the erection of buildings or leasing rooms from private individuals. The cost in either case would be heavy. Adding the loss of the public buildings in Sitka to that of providing places in Juneau for the various offices which would probably be involved in the removal makes a sum of no inconsiderable amount, and as the intrests of a vast majority of the citizens of Alaska would not be subserved thereby it would, it seems to us, be an unjustifiable waste of public funds.

Fourth. If it should ever be desirable to remove the Capital from its present location the time is not yet. Alaska is a vast territory and its development is scarcely begun and its possibilities practically unknown. It is impossible to know where the center of population will be a year hence. That it is west of Sitka and therefore of any point on Lynn canal and will continue to be there can be no doubt. The business world which reads the signs of the times so accurately, evidently thinks so, for all the great transportation lines which have been recently established have their objective points in western Alaska. These lines do not traverse the inside channels, and consequently will not touch at points east of Sitka. A vast flood of miners will pour into the Cape Nome country during the coming summer. The richness of these mines is beyond question, and it will no doubt be a prosperous mining camp for years to come. The routes of travel to that place will be mainly by the open sea. Furthermore if mineral discoveries continue to be made in the Yukon Valley in the future as in the recent past it will probably not be many years before a railroad connects Prince William Sound with that great river. Such road will be entirely on American soil and will largely supercede the Skagway-Dawson route. This road will be reached by the open sea routes also. There are also large mining interests on Copper river, Unga island and other points along the coast west of the 141st meridian. Nearly all of the great Fish canneries are also to the westward. These enterprises employ a large number of men. That the center of population is already west of Sitka as before stated is beyond question, and that it will continue, there can be no doubt.

In view of the foregoing we believe a proposition to locate permanently the Capital at this time is premature, and we most earnestly protest against its removal from Sitka, until a more settled condition of the country determines the most desirable point therefor.

COMMITTEE.

Wm. Shergen	W.P. Mills
J.L. Cogswell	J.S. McNair
Geo. Browell	J.A. Shields
A.J. Apperson	B. Hiser
W.O. Mendenbauer	L.A. Cox
B. K. Wilbur M.D.	John Hanlan
A. Anonamoulsky	W. Millmore

Compliments of
REP. TERRY MARTIN

THE ALASKAN March 10, 1900

WHAT WILL THEY DO NEXT?

The first page of the Alaskan Miner of the 17th inst., is almost filled with a report of a committee which was appointed by a mass meeting of the citizens of Juneau on the 8th of the same month to look for reasons why the capital should be removed from Sitka to that place. We judge the citizens selected wisely, so far as diligence is concerned for the committee was apparently composed of very diligent men. The mass of material it collected in such a short time is quite remarkable. The report makes interesting reading and some portions of it may be valuable as statistics, but other parts of it are not, because of their deviation from verities.

We apprehend however that the principal fault the intelligent citizens of that town will find with it, is that the greater part of it is not pertinent to the purpose it was designed to serve.

It is largely devoted to exploiting the commercial importance of the town. It is well known that, that of itself is no reason why the capital should be located there. It is not so considered elsewhere. In fact but few commercial cities are capitals. Call to mind the states, in which they are not and the greater number of them will have been named. The capitals of the Pacific Coast States are none of them commercial center, but towns as nearly centrally located as was practicable at the time the seat of government was definitely fixed.

We suppose it does not occur to New York city, that because it sells more goods, pays more taxes, loads more ships, is the headquarters of more corporations and has more white inhabitants than Albany it is therefore a more suitable place for the capital of the State.

The report is also weak in other respects, notably, in that it attempts to advance the claims of the town it advocates by disparaging another. This perhaps is not reprehensible if done on the lines of fairness. In this case however in order to do so it departs widely from facts. This is especially so in the matter of applications for the survey and entry of public lands. The report says, "Of public land applications more than nine tenths are filed from the vicinity of Juneau, while Sitka and vicinity show only one twentieth of the total." Upon an examination of the records in the U.S. Surveyor General office we find they tell quite a different story. They reveal that more than five fold of the applications for the survey of non-mineral land have been from points west of Sitka. It is true the greater number of applications for the survey of mining claims have been from points east of Sitka but not in the proportion set forth in the report. How the committee could have been so mislead as to make such a statement, or how they could have been prepared to make any report under that head is not understood, as it was impossible for them to visit the land office, the only place reliable information touching the matter is obtainable, between the time they were appointed and the time they reported.

In the matter of mineral applications we are informed that conditions are rapidly changing. A much larger proportion of applications are from the westward than formerly, nearly all of the deputy mineral surveyors that have been recently appointed are for districts in the interior or along the western coast, and the business is rapidly tending that way.

The report endeavors to make much of the fact that Juneau has better facilities for subduing fires than Sitka and therefore the records of the various federal offices would be safer there. Not to mention the fact that the Government buildings are more isolated here

than would be possible in Juneau and that all of the offices are provided with fire proof vaults or safes where the more valuable records are kept, it is well known that where water, through hose, is used to check a conflagration, one is as liable to destroy them as the other. If the fire does not consume, the water will ruin them.

It must not be forgotten that Sitka has a very efficient fire Company, which allows no grass to grow under its feet when an alarm is sounded. It is provided with chemical extinguishers and a fire must be a lively one to get a head of it.

Further more, from present indications no considerable time will elapse before Sitka will be as well supplied with water for all purposes as any town in Alaska. We understand that a gentleman who represents abundant capital has applied for a right of way for mains through, and reservations for reservoirs on the public domain for the purpose of bringing water into the town. When this is done an electric light plant is sure to follow.

The inaccessibility of Sitka is also exploited. In this matter the committee indulges in misleading statements which are unworthy of them. It is true that for about three months during the winter Sitka has only a semi-monthly mail, but during the other seasons it is served much more frequently. In regard to the mail boat, that comes here, being only a small one as the report asserts, suffice it to say it is onethat pl'es, between Juneau and Seattle and is as large as the average that navigates the narrow and dangerous inside channels.

However arrangements will soon be consummated by which Sitka will be provided with a weekly mail during the entire year.

But space forbids any further review of this remarkable report. We assure our sister city, whose misfortune it is to be so near the boundary line, that we bear her no ill will. We sincerely hope to entertain many of her citizens when we celebrate our connection with the out side world by the ocean cable line.

Compliments of
REP. TERRY MAPTIN

AN INTERESTING LETTER.

In Regard to the Removal
Of The Capital

FROM SITKA TO JUNEAU.

The following letter was written by a gentleman who takes great interest in all matters pertaining to Alaska. It was prepared for the information of those to whom it is addressed; but as it contains much that, we think, will be of interest to our reader, in all parts of the territory, he kindly permitted it to appear in the columns of The Alaskan.

Sitka, Alaska, Feb24, 1900.

To our Senators and
Represenatives,
In Congress.

Sirs:

As there seems to be considerable discussion about removing the capital of Alaska from Sitka to Juneau, and believing as I do it is not for the best interests either of the Government or the people of Alaska that any changes be made now or until this District becomes more definitely and permanently settled; at present at least the population is too fluctuating for Congress to deal intelligently with this proposition.

I therefore inclose clippings taken from the Alaskan, a newspaper published at Sitka, giving some very good reasons why no change should be made at this time.

Looking at this from Governmental and point it will readily be seen the Government owns all the public buildings at Sitka now used and occupied by the various officials (exceptpossibly the Land Office and even that is on Government land) thereby the Government saves a large annual outlay for rents; and the government at considerable expense have not only kept these buildings in repairs but have built large fire proof vaults for the better protection of all public records, besides the Government owning sufficient ground around eac. and every one of these buildings they cannot, without the consent of the Govetnment be endangered by individuals erecting contiguous buildings, thus making them comparatively safe from fires.

And there is no necessity of the Government ever having to do so as she already has a beautiful tract of some ten or fifteen acres of land reserved expressly for other public buildings as occasion may hereafter require. To all such lands the Government holds unquestioned and undisputed titles.

In case of removal these buildings would be abandoned and go into disuse and possibly destroyed or jumped by some enterprising citizens as has been done else where.

It seems some of our so called miners have no respect for either Government reserve lands or burial grounds; for the ground reserved at Juneau for court house purposes is now claimed by such miners as mineral ground; hence the forty-five thousand dollars appropriated by Congress for the erection of a suitable court house and jail at Juneau some two years ago has and is being held up by some of those enterprising miners.

If the Government in two years cannot secure title to enough land in Juneau for the one building, how can it be expected that sufficient ground could ever be secured for the duplicationg of the buildings now owned and occupied at Sitka, unless it would be at fabulous prices for either the ground or rental.

In the early history of Juneau the Catholic and Greek churches, the Presbyterian Mission, the miners and the people of Juneau selected burial grounds near by and buried their dead theron; now application has already been filed on some, if not all of these burial

grounds by mineral applicants.

Owing to the contracted location of Juneau all of the available ground seems to have already been improved and occupied, and the cost in either case would be five or six fold greater than it now costs or will cost the Government if the capital r mains at Sitka.

Why any official should favor or encourage the change, if any are doing so, would be most difficult to explain unless,perchance, they like some of the Lobby you now have in Washington working for this, either own or expect to own blocks of real estate or stock in electric lights water or other plant which they seek to dispose of to the Government before the boom is over.

Whatever tends to make it more expensive to the Government tends toincrease the cost of living to each and every official; therefore as rents and living at Juneau are much greater than at Sitka, (and it is clear enough here_ present salaries being insufficient, but few if any of the officials would be satisfied to remove until their salaries were surficiently inceased to compensate for such change.

It is noticed that bills have already been introduced looking to an increase in the salaries of some of the official all should be included in such bills.

Now we come to consider some of the claims put forward by the Juneau people themselves.

They claim they are more nearly the center of population, this is not, never was,nor never will be true. By glancing at the map it can readily be seen that Juneau is located at almost the extreme Eastern boundary line along what is Known as the Inland or Eastern channel, which route was first established by the old Hudson bay company to supply the various forts and trading posts they had established in British Columbia. The initial point formerly was from Victoria to Fort Hope or Yale on Frazier river. As our prospectors and miners pushed on their forward and onward march of progress to the Stickeen, then this route was extended to Fort Wrangel which, for a long time, bid fair to out-rival any and all other inland towns along that route. When the prospectors and miners opened up the Atlin country the route was extended to Skagway and Dyea at the head of Lynn canal. Therefore Juneau's importance as a flourishing town is due largely, if not wholly, to the fact that it, for a time, was one of the many supply stations along that route for the miners across the line to British Columbia and some of the Islands near by. But, never having been the terminus of any route, she can never become the commercial metropolis, as Seattle and Victoria claim the distinction of being at the one end while Skagway and Dyea claim the distinction of being at the other end of that route.

Now as the bulk of the mining population was first along Frazier river, then the Stickeen, then Atlin, the Klondike and other places north and west of either Juneau, Skagway, Dyea or Sitka, it can readily be seen that either Fort Wrangle, Skagway, Dyea and Dawson land more and better claims than Juneau ever had of being nearer the center of population.

Circle city, at one time, bid fair to outrival either as a central mineral point; now Circle city is so nearly depopulated that it has already been recommended that the Land Office located there be abandoned.

If there is not sufficient business and population to support the Land Office why is it prudent to establish a Judicial branch there?

What is true of Circle city is to some extent, true of other inland and mining towns; either in the interior or along this eastern water route, they too are fast becoming depopulated as the people last spring and summer were rushing to the Copper river, Cape Nome and other new discoveries. It is ever thus in all mining countries, in order to keep pace with these fluctuations it would be necessary to have all public buildings on boats

or wheels to follow the changing population.

Now as to comparison of these two water routes, the one we designate as the inland or eastern route, is at best a very hazardous, dangerous route, inaccessible to all sailing crafts, and requiring from three to five days longer time for a steamer to make the round trip from either San Francisco, Portland, or Seattle to any of the towns located as Sitka and many of the other towns all along the Pacific ocean by the all ocean route.

The one is open and safe alike to all vessels whether driven by steam or sails. It is the route leading alike to most all ports in central and western Alaska, Lering sea, the Orient and the Philipine Islands as well and when the Niearanga canal is constructed it will become the shortest, safest and best route for all our commercial nations.

It claimed that more mineral patents have been issued to lands in and around Juneau then from any and all other points in all Alaska. Granting this to be so, it was equally true in the early history of California, Oregon, Washington, Idaho, Colorado and Montana, and every other mineral country.

It only goes to prove that mineral applications are not made except when the lands have been first made valuable as real estate holdings independent of their mineral character, by reason of their location on some thoughfare or by their contiguity to some villiage or town; was it ever seriously urged by the states above named as a reason why the capital of those states should change with each and every new discovery, or change in the center of a mining population?

If not, why this effort to change Alaska's capital?

If it is better for the public good and service then there should be some fixed policy by which such changes could be more speedily met when the center of population does take effect . The facts are this looks too much like some interested parties were seeking to bolster up the waning fortunes of some transportation lines, some real estate or town boomers to be seriously considered by Congress. Admitting that Sitka and for that matter all other towns situated along the ocean beach, are and will be somewhat isolated so long as the people of all Alaska shall be confined to one single water route, and that one along our extreme eastern boundary, and form foreign lands.

This will not and cannot much longer remain true, for the ocean and western route must supply equal facilities to all central and western Alaska, as the administration has already wisely appointed Brigadier General Randall and equipped him to build Military codes and Telegraph lines connecting all points in Alaska with the out side world.

The very fact of Sitka being so favorably located on the sea with the best and safest harbor in all Alaska, a climate from ten to forty degrees warmer then either Juneau or any other of the interior towns, with ample and availavle grounds for building a city, with fine roads for miles around, with good pure water near by, with excellent facilities for drainage goes to make Sitka the most healthful and desirable for residences in all Alaska.

She is surrounded by mountains of low grade ore that bids fair to out rival those of Juneau, Douglas. island or other points in south eastern Alaska; only waiting capital to develope these properties.

Who says Sitka has not a greater future before her than her rival along Lynn Canal. While Juneau boasts of having obtained or applied for more patents ot mineral lands, the records of the Sitka Land Office and those of the Interior Department show six to one more surveys and applications to non-mineral lands west of Sitka than ever came form Juneau and all its tributaries And in due time when the western and ocean route is fairly established the great

majority of mineral entries must and will come from the central and western portion of this District.

There is now every indication of more business coming form Prince Williams Sound, Valdes. Copper River, Kodiak, Yakutat, and other points to the westward than ever came from the placid discoveries made in the Klondike mineral belt.

These statements can and will be verified by the records in the various Land Offices throughout this District by the records of the Interior and other Departments in Washington as well as by every Senator or Member of the House of Represenatives tourists, or other persons who ever have visited Alaska save and except possibly the few whose personal investments and personal interests may conflict therewith. Very respectfully.

Compliments of
REP. TERRY MARTIN

THE GOVERNOR REPLIES.

Re Removal of Executive Office.

Sitka, Alaska, March 13, 1905
F.A. LaVanlette, John Olds, Dr.P. Shackleford, committee of Juneau Chamber of Commerce, Juneau Alaska.

Gentlemen:-I beg leave to acknowledge the receipt of your communication of the 1st instant with the enclosed copy of your letter to the Honorable Secretary of the Interior.

At the time of the revision of the code by the Senate territorial committee, in 1900 , a citizen of Juneau had an opportunity at one of its sittings to tell the senators how insignificant a place Sitka was and how inconvenient and far out of the way its location was for doing business. Its lack of mail facilities was especially emphasized. At that very time this same gentleman was the means of staying off the contract for carrying the local mail from Juneau to Sitka for a year.

There was no opportunity to present the other side of the question of removal before the committee reported to the senate.

It is clear therefore that the spirit and latent of the act of congress of June 6, 1900 is that the government shall own its grounds and buildings thereon and by no possibility is this an incorrect assumption.

You say that the absence of the surveyor-general from Juneau has been and is a cause of a great deal of dissatisfaction to persons who are interisted in the proceedings of the land department, or who are interested in the proceedings of the district court in Juneau, when confronted with land matters.

Out of thirty eight mineral surveys which were noted upon during this past year five were in the mining district (Juneau), five Berner's bay, four Ketchikan, three in Porcupine, two each Cape Nome, Cook inlet and Wrangell, one at Sitka and fourteen in Valdes; and of the forty surveys under soldiers additional homestead rights, twenty-three are from Yakutat and places west of it and four are from Juneau, five from Fanler bay and the remaining eight from other places in southeast Alaska.

It would appear then from these figures that the people of Valdez have more reason for complaint than the dissatisfied ones at Juneau.

The President has authority to fix the location of the land office. He can move it from Sitka to Juneau and within one or two years he may order it to Valdez or Fairbanks if the district is to have but one office.

The office of surveyor-general for the state of Washington is at Olympia and there are seven land offices within its borders. In Oregon the surveyor-general is at Portland and all its six land offices are scattered over the state and none in Portland; in California the surveyor-general is at San Francisco and there are ten land offices; Nevada has the surveyor-general's office at Reno and the land office at Carson City, the argument that the two offices should be in the same place is not valid nor is it based upon the practice of the land department.

It is true that terms of court are held by Juneau, but they are also held at Skagway and at Ketchican and the law provides that the Attorney-General may for cause, change the place of residence of the judge of either division of the court.

It is probable that the residence of the judge of the third division may soon be changed from Eagle to Fairbanks. A combination of

unforseenevents might make it desirable to change the residence of the judge of the first division back to Sitka. It is not necessary nor imperative that the land officers, the surveyor-general and the judge should reside in the same town.

The cry against Sitka in 1900 does not hold good today. It has become, by reason of its location the cable center connected with Juneau with Seattle and with Valdes. There is mail connection with Juneau by steamer Georgia every six days; the Pacific Coast company sends two steamers a month; the Northwestern Steamship company sends two vessels each month via Sitka to western parts and return, and the Alaska Commercial company sends one steamer a month via Sitka to Kodiak. The cry of isolation no longer carries force.

There is another argument for lefting officers remain at Sitka until suitable grounds and buildings thereon at Juneau are owned by the government: it is that of the protection of their records from fire. Juneau has a good water system and her fire brigade is remarkably prompt and successful in combatting fires, but not withstanding the insurance companies charge a very high rate for what few risks there are willing to accept. There is a risk of fire in Sitka but between the two places the chances are much in favor of the latter especially since it has just completed a water system with strong pressure.

Very few of our people understand what an important library we are gathering for the district. Most of the books are now kept in the Sheldon Jackson Museum of Natural History and Ethnology. This is the nearest fire-proof building in Alaska. The walls and floor are of thick grout and the roof of heavy galvanized iron. There is very little wood for the fire to take hold of.

The desirableness of Sitka's location and climate might be pleaded as a fitting place for the location of the offices of the district.

For these reasons I do not deem it for the best interests of the government to move the offices of the surveyor-general and governor from Sitka to Juneau at the present time and shall so advise my Department.

Yours very respectfully,

John G. Grady,

Governor of Alaska

Compliments of
REP. TERRY MARTIN

SKAGWAY AT IT AGAIN

Understanding that Senator Geo. E. Perkins of California, has been working for the retention of the capital of Alaska at Sitka, the business men of Juneau and Skagway have taken no uncertain exception to his course, and have addressed to him protests decalring emphatically that they consider such action as he is understood to have taken to be inimical to the best interests of Southeastern Alaska.

In the Skagway protest it is stated that it is impossible to disassociate the public position of the senator from that of his private position in the Pacific Coast Steamship Company, which has a service to Sitka.

The Skagway protests have been forwarded to the senator. The signatures at the bottom of the document represent thirty-five of the leading and most important business firms of Skagway. The protest void of superscriptions and signatures follows:

"We the undersigned merchants of the city of Skagway, Alaska, are in favor of the removal of the capital of Alaska from Sitka to Juneau, Alaska. We expressed our desires in this matter through our delegates at a territorial convention held in Juneau, and later at a mass meeting of the citizens of Skagway held February 3, 1900, copies of the resolutions passed at which were duly forwarded to you. Also, the facts being personally known to you that the removal of the capital to Juneau would be a great convenience and the saving of much time and expense to the men of this city desirous of doing any legal business, we feel bound to express our surprise at the position you have taken in regard to the same in the United States senate, which amounts to an opposition of such removal and a disregard of the wishes of the people of Skagway.

"Further, it must also be within your personal knowledge that the people of Southeastern Alaska, with the exception of Sitka, is in favor of the removal of the capital to Juneau and that your position in regard to the same is in direct opposition to the will of the people of this whole section.

"Under these circumstances it is scarcely possible to disassociate your public postion as senator from your private position as head of the Pacific Coast Steamship Company, and we must therefore regard the latter as representing interests which are inimical to those of this port and those of Southeastern Alaska and take action accordingly. For the consideration of such action we have hereunto signed our names this ninth day of April, 1900." Daily Alaskan.

It certainly is surprising that Senator Perkins should have the audacity to express an opinion of his own, and more especially an opinion that is not in accordance with the egotistical ideas of the inhabitants of Skagtown.

You poor, benighted, selfcentered inhabitants of a doomed city, don't you realize that Senator Perkins, or any one else for that matter, knows that you want the capital where it will be most convenient for you, regardless of the rest of the Territory.

But on the other hand don't you know that Senator Perkins was interested in Alaska before you really knew that it was inhabitable for any one but Esquimanx and years before Skagwaycontained anything but Capt. Moore's residence and a few half starved Siwashes.

Don't you realize that Senator Perkins knows that while Skagway and Juneau are at the present time the most populous towns in Alaska, and have more official business than the rest of Alaska combined, that they are on the decline.

That the Westward portions of

the Territory are developing very rapidly, that the U.S. government is going to put in a telegraph and railroad line from Valdez to the Yukon, which will draw all the American traffic from Skagway, that the English are already working on a telegraph line to connect to Dawson through their own territory, that they are diligently striving to get a port of entry somewhere near Skagway and if they don't succeed they will build a railroad from the south to connect with the one already being built in their domain.

If you were not so completely wrapped up in your own interests you would see that the center of population of Alaska is rapidly moving west and that if the government was justified in moving the capital at all it would be to move it west and not east in close proximity to the boundry line.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K-STATE CAPITOL
JUNEAU, ALASKA 99811

April 5, 1979

The Honorable Ray Metcalfe
House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Capital Relocation
Proposal

Dear Representative Metcalfe:

As you requested, we have reviewed your proposal to see if it conflicts with the FRANK Initiative.

It appears that your proposal does conflict with the FRANK Initiative. Moreover, it appears that it also conflicts with the requirements of the original Capital Relocation Initiative, and portions of the Alaska Constitution, as well.

To begin with, the proposal contemplates a committee of the legislature to negotiate "all agreements" with the Matanuska-Susitna Borough and, in effect, plan jointly with the borough the development plans for the new capital. As a general proposition, negotiating agreements and preparing development plans are things done to carry out a law and are not acts of making law. This means that they are not legislative function and that they may not constitutionally be performed by the legislature or its committees. Vesting the legislature with an executive power not given to it by the constitution is unconstitutional. Bradner v. Hammond, 553 P.2d 1 (Alaska 1976). This is the reason that the legislature created an agency in the executive branch to plan for the capital move. AS 44.06.200-260.

The original Capital Relocation Initiative required the legislature to provide for the planning of the new capital. AS 44.06.160. The legislature provided for a new

capital planning commission and its functions in AS 44.06.200-260. Your proposal to have this planning done jointly by a legislative committee and the borough conflicts with the initiative's mandate and the statute's express provisions. Legislation would be required to amend the existing law.

With respect to the FRANK Initiative, the problem is that your proposal does not take into account the interlocking nature of that initiative and the statute establishing the New Capital Site Planning Commission. Your proposal would supersede the commission's plan with a plan to be agreed upon jointly by the legislature and the borough. The FRANK Initiative requires voter approval of a bond issue for all the bondable costs of relocation to a capital city as determined by a commission created by the legislature to plan the move. Under present law, the legislature has mandated that the only "plan" that is acceptable is one which, in essence, duplicates the facilities of the present capital city. In order to supersede that requirement, an amendment to AS 44.06.230 or to the FRANK Initiative or to both is necessary. In other words, if there is no statutory amendment, the borough's commitment to pay all the costs under a new plan would not suffice. It would have to commit to (and arrange for) payment of all the costs under the commission's existing plan in order to relieve the state from that burden and thereby nullify the effect of the FRANK Initiative.

I would be happy to discuss this matter further with you at your convenience.

Yours very truly,

Avrum M. Gross
Attorney General

AMG:as

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

M E M O R A N D U M March 9, 1979

SUBJECT: Capital Move Concept
(Work Order No. 6821)

TO: Representative Mike Miller

FROM: Kenneth E. Vassar
Legislative Counsel

You have requested a legal opinion relating to the "Capital Move Concept" outlined in the rough draft of an agreement between the Matanuska-Susitna Borough and the state which you have furnished us. At the outset, I think it is appropriate to discuss the FRANK initiative and the effect of any attempt to avoid it.

I would have to approach any plan which would attempt to provide for the relocation of the capital without the expenditure of state money with a skeptical attitude as to its viability in the courts. Such a plan must avoid any expenditure of state money for the physical relocation of the present functions of state government and must also avoid incurring any obligation on the part of the state to pay any state money at any time in the future for such physical relocation. Even assuming that such a plan does exist, any prognosis as to the viability of the plan comes with a very large caveat, which will be explained in the following paragraph.

In the ordinary review of statutes, a court will apply the law in accordance with the literal meaning of the words used in the statutes unless there is some ambiguity which requires it to go behind the words of the statutes and look at the legislative intent. The phrase "State money may be expended," as it is used in the FRANK initiative, appears to be unambiguous, and so it would be fair to assume that a court would apply the law strictly in accordance with the language in the initiative under normal circumstances. Thus, a plan which does not involve the expenditure of any state money, now or in the future, for the physical relocation of the

present functions of the state government might be expected to survive a FRANK initiative attack. However, the magnitude of the issue and the fact that this is an initiative rather than a legislative enactment would take the interpretation of this language far from normal circumstances, and a court might go beyond the literal interpretation of the words used in the initiative and examine the purpose behind the words.

If this were the case, the court would surely give some weight to the "Purposes" section of the initiative. That section includes the following language:

> It is the purpose of this act to insure that the people of Alaska will have the opportunity to make an intelligent and objective decision on relocating the capital with all pertinent data available to them concerning the costs to the State. . . .

Since it would be only of relatively mild interest to the people to know the costs of the move after the move had begun, and since it would leave little room for decision making by the people at that point, I would assume that a court would view this purpose as applying before any move began. It would follow that a court could interpret the language of the initiative to actually mean that no movement of the present functions of state government may begin before the required bond issue election.

Turning now to the "Capital Move Concept," I would like to begin with a summary of my perception of the plan. Since the concept does not appear to present all the details of the plan, this summary and the following analysis may include some assumptions on my part relating to those details. Under the plan the borough would select from, or trade borough land for, a minimum of 6,240 acres of state land at the relocation site. The existing provisions of law relating to borough selections and exchanges of land are found in AS 29.18.205 and 29.18.209. In return, for the selection or trade, the borough would prepare a basic site plan for the capital city and finance and construct a building for use as a part of the total state office complex. When the building is completed, it would be turned over to the state for occupancy, and the borough would be allowed to charge rent on the building in an amount sufficient to cover debt service on a portion of the bonds issued by the borough for

the project. The state would provide rights of way to the borough for the construction and would establish an appropriate body to consult with the borough. The borough would return title to lands it receives under the agreement to the state if (1) the borough is repaid for all its expenditures; (2) any bonds issued by the borough are retired or assumed by the state; and (3) the borough regains entitlement to selection of an equal amount of land.

Before getting into an analysis of the concept in relation to the FRANK initiative, I have some comments about the selection and transfer of land under AS 29.18.205. That law allows boroughs to select vacant, unappropriated and unreserved state land within their boundaries. Under the terms of the 1974 initiative (AS 44.06.130), the land from which selections would be made under the concept submitted is classified as reserved use lands. Therefore, it is ineligible for selection under AS 29.18.205 absent some legislative action. It appears, however, that the land would be eligible for a land exchange under the authority of AS 29.-18.209. The exchange would have to be for land owned by the borough of equal value to the state land. The determination of equal value would be incumbent upon the director of the division of lands and the commissioner of natural resources.

The following paragraphs relate to the "Capital Move Concept" on a paragraph-by-paragraph basis with specific attention to the relationship of the concept to the FRANK initiative.

1. As noted before, this paragraph will require a land exchange rather than a municipal selection. In order to fulfill his statutory duties (which cannot be contracted away), the director will be required to determine whether there is a public interest to support the exchange and whether the land offered by the borough is of approximately equal value to the land offered by the state (including the non-monetary value of public benefits). In addition, the director must give notice of the exchange to the governing body of the borough under AS 38.05.305 and to the public under AS 38.-05.345. Finally, while AS 29.18 requires a survey to be conducted or paid for by the municipality for municipal selections under that chapter, it does not expressly require the municipality to survey or pay for the cost of a survey of land proposed to be exchanged.

The director's duties, particularly those relating to the giving of notice, appear to require the expenditure of some state money. Thus, the FRANK initiative prohibition could apply to this section. In the absence of statutory requirements relating to surveys, the state may be required to pay for the survey of the land subject to the exchange; this would be prohibited by the FRANK initiative.

2. Since this paragraph relates solely to planning by the borough, there would appear to be no FRANK initiative questions.

3. Since this paragraph relates solely to financing and construction of a building by the borough, there would appear to be no FRANK initiative questions.

4. This paragraph requires the state to provide rights of way to the borough for construction of necessary access roads and other infrastructure items to be built by the borough. This is a power granted to the director under AS 38.05.330. If the application is made in accordance with regulations promulgated under AS 38.05.330, it appears that there would be no required expenditure of money for the granting of the rights of way.

5. Under this paragraph, the state would be required to establish an appropriate body to consult with and coordinate the work of the borough to ensure compliance with the agreed plans. I am not sure how this body would be established; however, it appears that its duties would require travel and per diem allowances and possibly salaries. These obviously will require the expenditure of state money. Again, the FRANK initiative may prohibit this expenditure.

6. After the completion of the building, the borough will turn it over to the state to permit meetings of the legislature in the building. The borough, s months after completion of the building, will charge the state rent based upon the proportionate amount of revenue raised by the sale of bonds for the construction of the building.

There are two questions with regard to this paragraph. First, the obligation to pay rent would require an expenditure of state money. The obligation to maintain and operate a municipal building leased to the state for state purposes would

also require an expenditure of state money. Either of these expenditures could be violative of the FRANK initiative. The ultimate question would be whether they are expenditures for the physical relocation of the present functions of state government or whether they are expenditures for some other purpose. This could be the ambiguity that would justify a court's decision to look at the purpose of the initiative rather than relying on a literal interpretation of the words used in the initiative.

The second question also relates to the FRANK initiative. It seems that tying rental payments to an amount sufficient to cover debt service on a portion of the bonds equal to the ratio of borough expenditures on the building to total borough expenditures raises a strong argument that the borough is acting as a "straw man" for the purpose of the bond issuance. It could be argued that there is very little difference between the state issuing the bonds itself and the state contracting to pay the debt service on the bonds used to construct the building. A court, even if it found the payment of rent permissible under the FRANK initiative, could determine that tying the rent to payment of the bonds is impermissible.

7. This paragraph provides that, if the borough is repaid for its expenditures and if the bonds issued by the borough are retired, the borough will return the land it receives under the agreement to the state.

In order to accomplish this, the state could assume or pay off any amounts outstanding on the bond issuance; and I assume it would be the state that would reimburse the borough for its expenditures. Of course, none of this can happen until the FRANK initiative requirements are satisfied, amended or repealed.

8. This paragraph appears to have no FRANK initiative repercussions.

In conclusion, it would appear that, if I have understood the plan you have presented to us correctly, the plan could not be implemented without violating the provisions of the FRANK initiative.

KEV:jdn

Editorial Opinion and Comment of

FAIRBANKS
Daily News - Miner

"Independent in All Things . . . Neutral in None"

Other opinions expressed on this page do not necessarily reflect those of the Daily News-Miner.

Back from the grave

Anyone who forgot the capital move should check with the imaginative folks down the highway. There the capital move drama plays like a horror story serial, with their hero periodically lurching out of the grave to be paraded, zombie-like, through the Anchorage press and the halls of Juneau.

The latest sequel in "The Return of the Capital Move" will be acted out before the House State Affairs Committee in Juneau Friday. Let's hope the return engagement doesn't go beyond that stage.

The capital move achieved its greatest glory when passed as an initiative in the 1974 primary election. The law required that the state capital be moved by Oct. 1, 1980, and set up a process for selecting the new capital city site.

Two years later the voters selected the Willow area, on the banks of Deception Creek, as the new capital site. Then the voters got a good look at what the whole scheme was going to cost and last year they overwhelmingly passed another initiative insuring that the capital move won't be made without the Alaskan people having a say in the price.

That was the so-called "FRANK Initiative," sponsored by the Fairbanks-based Frustrated Responsible Alaskans Needing Knowledge. In it the voters passed a state law saying no money could be spent on the capital move without an election for a bond authorization vote.

That pretty much killed the monster since even the capital move supporters admit Alaskans aren't going to vote for a multi-billion dollar bond issue to finance the schemes.

But nobody drove a stake through the heart of the corpse. While licking their wounds from last year's election, the Matanuska-Susitna Borough has come up with a new way that they say can move the capital without costing the state money and requiring a FRANK-type bond issue vote.

The Mat-Su Borough leaders say they can build the new capital for the state. The idea is that the borough would acquire the state land in the capital site through municipal selections or an exchange. It would then build the capital facilities and get its money back through sale of the adjoining land as the city builds up around the new capitol.

The doors of the crypt creaked open at a Mat-Su Borough Assembly meeting March 6. The plan advanced then was that a new "municipal building" could be built for the capital city through a borough bond issue and the governor would move into that structure temporarily. Likewise a high school would be built and the Legislature would move in its offices, and a junior high school would house the judicial branch. That would get the capital moved by the 1980 deadline, and later more suitable permanent buildings could be built for the state government and the first buildings would become the city hall and schools of the new city.

Thus the capital move revivers have not only figured out a way of doing it at no cost to the state, they can move the capital at no cost to themselves either—they say.

But that, like so many of the other capital mover claims, is just more fiction. And like a horror story, it's more amusing than scary.

Even if a school can be designed that is also a suitable legislative hall, and we doubt it can, it will draw state money into the project. The state pays back municipalities 80 per cent of what they spend to build schools, so that means the state, not the borough, will foot most of the bill. The FRANK initiative prohibits that.

Alaskans don't need a capital move, and we especially don't need a make-shift capital move carried out by the same people who pushed the idea of the low-budget "trailer camp capital move" four years ago. If we're going to move the capital, it should be a statewide effort with the design and budget approved by all Alaskans.

And until that time, our state money and our Legislature's time can be better spent on more realistic dramas.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K-STATE CAPITOL
JUNEAU, ALASKA 99811

March 22, 1979

The Honorable Samuel R. Cotten
The Honorable Patrick Carney
House of Representatives
Eleventh Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Gentlemen:

Following our recent opinion concerning the Mat-Su Borough proposal for the capital move, you asked that we review for you what legally valid steps could now be taken by the administration to relocate the capital, and further, what legislative action might facilitate the process. As I told you, in an area as sensitive and as controversial as the capital move, I do not want to be in a position of analyzing proposals that have not been made or even suggesting proposals without the intensive research that the proposals would require prior to being sanctioned by this office. However I can outline for you at this time the basic legal framework that will have to be followed, and comment briefly on possible legislative action.

At present there are three major statutes which control any executive action on the capital move issue. The first was the original initiative passed in 1974. That initiative required that the seat of government be relocated under a plan set forth in the initiative. Specifically, certain lands were to be identified as potential capital sites by a capital selection committee. The voters were then to select one of three possible sites, all of which had to contain at least 100 square miles of land either owned or to be acquired by the state. The land was then to be placed in a "reserved use" land designation. The initiative further provided that at the next legislative session following the selection of a site, the legislature should provide for the planning of a new capital city, including the construction of "necessary" state and public facilities. The initiative

contained no clarification of what state and public facilities would be "necessary," leaving that question for future legislative resolution.

Consistent with the directive of the initiative, a Capital Site Selection Committee was appointed by the Governor and three possible sites were selected. The voters then chose one of the three and the state has set aside the lands required in "reserved use" land designation. The legislature then continued along the course directed in the initiative by passing a bill (AS 44.06) setting up the Capital Site Planning Commission. In the course of that action, a conflict developed in the legislature over whether or not to give the commission freedom to plan any particular type of capital that the commission might find appropriate, or, in contrast, whether to specify at the outset the size of the new capital city for which the commission was required to plan. The decision of the legislature was to instruct the commission to plan for "the development of those facilities, public and private, described in the Capital Site Selection Committee Report dated December 11, 1976." AS 44.06.230(j). Those "facilities," described in a report previously submitted to the legislature, were for a city with a core of public employees approximately 6,000 in number and a total city of about 30,000 people. We reviewed the legislative history and purpose of the Capital Site Planning bill in an opinion which was rendered to the commission two years ago. I am appending a copy of that opinion to this letter since it reviews in detail the nature of the legislative dispute and the manner in which it was resolved. The key feature of the resolution was that the legislature chose to settle the issue of the site of the capital itself rather than leave it to the commission, and so it is written directly into the law.

The Planning Commission then embarked upon its work, eventually presenting the legislature with the requested plan. In their planning documents, the Commission made certain cost estimates among them an estimate that it would cost approximately 1.4 billion dollars just to construct the public facilities required in the new capital. The report was debated by the legislature, and eventually resulted in that body passing a bond issue of over 900 million dollars, subject of course to voter approval, to begin construction.

At the same election at which the proposed bonds were placed before the voters, a second initiative, the so-called FRANK Initiative, also appeared on the ballot. That initiative requires that no money be spent for relocating the functions of government until the full "bondable costs" of the capital move have been approved. As we noted in an opinion issued last year, "bondable costs" refer to all costs capable of being bonded--in other words, costs which could be bonded as opposed to those that actually would be bonded. The reasons for that conclusion are set forth in the previous opinion and I won't repeat them here other than to note that the wording of the initiative is straightforward and that its clear meaning will require the full approval of all potential capital costs of the move at a minimum before any state money can be spent on the project.

The FRANK initiative also contained wording which tied the term "bondable costs" to a specific capital plan. The initiative refers to the bondable costs for a capital site as determined by "a commission created by the legislature to plan the relocation." The Capital Site Planning Commission is, of course, the only such commission ever created, and at least the magnitude of its "plan" was predained by the legislature. That plan, in essence, assumes that the facilities of the present capital will be duplicated elsewhere and, to no one's surprise, the cost of doing that is very high.

Since the costs determined by the Capital Site Planning Commission were by previous direction of the legislature the costs of a specified size capital city, the people of Alaska, when they adopted the FRANK Initiative, impliedly stated that the "bondable costs" of a move to a city of that size be first approved before any state money be spent in relocation. I mention this now for two reasons. First, in reviewing what "bondable costs" must be first approved (or perhaps, if not approved, at least alleviated through construction of capital facilities by some other entity than the state), there is an established figure which governs any analysis. Unless and until the "commission established by the legislature" is given authority to plan for a different size capital, and in fact does so, the FRANK Initiative will continue to be linked to the presently

planned capital city. Moreover, even if the legislature decides today that it wants to utilize a different concept of a capital than set out by the Capital Site Planning Commission--that it wants to amend its earlier direction to the commission to plan for a particular size city--there is at least a possibility that the FRANK Initiative may also require amendment. While the chances of such a result are, in my view, slight, a court may subsequently conclude that the size of the city already planned by the commission was, by reference incorporated into the FRANK Initiative and will remain there until changed by legislative action. As a practical matter, I assume that if there were the votes to amend the legislative act pre-ordaining the size of the city, there would probably also be the votes to amend the initiative. But the legal implications of amendment may be different. The legislature is completely free to do what it wishes with its previously adopted acts, but initiatives may not be repealed for two years. Alaska Const., art. XI, §6. If a court were to rule that a change in the size of the city for which "bondable costs" had to be previously approved before monies were spent to relocate the capital was at the heart of the initiative, and that an amendment of that section was in essence a repeal of the basic intent of the initiative, it might rule the amendment invalid. A discussion of the legal principles that control this decision may be found in Warren v. Thomas, 568 P.2d 400 (Alas. 1977), a case which involved an amendment not considered to be a repeal. There is no way of predicting the future conclusion of a court on this issue with certainty. The best that can be said is that it would create a legal issue if and when it is done.

The Mat-Su plan previously reviewed by this office, as well as the resolution recently introduced in the House, do not, in and by themselves, assume any legislative action amending past statutes or initiatives. If no legislative action is taken, there are serious legal problems with almost anything the administration by itself would initiate in this area. All those legal problems stem from the fact that anything done by the executive branch to relocate the capital is going to cost some money, and the FRANK Initiative is a direct statutory prohibition against the executive branch's spending that money. The basic message which I tried to convey in my opinion on the Mat-Su plan is that so

long as the FRANK Initiative remains undiminished on the books it will not be sufficient for the borough to simply play a role in constructing a new capital site--it will have to play the only role. At the least, the borough would have to build all the required public facilities since that would be the absolute minimal definition of "bondable costs" as the term appears in the initiative. If the borough were willing to do that (at a cost estimated by the Planning Commission at over a billion dollars), then there is a real possibility that the state could spend funds for a move, since then there would be no "bondable costs" left to approve. I say this with some reservation, since there is absolutely no judicial precedent to rely upon in this analysis, and once we depart from the plain meaning of the statute and try to predict the legal validity of capital move plans never really contemplated by the initiative, we are of necessity in a realm of uncertainty.

During the recent meeting in the Governor's office, you asked that I not only point out the legal problems which confront a present effort toward a capital move, but also suggest to you a possible course of action which might be followed to carry out the intent of the original initiative. The problem is, of course, that the original initiative has subsequently been amended. Initially the voters provided that the capital should begin to move in 1980, but then, in adopting the FRANK Initiative, the voters decided, in effect, that the capital should not move at all until the voters had approved the full bondable costs of the move. There is no longer any requirement that anything be done by 1980; the operative date is now the date of voter approval.

If the state is to do any more on this issue without directly offending the will of the people as expressed in the FRANK Initiative, it will be necessary to amend existing law. The resolution presently pending in the House would not have the effect of law. The Governor would still be bound by the same statutory constraints expressed in the initiative and prior law, even were the resolution to pass. What would be required are statutes amending the legislature's direction to the Planning Commission and specifically authorizing the executive branch to spend funds to plan for a different sort of move. These new statutes, which would impliedly amend the FRANK Initiative, would provide a valid basis on which the expenditure of state money could be justified.

As an alternative, the FRANK Initiative could be amended directly so as to eliminate or alter its requirements. Either the prohibition against expending state funds could be changed, or the requirement that all "bondable costs" first be approved might be modified. These enactments, of course, would raise the constitutional issues concerning amendment of initiatives discussed above, but those issues really cannot be avoided if action is to be taken now.

Yours very truly,

Avrum M. Gross
Attorney General

AMG:as
Attachment

STATE OF ALASKA
JAY S. HAMMOND, GOVERNOR
DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL
POUCH K — STATE CAPITOL
JUNEAU 99811

August 9, 1977

Mr. Charles Behlke
Chairman
New Capital Site Planning Commission
310 "K" Street
Anchorage, Alaska 99501

Re: Commission's Powers and Duties

Dear Mr. Behlke:

I have been advised that the New Capital Site Planning Commission desires an opinion concerning its basic powers and duties. The opinion request has arisen in the context of a debate over the extent to which the Commission may plan various capital site alternatives. Specifically you have asked whether the legislation establishing the Planning Commission directs the Commission to plan for a particular type of new capital or whether there is discretion within the Commission to suggest various alternatives and plan for these alternatives.

The legislation establishing the New Capital Site Planning Commission is Ch. 67 SLA 1977, now AS 44.06.200-260 (attached hereto as Exhibit A). That legislation is specific as to the responsibility of the Planning Commission. The

law provides:

> "The purpose of the commission is to prepare a detailed plan for development of the capital site within the guidelines enumerated in this chapter." AS 44.06.230(a)

The "detailed plan for development of the capital site" is defined in the same section as meaning:

> "...the development of those facilities, public and private, described in the Capital Site Selection Committee Report dated December 11, 1976." AS 44.06.230 (j)

The public and private facilities described in the Capital Site Selection Committee Report are those of a city of 30,000 residents, including 5,960 central state employees. (Capital Site Selection Committee Report, 283-290, appended hereto as Appendix B)

The specifically assigned function of the Commission, then, is to plan for a new capital city of 30,000 residents. Moreover, this appears to be the single plan the Commission is authorized to initiate since the language of the act repeatedly indicates that only one plan was contemplated by the legislature. For instance, AS 44.06.230(a) provides that:

> "The purpose of the commission is to prepare a detailed plan for development of the capital site within the guidelines enumerated in this chapter. This detailed development plan shall be completed no later than March 15, 1978 and shall be made subject to public input during its formulation. Following completion of the plan, the commission shall make public presentations of it throughout the state." (emphasis added)

Subsection (b) of the same section provides:

> "The detailed development plan shall include, but need not be limited to, the following elements: government facilities, community facilities, transportation, public utilities, communication facilities, commercial and industrial development, residential development, resources, and environmental aspects. It shall include provisions addressing each element in terms of its social and economic impact. The plan should also address governmental jurisdictions, including statements as to the appropriate planning and development authority and recommendations as to the forms and powers of the local government. The commission shall also develop a planning and implementation work program." (emphasis added)

Formulating that single "detailed development plan" contemplated by the act will, of course, require intensive study and analysis, to say nothing of a major commitment of financial resources. The Commission, for example, must plan for government and community facilities, transportation modes, public utilities, communications facilities, industrial and residential developments. AS 44.06.230. Analysis must be made of the social, economic and environmental impact of each aspect of the plan. Id. The Commission must perform physical and geo-technical site specific analysis and related mapping for the planned city. AS 44.06.230(c). It must determine environmental and use permits necessary for construction of the capital (AS 44.06-230(h)), conduct cost analyses including proposed construction schedules (AS 44.06.230(f)), investigate funding alternatives, and submit a recommended financial plan to the

legislature no later than February 1, 1978. And this list is not all inclusive--it is only a partial indication of the enormous effort which must be undertaken for the planning of the new capital city specified by the legislature.

In addition to its basic obligation to develop the plan for a city of 30,000 people, the Commission is also authorized to do certain other things. Specifically AS 44.06.230(d) provides:

> "The commission shall conduct an analysis of the opportunity for the reorganizing and regionalization of state government, and develop a list of executive agencies which are expected to be located in the capital. This list shall include the offices to be moved, the number of personnel to be employed in those offices, and the anticipated required office space for that number of persons. This list shall be used for capital site planning purposes only, and is not binding as to which executive agencies may be located in the capital. The commission shall then develop a relocation phasing plan."
> AS 44.06.230(d)

Apparently this section has been cited as authority for the Commission to expand its efforts so as to actually plan for a variety of possible capital sites. I see absolutely no justification for that position. For if one reviews the history of ch. 67, it becomes clear that the legislature never intended subsection (d) to be any more than a minor adjunct to the separately defined primary purpose of the Commission, a primary purpose that was established through direct legislative consideration and resolution of what that primary purpose should be.

Ch. 67 began as SB 27, a copy of which is attached as Appendix C. The original bill contained no mention of the specific size of the city to be planned. It only required that the Commission "prepare a detailed plan for development of the capital site within the guidelines enumerated in this chapter." The bill went on to state that "the detailed development plan shall include, but need not be limited to, the following elements: community facilities, transportation, public utilities, commercial and industrial development, residential development, water resources, environmental aspects." There was no more specific definition of the type of plan required for the capital city contained in the bill, and in particular no reference to the type of capital city envisioned by the Capital Site Selection Committee in its report.

If SB 27 had remained unchanged, there is no question but that the Commission would have been free to exercise its opinion as to the site plan it felt would best accommodate movement of the capital. But the bill did not remain unchanged. It was replaced with a State Affairs Committee Substitute. That measure also contained no specific direction as to the size city to be planned, only

repeating the requirement that a "detailed plan" be prepared. However when the State Affairs Committee Substitute was debated on the floor of the Senate, an effort was made to amend the bill so as to put in the provision which ultimately became AS 44.06.230(j), a definition of "detailed plan for development of capital site." As you might imagine, the debate over the inclusion of the new definition section was intense. Senator Orsini, who opposed the amendment, perhaps most clearly stated the reasons for that opposition in these words:

> "The problem is, section (j) in particular, is locking us in into a concept put forth by a group of people a couple of years ago for some time in the future. We have in the State Affairs version a look at the concept of decentralization of state government. That is, putting more regional state governmental centers in different parts of the state rather than having everybody in one central location. I think this is a good idea. However, this idea is not what was conceived of in the Selection Committee Report dated December 11, 1976, and to do that would really thwart the part of the version of the bill we are adopting."
> (Senate Debate on CSSB 27, April 1, 1977)

In the face of this strong opposition, the amendment passed, 11 to 9. The amended State Affairs version was then passed unanimously and sent to the House. There, it was replaced by a House version of the bill, which deleted the specific direction as to the size of the city

and substituted a more flexible formula by which the Commission would come up with a number of step-by-step plans for movement of the capital. The House version was not accepted by the Senate and was returned to the House to determine whether that body would accede to the Senate version of the bill. After two days of debate, which focused precisely on the issue posed now by the Commission, the House by a 22-18 vote accepted the Senate version.

The debate on the measure in the House is helpful because it makes it clear beyond question that the legislature by its action sought to resolve this issue of whether the Commission should be required to plan for only one type of city or whether it should be free to plan for alternate types of capital sites. For instance, Rep. Cotten, a proponent of the House version, analyzed the differences between the Senate and the House versions in these terms:

> "So what the senate bill calls for is a detailed development plan of a city of 30,000 people, and that's gonna be the bottom line and that's gonna be what people are gonna be able to point to and say here's what your capital city is going to look like, we've already determined that that's what it's going to look like, and we already have a pretty good idea of what the costs are going to be. I think the [House] State Affairs version takes a little different approach... in that they accept the fact that the whole capital can't be moved right away, and there's going to be an initial development..."
> (House Debate, May 10, 1977)

Rep. Bradley, who was a major author of the House version, responded to Rep. Mike Miller's (of Juneau) advocacy of the

Senate bill by responding:

> "So Mr. Miller said that the way we follow the law is to lock in 30,000 people by 1990." (House Debate, May 10, 1977)

And finally, Rep. Cotten again, who led much of the debate, commented:

> "And I just, I think it's important to make it clear to people that the decision on what size the capital is going to be has already been made by the Site Selection Committee of a couple years ago. And that's the difference between the Senate bill and the House State Affairs one which allows for a little more latitude and it isn't quite so specific as to what exactly the capital's going to consist of. (House Debate, May 10, 1977)

Proponents of the House version argued that the Commission should not be "locked in" to a particular size city--that it was better planning procedure to let them have a freer hand. Proponents of the Senate version countered by suggesting that in the end, what kind of a city would be required would involve a controversial political decision and that the legislature, as elected representatives, should make the decision in the bill creating the Commission. I mean to intimate no opinion as to which of these arguments I believe most sound. The point I do wish to make is that the Senate view prevailed, and that it settled the issue.

Reliance on subsection (c) as justification for drawing up alternate plans is really nothing more than an effort to resurrect the settled debate on this issue. At no time during the debate was it even remotely suggested that

subsection (d) was even at issue when the basic decision as to single or alternate plans was made. That issue was decided head on by a fight over whether the Commission should be specifically told to draw one plan or alternate plans. Subsection (d) in contrast was a part of a whole series of duties given the Commission subsidiary to its basic planning function. For instance, subsection (d) requires the Commission to list the offices to be moved and to develop a relocation phasing plan. Since the Commission must plan for a city of 30,000 people with approximately 6,000 state employees, the "list" and the "phasing plan" must apply to that type of city. The mandate of the same section that the Commission conduct an "analysis of the opportunity for the reorganizing and regionalization of state government...." can be read as also relating exclusively to an assumed capital city of 30,000, but I believe it probably goes further than that. The required plan for a city of 30,000 is obviously to be made under the assumption of the present governmental structure, but an analysis for reorganization can go into new areas. It could, for instance, explore the prospect of constitutional change which would permit a different type of government structure or operation. It could suggest alternates to a capital city containing approximately 6,000 central state employees, dependent upon whether its reorganization and regionalization studies indicate that such alternates would be feasible. But that

type of analysis is a far different thing from doing the detailed design and engineering studies to plan for a new city. That detailed work, by legislative directive, must be restricted to the prescribed city of 30,000 people.

Put simply the Commission may analyze and, we assume, recommend various alternate types of capital cities based on reorganized or regionalized governmental structures. But the Commission's basic resources, financial and otherwise, must be spent in developing a detailed plan for a city based on our present organization of government--a city described by the Capital Site Selection Committee and mandated by the legislature. That is what the basic financial appropriation to this group is for--that is what the legislature decided should be the focus of the effort.

I am sure there are members on the Commission who will strongly disagree with what the legislature has done, just as there will be Commissioners who would defend the legislative decision. But the wisdom of that decision is an issue for the voters, not for this Commission. The choice has been made, and I believe it should guide the Commission in its procedures.

I plan to attend the Commission meeting on Friday so I can be available to discuss this matter and any others you may raise. I also hope to be able to review

with the Commission ways in which this office may be of assistance to the Commission or its members as you handle this difficult and controversial assignment. I look forward to seeing you then.

Yours very truly,

Avrum M. Gross
Attorney General

AMG:as
Attachments

LAWS OF ALASKA

1977

Source

CSSB 27 am

Chapter No.

67

AN ACT

Relating to the New Capital Site Planning Commission; and providing for an effective date.

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

* Section 1. AS 44.05 is amended by adding new sections to read:

ARTICLE 3. NEW CAPITAL SITE PLANNING COMMISSION.

Sec. 44.05.200. NEW CAPITAL SITE PLANNING COMMISSION. There is created in the Office of the Governor the New Capital Site Planning Commission.

Sec. 44.05.210. MEMBERSHIP. (a) Within 15 days after the effective date of this Act, the governor shall appoint a commission consisting of nine members, subject to confirmation by a majority of the members of the legislature in joint session. Members are appointed for four-year terms and may be reappointed. Members shall be appointed on a nonpartisan basis, and shall be selected as follows:

(1) one member must be a registered engineer;

(2) one member with a financial or economic background;

(3) the mayor of the Matanuska-Susitna Borough or his designee;

(4) the mayor of the City and Borough of Juneau or his designee; and

(5) five members appointed from the general public.

APPENDIX A

resources, public works, revenue, community and [illegible] affairs or their designees, one state senator chosen by the president of the senate, and one state representative chosen by the speaker of the house shall serve as nonvoting ex officio members of the commission.

(c) The members are entitled to receive $100 per day for their service on the commission and per diem and travel expenses as authorized by law.

Sec. 44.06.220. MEETING OF THE COMMISSION. The members shall elect a chairman and vice-chairman from among their membership. The governor shall call the first meeting of the commission within 15 days after appointment of the members. A majority of the members constitutes a quorum for conducting business and exercising the powers of the commission. The commission shall meet at the call of the chairman, at the request of a majority of the members, or at a regularly scheduled time as determined by the members.

Sec. 44.06.230. PURPOSE; DETAILED DEVELOPMENT PLAN; DUTIES OF COMMISSION. (a) The purpose of the commission is to prepare a detailed plan for development of the capital site within the guidelines enumerated in this chapter. The detailed development plan shall be completed no later than March 15, 1978 and shall be open subject to public input during its formulation. Following completion of the plan, the commission shall make public presentations of it throughout the state.

(b) The detailed development plan shall include, but need not be limited to, the following elements: government facilities, community facilities, transportation, public utilities, communication facilities, commercial and industrial development, residential development, resources, and environmental aspects. It shall include provisions addressing each element in terms of its social and economic impact. The plan should also address governmental jurisdictions, including statements as to the appropriate planning and development authority and recommendations as to the forms and powers of the local governments. The commission shall also develop a planning and implementation work program.

(c) The commission shall perform physical and geotechnical site-specific analysis and related mapping.

(d) The commission shall conduct an analysis of the opportunity for the reorganization and regionalization of state government, and develop a list of executive agencies which are expected to be located in the capital. This list shall include the offices to be housed, the number of personnel to be employed in those offices, and the anticipated required office space for that number of persons. This list shall be used for capital site planning purposes only, and is not binding as to which executive agencies may be located in the capital. The commission shall then develop a relocation phasing plan.

(e) The commission shall, no later than March 15, 1978, recommend to the legislature the type of development entity which would be responsible for capital city development as well as the powers and authority which should be vested in this development entity.

(f) The commission shall conduct a cost analysis which includes proposed construction schedules and related cost studies including but not limited to construction costs and escalation, energy efficient construction, and life cycle costing including operations and maintenance costs. The commission shall also prepare financing analysis including the investigation of funding alternatives and submission of a recommended financial plan to the legislature no later than February 1, 1978.

(g) The commission shall investigate the possibility of using existing facilities currently in the state which could serve as a construction camp and any fixtures or equipment necessary to operate the camp for the construction of the capital. The commission may accept the facilities, furnishings, and equipment as a donation to the state or it may execute an option on this property.

(h) The commission shall determine the environmental and use permits necessary for the construction of the capital and shall recommend to the legislature any possible methods to expedite this process while protecting the environmental quality of the area.

(i) The commission may undertake other activities as are appropriate to carry out its functions, including but not limited to investigating the most economical and expeditious means of procurement, construction methods, construction alternatives, and labor costs.

(j) In this section, "detailed plan for development of capital site" means the development of those facilities, public and private, described in the Capital Site Selection Committee Report dated December 11, 1976. The initial and overall site specific development plan shall be presented to the legislature no later than March 15, 1978.

(k) The commission shall provide a comprehensive assessment of the social, economic and environmental impact on the Matanuska-Susitna Borough and the City and Borough of Juneau in accordance with generally accepted standards for these procedures. The assessment shall emphasize the effect of government relocation on all items listed in this section.

Sec. 44.[illegible].240. Funding. The commission is subject to the Executive Budget Act (AS 37.07) and to funding by the legislature.

Sec. 44.[illegible].250. Assistance to Commission. (a) The commission shall use [illegible] consultant professional and technical services retained to assist in the planning. The commission shall hire [illegible] staff to provide support services, and it may obtain the services which it requires or are necessary to assist in the planning. The commission may also request any information which it

(b) The commission shall develop an appropriate procedure in order to select competent firms to develop the elements involved in the capital site development plan within the time frame called for in sec. 230 of this chapter.

Sec. 44.06 260. REPORTS. The commission shall report on its work every six months. This report shall be distributed to the governor, presiding officers of the legislature, chief justice of the supreme court, and the general public.

* Sec. 2. AS 39.50.200(9) is amended by adding a new subparagraph to read:

(HH) New Capital Site Planning Commission (AS 44.06.260).

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.070(c).

Approved by the Governor May 28, 1977
Actual Effective Date May 28, 1977

State of Alaska
The Capital Site Selection Project
Selection of Three Alternative Sites

APPENDIX B

CHAPTER 4: CAPITAL CITY PROGRAM

Background

During the course of the site selection process, a series of projections relating to the size of the population and the program requirements for a new capital city were developed. The purpose of this analysis was threefold.

- First, the projected program requirements were used to determine whether or not adequate land area was available at alternative sites for capital city development.
- Second, population and program requirements were used to determine the transportation and utility linkage requirements at alternative sites.
- Third, the projections have been used to analyze the potential economic base at alternative sites (i.e., potential secondary employment opportunities).

Ultimately, the square footage building requirement, highway and utility requirements were used to generate construction costs for capital city development at five year intervals. (A discussion of these costs relative to the three recommended sites included in Chapter 5.)

The projection of capital city program requirements was based on interviews with State Department Commissioners, a review of previously published

reports, existing State government facilities and requirements of a new capital location, as well as computer assisted employment and population projections developed by Homan/McDowell Associates in conjunction with Dr. George Rogers of the University of Alaska. These projections are derived from the University of Alaska Institute of Social, Economic and Government Research (ISEGR) Model of State Economic growth using Juneau's 1974 economy as a base, and take into account existing State central government positions in Juneau together with the increased State government employment and secondary employment anticipated to result from projected growth in state revenues. These population and employment projections are included in Table 1 which follows.

Initially, the analysis of employment, population and space requirements was determined for a capital at any location. Near the end of the site selection study some differences among sites were identified; but these proved to be insignificant. In consequence, the square footage requirements for the three recommended sites were assumed to be identical. Site specific differences between the length of highways, rail and power connections to the site were identified as the only programmatic variables.

CHAPTER 4: CAPITAL CITY PROGRAM

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TABLE I

CAPITAL CITY EMPLOYMENT AND POPULATION PROJECTIONS

SECTOR	1980	1985	1990
PRIMARY EMPLOYMENT			
◦ Government			
◦ State[1]	3,760	5,030	5,920
◦ Federal[2]	315	315	315
◦ Contract Construction[3]	570	660	830
◦ Manufacturing[4]	140	165	200
Total Primary	4,785	6,170	7,265
SECONDARY EMPLOYMENT			
◦ Municipal Government[5]	660	825	990
◦ Services	4,650	6,025	7,075
Total Secondary[6]	5,310	6,850	8,065
TOTAL EMPLOYMENT	10,095	13,020	15,330
TOTAL POPULATION[7]	19,785	25,520	30,045

1. State central position. Projected at State government growth rates, ISEGR.
2. Projected at Statewide Federal government growth rates, ISEGR
3. Projected at Statewide construction growth rates, ISEGR.
4. Projected at Statewide manufacturing growth rates, ISEGR.
5. Projected at State per capita municipal employment for 1974.
6. Projected at primary employment to secondary employment ratio of 1:11.
7. Projected at employment to population ratio of 1:1.96.

SOURCE: Homer/McDowell Associates in cooperation with Dr. George Rogers, Institute of Social, Economic, and Government Research, University of Alaska.

EXHIBIT NO. 45

Capital City Development Program

Program requirements for the new capital city were developed on the basis of accepted planning standards and the previous experience of the consultants. As additional backup, the State Department of Administration provided figures on state owned and leased space by Department in three cities -- Fairbanks, Anchorage and Juneau (see Table C in the Appendix). The following table presents the capital city program requirements generated by the ISEGR 1980 population project of 20,000. Included in the table are notes and standards applied to the population employment figures to arrive at the necessary square footage requirements. Site specific requirements of highway, rail and power linkages are also included for each of the three recommended sites.

TABLE II

CAPITAL CITY PROGRAM REQUIREMENTS
1980 ECONOMIC BASE PROJECTIONS

TYPE OF FACILITY	NO. OF PERSONS (EMPLOYEES, PUPILS, POPULATION)	SIZE OF FACILITIES (Square Feet)	NOTES/STANDARDS
Government Buildings			
• State	3,760 employees	940,000	250 sq. ft./employee
• Federal	315 employees	78,750	250 sq. ft./employee
• Municipal/Borough	660 employees	66,000	100 sq.ft./employee
Housing			
			Distrib. of Housing Ty
• Single Family (Detached 1800 sq. ft.)		2,375,000	Single Family detatch 20% - 1320 d.u.
• Single Family (Attached 1200 sq. ft.)		3,957,000	Single Family attached 50% - 3,325 d.u.
• Multi-Family (900 sq. ft.)		1,188,000	Multi-Family 20% - 1,320 d.u.
• Mobile Homes (700 sq. ft.)		462,000	Mobile Home 10% - 660 d.u.
		7,982,000	100% - 6,586 d.u.

EXHIBIT NO. 16

TABLE II (Cont.)

CAPITAL CITY PROGRAM REQUIREMENTS
1980 ECONOMIC BASE PROJECTIONS

TYPE OF FACILITY	NO. OF PERSONS (EMPLOYEES, PUPILS, POPULATION)	SIZE OF FACILITIES (Square Feet)
School Buildings:		
o Pre-School	495 pupils (assumes 75% in facilities)	32,670
o Elementary	5,275 pupils	527,500
o Junior High	2,640 pupils	330,000
o Senior High	3,295 pupils	411,875
o Community College	150 pupils	28,125

NOTES/STANDARDS

- 6,595 households --
- 3 persons/household --
- students per household --

Pre-School	0.1
Elementary	0.8
Junior High	0.4
Senior High	0.5
Total	1.8

Number of Community College Students -- Assume Juneau Example

Sq. Ft. Per Student	
Pre-School	66
Elementary	100
Junior High	125
Senior High	125
Community College	125

TABLE II (Cont.)

CAPITAL CITY PROGRAM REQUIREMENTS
1980 ECONOMIC BASE PROJECTIONS

TYPE OF FACILITY	NO. OF PERSONS (EMPLOYEES, PUPILS, POPULATION)	SIZE OF FACILITIES (Square Feet)	NOTES/STANDARDS
Recreation Buildings			
◦ Library/Community Recreation Building		25,000	
Health Care Buildings			
◦ Hospital (including long term bed facility)			Hospital requires minimum population of 30,000. 1 bed/500 people + 3 long term beds/1000 people. 900 sq. ft. + 800 sq. ft./long term beds.
◦ Clinics	10 doctors	10,000	Clinic -- 1 doctor / 2000 people equals 10 doctors. Assume 1000 sq. ft./doctor.
Commercial Buildings	19,785 population	695,000	@ 35 sq. ft./person.
Industrial Buildings	140 manufacturing employees	60,000	@ 430 sq. ft./mfg. employee

HCR

41

(7)

COMMITTEE REPORT

HOUSE

1/18/80

FURTHER: FINANCE

Date: 1-24-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HCR 41

"Relating to a study of the feasibility of resettling Indo-Chinese refugees in Alaska."

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 HCR 41 [X] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

3700--INTRODUCTION

The Indochinese Refugee Assistance Program, IRAP, was designed by Congress several years ago to provide cash and medical assistance to needy Indochinese Refugees (Vietnamese, Cambodians, Laotians, "boat people", etc.) who do not qualify for regular AFDC, SSI, APA, and Medicaid coverage but who are needy as defined by the standards and policies of the states' AFDC programs.

IRAP provides 100% federal funding for cash and Medicaid benefits and for administrative costs, instead of the 50% federal, 50% state funding for regular AFDC and Medicaid cases. Even though over 300 Indochinese refugees have been settled in Alaska since refugee resettlement started, only three cases have been given assistance to date. Now, many individuals and community groups in the State are actively seeking to sponsor and bring in new refugee families. The EW is increasingly more likely to encounter refugees seeking assistance.

Many refugees have undergone prolonged stress and frequent extreme life changes. In addition to being unfamiliar with American customs and perhaps even being afraid of government officials, they may be unable to read, speak, or understand our language. For all these reasons, the EW should depend wherever necessary upon the family's sponsor. Sponsors can serve as primary verification sources, authorized representatives, translators, etc.

3701--DEFINITION OF INDOCHINESE REFUGEES

(a) For the purpose of IRAP, a refugee is defined as a Cambodian, Vietnamese, or Laotian national who has fled from and cannot return to his country due to persecution or fear or persecution because of race, religion, or political opinion. Under this definition, the following individuals shall be eligible to apply for assistance under the refugee assistance program:

(1) An individual who has parole status as indicated by an INS (Immigration and Naturalization Service) Form I-94.

(2) An individual who has voluntary departure status as indicated by Form I-94.

(3) An individual who has conditional entry status as indicated by Form I-94.

(4) An individual who was admitted to the United States with permanent resident status on or after April 8, 1975 (the date on which the President designated Vietnamese and Cambodians to be refugees under the Migration and Refugee Assistance Act), as indicated by Form I-151 or I-551.

3701--DEFINITION OF INDOCHINESE REFUGEES - Continued

(5) An individual who has permanent resident status as a result of adjustment of status under P.L. 95-145 as indicated by Form I-151 or I-551.

(b) A family may be composed of refugees and non-refugees:

(1) The entire family can be IRAP-eligible even if one or more of the dependent children were born in the U.S., as long as the parents are both refugees.

(2) Refugees and their children who have an I-94, I-151, or I-155 are IRAP eligible even when they are married to (or they are natural children or stepchildren of) a U.S. citizen, but the IRAP family unit cannot include the needs of a U.S. citizen.

3702--PRIOR PROGRAM RESOURCES

The IRAP program is intended to cover refugees who are not eligible for AFDC, Medicaid, APA, and SSI. Intake process steps on refugee cases are as follows:

(a) Determining if eligibility exists for AFDC and Medicaid. (Examination of the citizenship status will identify the family as Indochinese Refugees if they are not already known to be.) If regular AFDC eligibility exists, treat the case as a normal AFDC-Medicaid case. Do not apply any special factors of the IRAP program except for case reporting to Central Office (Sec. 3707.8).

If AFDC-Medicaid eligibility exists for only some of the family members, the ineligible family members should be treated as potentially eligible for IRAP. A second application is not needed to determine IRAP eligibility for the remaining family members.

(b) If no Medicaid and AFDC eligibility exists, examine the situation for APA and SSI eligibility. If the applicant appears to be aged, blind, or disabled, take an AFDC application and an APA application. Refer the applicant to SSI to make application.

Do not apply the APA procedures of taking an AB-3 or AD-2 form and opening the APA case. Instead, determine the IRAP case if it meets IRAP eligibility requirements. Provide IRAP assistance until SSI eligibility is determined. If SSI denies, continue the IRAP assistance. If SSI approves, end the IRAP case and use the APA application to open a normal APA case.

3702--PRIOR PROGRAM RESOURCES - Continued

If not all the family members are aged, blind, or disabled, the other family members, if they are IRAP-eligible, are included in the IRAP case while the SSI application is pending. If the SSI case is approved, they remain in the IRAP case and the APA-SSI eligible person(s) is removed.

(c) The Food Stamp Program is not a prior resource, but a separate program. As with any normal case, IRAP applicants should be referred to FSP. If they choose to make application, follow the normal requirements of the Food Stamp Program in determining eligibility.

(d) IRAP is a prior resource to General Relief. Since AFDC income standards are higher than GR income standards, either the refugee family will be AFDC or IRAP eligible or it will be ineligible for AFDC, IRAP, and GR. GRM coverage is provided to IRAP-Medicaid eligibles just as is done for regular Medicaid eligibles.

(e) Any refugee who is eligible for AFDC and loses AFDC coverage because of his failure to comply with any AFDC program requirement will not be eligible for IRAP. This same restriction applies to APA-SSI eligible refugees.

3703--ELIGIBILITY FACTORS

The IRAP program follows most of the eligibility factors of the AFDC program. However, there are certain significant differences on certain factors. This section lists those differences. The EW will apply all AFDC requirements not discussed as exceptions in this section to all IRAP cases.

3703.1--CITIZENSHIP OR PERMANENT ALIEN STATUS

The difference between IRAP and AFDC are listed in Sec. 3701. There are no other differences.

3703.2--RESIDENCY

All the requirements of AFDC residency apply to the IRAP program.

3703.3--AGE

None of the AFDC age requirements apply. IRAP eligibility does not depend on the presence of children under 18 in the home. IRAP eligibility can exist if there are no children at all in the household. Neither age nor deprivation are factors of IRAP eligibility.

3703.4--LIVING WITH A SPECIFIED RELATIVE

(a) None of the specified relative requirements of the AFDC program apply to the IRAP program.

(b) The IRAP assistance unit must be made up of all eligible refugees who reside together under one roof. Temporary absence policies of regular AFDC apply.

(c) If an IRAP unit lives with a regular AFDC unit, and/or an APA/SSI unit, income and resources are separated as is done in AFDC-SSI households. Questions involving complex household and program mixes should be referred to Central Office if prudent judgement isn't sufficient.

3703.5 -SOCIAL SECURITY ENUMERATION

Enumeration must be completed for IRAP eligibility to exist. All of the regular AFDC enumeration requirements apply, except that IRAP Medicaid will be denied for a failure to enumerate.

3703.6--CHILD SUPPORT ASSIGNMENT AND COOPERATION

These two AFDC requirements apply only to cases in which there is at least one child under 18 and the child(ren) have at least one parent who is absent from the home but who is living in the United States.

3703.7--WIN/WORK REGISTRATION

The WIN program requirements do not apply to any IRAP case. However, IRAP has its own work registration requirements which are somewhat similar to those of the WIN program. These work registration requirements are discussed in Sec. 3704, below.

3703.8--RESOURCES

All the regular requirements for AFDC resources apply to the IRAP program, except that any resources, including cash, personal property, and real property that any applicant claims remains in Vietnam, Laos, or Cambodia will be considered unavailable. No such resource will be counted against the AFDC resource limits.

3703.9--INCOME

All the regular requirements for AFDC income apply to the IRAP program. All items or services that are provided in-kind by sponsoring persons, groups, or agencies are not counted as available income. Any [illegible] cash contributions are counted as available income.

3704--WORK REGISTRATION

Each employable member of the IRAP assistance unit must register for employment and must accept an employment or training opportunity in order for IRAP eligibility to exist.

3704.1--EXEMPTIONS FROM REGISTRATION

Those who must register do not include the following:

(a) A person under 16, or under 21 and attending school full-time, or 21 and over and attending school or training as approved by the EW;

(b) A person who is ill, incapacitated, or over 65;

(c) A person whose presence in the home is required because of illness or incapacity of another household member;

(d) A mother or other caretaker who is caring for a child under 6; and

(e) A mother or other caretaker of a child when the non-work-exempt father or other non-exempt adult relative in the home is registered for work and has not refused to accept employment without good cause.

Note that an inability to communicate in English does not exempt an IRAP applicant from registering for work.

3704.2--REGISTRATION PROCEDURES

(a) Each IRAP applicant or other member of the potential assistance unit who is not exempt must fill out an ES-511 form at initial application and at each 6 month review. The 511 is completed and submitted exactly as is done for Food Stamp applicants. (See Work Registration sections of the Food Stamp Manual.)

(b) If all IRAP mandatory registrants have also applied for Food Stamps and registered under the FSP, those registrations are accepted as meeting the IRAP requirement. (Note, however, that the Food Stamp and IRAP programs do not exempt the same classes of people.)

(c) If and when the Department of Labor finds that an applicant or recipient has failed to accept or pusue work, it will notify the DPA office just as is done in the Food Stamp work registration process.

3704.3--ADDITIONAL WORK REQUIREMENTS

In addition to the requirement to register for work and accept appropriate work, the following special requirements apply:

(a) Applicants

An employable (non-exempt) refugee cannot have voluntarily quit in order to qualify for IRAP assistance, nor can he have refused to apply for or accept an appropriate offer of employment. This requirement applies only for the 30 consecutive calendar days prior to the first effective date assistance was or would have been granted.

(b) Recipients

No non-exempt IRAP recipient can voluntarily quit in order to continue to receive assistance, nor can he refuse to apply for or accept an appropriate offer of employment or employment-related training.

3704.4--SANCTIONS

(a) Applicants

(1) Applicants who are not exempt and who fail to register will be denied assistance. If the person who fails to register is the only caretaker relative or adult in the household, but other members are IRAP-eligible, the needs of the adult are removed from the grant. A protective payee is established as is done for CSEA and WIN cases in the regular AFDC program. When the person registers, the case is returned to normal status.

(2) If the applicant refuses to register and he or she is the only person in the grant, the application is denied until the client registers and reapplies.

(3) In the case of applicants who fail to meet the requirements of 3704.2(a), above, the application is denied if it is a single person application or the grant is reduced and a payee established if other persons in the household are eligible. The denial or penalty payee is applied for 30 days or until the person meets the requirements of 3704.2 (a), whichever is later.

(b) Recipients

Recipients who fail to meet the requirements of 3704.3 above, or who fail to register or reregister for work are treated as follows:

3704.4--SANCTIONS - Continued

(1) Within 7 days of receiving notice of a failure to comply, the client must be informed of the consequences of non-compliance. This should be done in person, if possible.

(2) If the employable refugee recipient continues to refuse an offer of employment or training, assistance will be terminated 30 days after the date of his original refusal. The refugee is given at least 10 days written notice of the termination of assistance and the reason for it. This sanction shall be applied in the following manner:

I. If the assistance unit includes other individuals, then the grant shall be reduced by the amount included on behalf of that refugee. If the employable refugee is a caretaker relative, assistance will be provided to the remaining members of the assistance unit through a protective payee.

II. If the individual is the only individual in the assistance unit, the grant shall be terminated.

III. The refugee's sponsor, or the voluntary resettlement agency where there is not a sponsor, will be notified of the action taken.

IV. A decision by the refugee to accept employment or training, made at any time within the 30 day period after the date of the original refusal, shall result in the continuation of assistance without interruption if the refugee continues to meet the income requirements for continued assistance.

V. An employable refugee may reapply for assistance 30 days after the termination of assistance because of refusal to accept or continue employment or training.

3704.5--"APPROPRIATE WORK" AND TRAINING" STANDARDS

(a) The EW will not impose sanctions if the recipient refused a job or quit a job which had one or more of the following features:

(1) The wages were less than Alaska's minimum wage;

(2) The hours of work exceeded those customary to the occupation;

(3) The job was vacant due to strike, lockout, or other labor dispute;

3704.5--"APPROPRIATE WORK AND TRAINING" STANDARDS - Continued

(4) The client was or would have been required to work for an employer contrary to the conditions of his existing membership in the union governing that occupation.

(b) The following exceptions are added to the four points above for work, and they also apply to training assignments:

(1) The job or training assignment is not related to the physical or mental capability of the client to perform the task on a regular basis; (Medicaid will cover the cost of getting any medical or psychological evidence necessary to decide if this exception is approvable);

(2) The daily commuting time to and from home and work or training site (and child care center, if necessary) normally exceeds 2 hours;

(3) The work or training site is in violation of applicable federal, state, or local health or safety standards; or

(4) Assignments are made which discriminate on grounds of age, sex, race, creed, color, handicap, or national origin.

(c) The following training or schooling activities are considered "appropriate". IRAP clients will continue to meet the requirements of 3704 a.. be eligible for assistance while engaged in these activities:

(1) The client is 21 or over and attending college full time, and will finish his or her degree in one year or less; or

(2) The client of any age is participating in a full-time training program which is, the the EW's judgement, designed to make the client employable within one year or less.

3704.6--SPECIAL TRAINING REQUIREMENT

IRAP recipients who are employed less than 100 hours per month have an additional work/training requirement they must meet in order to continue to be IRAP-eligible: they must also be participating in part-time training, such as English language or skill training. This requirement applies only if:

(a) such training is available at no cost; and

(b) the training is appropriate (as defined by 3704.5).

3704.7--WORK REGISTRATION HEARINGS

Unlike the WIN work registration process in the regular AFDC program, in IRAP work registration, all decisions that affect the client's grant or eligibility status are made by the Eligibility Worker. Therefore, all these decisions are covered by the DPA fair hearing process.

The IRAP caseload is very small, the work registration requirements are complex, and there is considerable room for the EW to exercise prudent judgement. For these reasons, the Worker is encouraged to consult his supervisor and the CO IRAP Program Officer before applying sanctions to any recipient.

3705--NEED STANDARDS AND MAXIMUM PAYMENTS

(a) For the following types of IRAP units, the maximum payments and the need standards are the same. "Adult" means any person 18 and over, and "child" means any person under 18.

(1) Adults Only: $200 for each of the first two adults, $50 for each additional adult.

(2) Children Only: The AFDC-ANI standards and maximums apply.

(3) Adults and Children: The AFDC-ANI standards and maximums apply, except that $200 is added for the second adult and $50 for each additional adult.

(b) All related persons living in the same household who are IRAP-eligible should be placed in one case. Because of the unique features of the IRAP program and the differences in payment levels from AFDC levels which are introduced by covering additional adults, the EW should use his prudent judgement in order to provide IRAP cash and Medicaid assistance to all needy eligible refugees. Unusual household compositions may be encountered; consult Central Office before establishing the case.

3706--CASE EXAMPLES:

(1) A mother and 3 children under 18 apply. All 4 claim to be Chinese, but their INS forms show they are Cambodian Nationals. (Many eligible refugees may so identify themselves.) No income and resources.

This is a regular AFDC case, not an IRAP. The payment is $450 a month.

3706--CASE EXAMPLES - Continued

(2) A father, mother, her father, and 5 children, ages 9, 11, 14, 18, and 20 apply, with no income or resources. All are refugees from Laos.

This is an IRAP case with 3 children and 5 adults:

1 Adult + 3 children	=	$450
2nd Adult at $200	=	$200
3 Additional Adults ($50 each)	=	$150
Standard and Maximum	=	$800

(3) If, i. example (2), above, the family has a baby after resettling in Alaska. Even though the baby was born in the U.S., it can be added to the case:

1 Adult + 4 Children	=	$500
2nd Adult at $200	=	$200
3 Additional Adults	=	$150
		$850

(4) In example (2), above, assume the father is a U.S. citizen. He cannot be included in the IRAP case, but his wife and his [redacted]children are still IRAP-eligible. The case is budgeted this way:

Mother + 3 children	=	$450
2nd Adult	=	$200
2 Additional Adults	=	$100
		$750

(5) Assume in example (2), above, that the grandfather is 67 years old. He is referred to SSI and fills out an APA application. Nevertheless, the case is established exactly as it was in example (2). When he notifies DPA that he's become eligible, his APA case is opened and he is removed from the IRAP case. The IRAP case is then rebudgeted for 4 adults and 3 children:

3706--CASE EXAMPLES - Continued

1 Adult and 3 Children	=	$450
2nd Adult	=	$200
3rd and 4th Adults	=	$100
		$750

3707--ESTABLISHING THE CASE

(a) Both IRAP-AFDC and IRAP-only cases are established exactly as if it was an AFDC case. It is coded on the BAF as a regular AFDC and Medicaid case (Code 15 for Medicaid). However, there is one additional step that must be taken in all IRAP cases, including those that are AFDC cases in which one or more recipients are Indochinese refugees:

At the time of opening, an extra copy of the BAF (xerox or pink) must be sent to Central Office, marked to the attention of the IRAP Program Officer. This copy is essential to provide CO with the information it needs to claim the 100% federal funding given to each "IRAP-only case" and the additional 50% for AFDC-IRAP cases.

The opening BAF, and the initial field warrant, if any, show "IRAP-only case" or "IRAP-AFDC case" in the remarks area.

Unless the case file is clearly marked as an IRAP case, Workers who later encounter the case file may believe it to be a regular--and incorrect--AFDC case. New cases should be marked IRAP or IRAP-AFDC on the file tab, by a special 3"x5" index card stapled to the outside of the file, or any other marking as determined by the RAPM or office supervisor.

3708--CASE MAINTENANCE

All AFDC case maintenance activities and requirements apply to all IRAP cases except as specified in Sec. 3703. However, in each case maintenance activity that produces a BAF change--of any type--CO must be sent an extra BAF copy, marked "ATTN: IRAP Program Officer".

All BAFS have "IRAP-only case" or "IRAP-AFDC case" entered in the remarks section.

LA62 2138 13.02 JAC1 0071 13.02 03/11/80

4

TO:SEN.MILLER/SALONI/O'CONNELL/SEN.TILLION
SR:RICHARD FRASER
POX 32:
KASILOF,AK 99610

RE:HCR-41 AND HB-566. THE INFUSION OF MORE TROOP LABOR AND INSTABILIT
Y INTO
THE STATE ECONOMY BY THESE PROPOSALS WILL CREATE AGGRESSIVE COUNTERCON
TROLS
BY THESE PERSONS OMITTED AND DISCRIMINATED AGAINST BY SUCH ACTIONS. V.
N.
VETS EFFORTS TO HELP THEM IN THEIR OWN LAND WAS REJECTED BY THEIR OWN
LACK
OF PARTICIPATION. THIS LAND ALASKA CONTAINS CITIZENS WORTHY OF SUCH GR
ANC
ASSISTANCE.

HCR

47

(7)

COMMITTEE REPORT

HOUSE

2,7/80

FURTHER:

Date: 3-7-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HCR 47

"Requesting all branches of state government to cease authorization of travel to states which have failed to ratify the Equal Rights Amendment to the U. S. Constitution."

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

John B Fuller

V. V. Ellis

Terry Gardner

MEMBERS HAVING
OTHER RECOMMENDATIONS:

M Gleason No Rec

Tom Martin - Do Not Pass

Ruth Teague " "

CHAIRMAN

H 60 (Rev. 12/78)

Alaska State Legislature

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA
99811

TEL. (907) 595-1265
BOX 740
COOPER LANDING, ALASKA
99572

MARGARET BRANSON
REPRESENTATIVE
DISTRICT 5

Honorable Mike Miller,
Chairman, St. Affairs
Rm. 102. Capitol.

Re: HCR 47

I think this may be
pertinent to your
hearing today.

Margaret

LAW OFFICES

HAGANS, SMITH, BROWN, ERWIN & GIBBS

CHARLES HAGANS
FLOYD V. SMITH
KEITH E. BROWN
ROBERT C. ERWIN
SANFORD M. GIBBS
RICHARD L. WALLER
LINDA M. O'BANNON

310 K STREET, SUITE 704

ANCHORAGE, ALASKA 99501

TELEPHONE 276-5294
AREA CODE 907

March 5, 1980

The Honorable Margaret Branson
Alaska State Legislature
House of Representatives
Pouch V
Juneau, AK 99811

Dear Margaret:

Thank you for attending our political skills conference for women in Anchorage this past weekend. This letter is written on behalf of Women for Political Action in order to indicate our support of the house concurrent resolution #47 encouraging state employees to boycott those states, which have not yet ratified the equal rights amendment. It is the official position of Women for Political Action that state employees should not attend conferences or conventions in those states which have not yet ratified the equal rights amendment and we support house resolution #47. Women for Political Action is an Anchorage board group which has recently affiliated with the National Women's Political Caucus. We have well over 100 active members.

Very truly yours,

Linda O'Bannon

Linda O'Bannon

LO/vlm
cc: The Honorable Bill Parker

HCR

53

(7)

COMMITTEE REPORT

HOUSE

2/18/80

FURTHER:

Date: 2/26/80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HCR 53

"Relating to the Ninilchik scenic wayside."

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

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HCR 53 [X] same title [ ] new title

and recommends CS HCR 53 DO PASS

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

John Grafa
Terry Martin
Fred Dalton
Tony Jandreau
Pete Kott

MEMBERS HAVING
OTHER RECOMMENDATIONS:

John G. Fuller Vice
CHAIRMAN

H 60 (Rev. 12/78)

1/14/80

Subject:

Ninilchik Wayside, Project No. 530444-1

Situation:

Subject wayside was upgraded with State and Federal funds during the 1979 construction season. Construction was interrupted just short of final completion on October 5, 1979 as a result of a 22.3 foot tide coupled with six foot waves striking the beachline at 5° left of perpendicular (waves were from N 60° W). Wind was recorded on site as SE at 8 mph. Another 21.9 foot tide with 5 foot waves occurred on October 8, 1979. Waves struck the beach at 10° right of perpendicular (waves from N 45° W) and the wind was recorded on site as North at 30 mph. Damage occurred as noted below to the beach portion of the wayside. Photos 1, 2, 3, and 4 are of the project prior to completion and prior to October 5, 1979.

General:

Reports are that the waves broke on the primary beachline and that the water carried on over the top of the elevated beach during the high tide in thin sheets and ran down its backside to the slough behind. Considerable damage appeared to have resulted to the primary beach itself through erosion of sand and beach grass from its face and deposition of sand inland along the backside of the beach berm. The water level in the slough (abandoned channel of the Ninilchik River) rose to an approximate elevation of 25.7 feet. Some portion of the high water of the slough resulted from the overwash but most probably entered through the abandoned mouth of the Ninilchik River which is at an approximate elevation of 23.2 feet. This abandoned mouth is south of park property approximately 900 feet and is located on borough property believed to be controlled by the school.

Damage:

Parking Lot

Construction efforts on the parking lot consisted of forming a low profile parking area from imported pit run gravel to minimize possible flood damage while still providing a stabilized base upon which to maneuver vehicles. Concrete bumpers and steel posts were also used instead of the typical wood designs again to minimize damage in case of flood The parking lot was flooded both by the high water from the slough and the sheet overwash from wave action. High water from the slough was relatively calm and caused no damage to the lot. However, the sheet overwash (see photo #20) deposited sand on approximately 67% of the width of the parking lot for its entire length. Depth of deposition ranged from 0.1 feet to approximately 0.5 feet. A combination of deposition and scour occurred around approximately 75% of the 80 concrete bumpers and four steel pipes along the beach edge were undermined with two others also receiving erosion damage.

Entrance Road

The previous 250 foot entrance road to the site was located on the beachline. New construction under this project consisted only of scarifying the existing road surface, widening approximately 2 to 4 feet on the inland side and topping with approximately 0.4 feet of pit run gravel. Widening did not occur on the beach side of the road (see photo #4 which was taken just prior to October 5 high-water). Wave action and overwash completely destroyed the entrance road. Photo #5 clearly shows this.

Latrine #1

This structure was affected by both overwash and high water from the slough. Backwater from the slough was approximately three feet up on the building and the fiberglass vault flooded. The only damage which occurred was minor undermining of its concrete pads and the loss of crushed aggregate walkway material from around the structure. See photo #6 and #7. (Note: This latrine flooded again on October 8, 1979).

Latrine #2

This structure is 2.8 feet higher in elevation than Latrine #1. During the peak high water on October 5, 1979 it too flooded from the high water of the slough but the only damage was to the gravel walkways. (Note: This latrine did not flood on October 8, 1979).

Other Miscellaneous Facilities

Both bulletin boards were undamaged. However, we removed the one nearest to the beach and will relocate next season. Steel pipes delineating the edge of the cul-de-sac and the gate at this location were not damaged.

Corrective Actions Taken After High Water On October 5 and 8, 1979:

1) Sand was cleaned off the parking lot and cul-de-sac areas and deposited in roughly the same location as the original entrance road only inland a few feet. The material was graded smooth for very little effort. Cost was approximately $1000. Our in-house construction crew worked only very briefly on cleanup. Six parking units nearest the beach were abandoned though the concrete parking bumpers have yet to be removed.

2) Both latrines were pumped.

3) Four steel pipes and one bulletin board were removed.

Subsequent High Water Problems & Resultant Damage:

On December 3 and 4, 1979 approximately 22 foot tides and 60-70 knot winds again hit the Ninilchik area. The only damage believed to have occurred to the wayside facilities was undercutting of the 250 foot entrance road, which lost approximately six foot of its width, and erosive damage to three or four steel pipes and erosion and undercutting of one of the previously abandoned parking stalls (see photos #7a and #15). It appears also that the primary beach between the parking lot and the water was further eroded.

North of the wayside, the existing beach spit road, which is located in front of Ninilchik Village and services the harbor and fisheries processing facility, received somewhat extensive erosion narrowing it to approximately 12 feet (see photo #'s 16 and 17). This road was not constructed by nor ever maintained by the Division. The property upon which it is located was recently ILMA'd to the Division as public recreation land.

Recommendations:

Prior to the formulation of recommendations we await a study of the frequency of flooding for the wayside area which is being conducted by the Corps of Engineers. This report should be completed within the next two weeks.

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

STATE
of ALASKA

MEMORANDUM

TO: Chip Dennerlein
Director

DATE: February 17, 1986

FILE NO: 5509-39043

TELEPHONE NO:

FROM: Thomas A. Young
Chief, Park Design and Construction

SUBJECT: Ninilchik Wayside

Our present plans for work at Ninilchik Wayside early this spring include the following:

1) Install water well in the upper campground area (approx. $12,000 to $16,000)

2) Fine-grade beach parking lot surface and dress up bumper logs. (approx. $1,500)

3) Re-grade and compact 250 foot access road (approx. $500)

4) Pump latrines and add fill around concrete pads on northerly latrine (approx. $750)

5) Install all signs not previously installed (approx. $250)

I recommend that our work be kept to a minimum because of the area's vulnerability to storm action. For this reason, I do not intend to add new gravel surfacing to the entrance road or latrine walkways. Such surfacing would cost approximately $1,000 more. DOT/PF maintenance forces assisted us last year after the October storm by furnishing a road grader to withdraw sand on the parking lot. We then contracted to have the sand removed. I am hopeful that DOT/PF will again assist us by furnishing a road grader and roller for approximately five hours for items 2 and 3, above. Bill Rieth visited the site just last Friday and reports that the parking lot surface is still in relatively good shape but fine grading would be beneficial.

Our own construction crew will dress up bumper logs, add fill around latrine and install signs at an estimated cost of $1,500. Latrines are planned to be pumped as a normal operations and maintenance function. However, contractual funds are slim and an additional $500 would be helpful.

Present project balance is approximately $16,000 which is sufficient to do the well. To be safe, we should have an additional $2,000 to $3,000 more for items 2 thru 5. Yearly maintenance costs could easily run this high and should be considered.

We have also experienced erosion along the trail/steps from the upper campground to the lower area. We are presently looking into this situation. Additional funds will probably be required.

TAY:ma

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

STATE
of ALASKA

MEMORANDUM

TO: Chip Dennerlein
Director

DATE: 7 February, 1980

FILE NO: 5110

TELEPHONE NO: 274-4676

FROM: Thomas A. Young
Chief, Design & Construction

SUBJECT: Contracts

Project	Advertising Date	Bid Openining
Totem Sight Viewing Platform	1-23-80	2-22-80
Ninilchik Well	2-6-80	2-29-80
Deep Creek Boat Ramp	2-18-80 (estimated)	3-18-80 (estimated)
Chilkat Ranger Station	3-3-80 (estimated)	4-3-80 (estimated)
Mirror Lake Wayside	2-28-80	3-31-80

HCR

57

(79

COMMITTEE REPORT

HOUSE

2/26/80

FURTHER:

Date: 3-27-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HCR 57

Relating to preparation and distribution by the division of budget and management, Office of the Governor, of a personnel procedures manual.

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

[X] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SCR 49 HCR 57

Title Prepare & Distribute Personnel Procedure Manuals

Requested by Senator Mulcahy Date

II. FISCAL DETAIL

Agency Affected Administration

Program Category Affected General Government

BRU, Program, or Subprogram(s) Affected Personnel

(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Written procedures required of the Division of Personnel pursuant to the State Personnel Act currently exist and would only require minor modification to incorporate instructions issued by the Division of Budget and Management pursuant to the Executive Budget Act.

IV. DATE 3/18/80 PREPARED BY Judy Crondahl

AGENCY Administration

PHONE 465-2277

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named) Senator Ray

Office of the Governor

Keith Specking

Rod Mourant

33-001 (Rev. 12/78)

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer, Administrative Assistant TBC

DATE: February 27, 1980

RE: House Concurrent Resolution 57

Relating to the preparation and distribution by the Division of Budget and Managment, Office of the Governor, of a personnel procedures manual.

House Concurrent Resolution 57 implements Recommendation 9 of the Blue Ribbon Commission's Report to the Alaska Legislature by requesting that the Division of Budget and Management prepare and distribute a procedures manual for use in the classification and re-classification process.

Before a new position can be filled, the Division of Budget and Mangement must authorize the expenditure of funds for the salary and the Division of Personnel in the Department of Administration must classify it. The department in which the position occurs is responsible for preparing the documents to support these activities. There are no written guides for the departmental personnel to use in that preparation. This Concurrent Resolution asks the Division of Budget and Management to prepare a procedures manual for the use of the departments in this process.

There are some areas in the establishment of a new position or the reclassification of an existing position over which both the Division of Personnel and the Division of Budget and Management appear to have jurisdiction. This overlap can lead to confusion for the departmental staff responsible for preparation of the documents. The confusion can lead to delays in establishing the position and therefore to delays in implementing new programs. Where time is of the essence, these delays can frustrate the purpose of legislatively enacted programs.

Therefore the commission recommends that the legislature request the Division of Budget and Management to prepare and distribute a procedures manual to assist the departmental personnel officers and program managers in the steps necessary to establish a new position or to reclassify an existing position. The manual should identify which agency to consult when questions arise.

TBC:sp

HJR

4

(7)

COMMITTEE REPORT

HOUSE

FURTHER: JUDICIARY

1/24/79

Date: 12 - Feb. 79

Mr. Speaker:

The Committee on STATE AFFAIRS has had HJR 4

Relating to the ratification of an amendment to the Constitution of the United States defining Congressional representation and voting rights for residents of the District of Columbia.

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

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for CS HJR 4 [X] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

ALASKA STATE LEGISLATURE

Legislative Affairs Agency

Pouch Y - State Capitol
Juneau, Alaska 99811

REGIONAL INFORMATION OFFICE

1024 West 6th Avenue
Anchorage, Alaska
99501
(907) 278-3668

2/5

Your info + files

LAA 11
(Rev. 4-29-77 K)

Alaska State Legislature

TELECONFERENCE HEARINGS

SUBJECT: H'R 4, SSHJR 2 - RATIFICATION, U. S. CONST. AMENDMENT - D. C. REPRESENTATION IN CONGRESS

COMMITTEE: HOUSE STATE AFFAIRS (MILLER, Fuller, Gardiner, Parker, Eliason, Martin, Meccalfe)

DATE: Friday, February 9, 1979

TIME: 11:00 a.m. to 1:00 p.m. A.S.T.

SITES PARTICIPATING: Washington, D. C. and any sites which generate witnesses

CONFERENCE MODE: audio

LOCATION: LIO

MODERATOR: Hopkins

UAA ADVISED, CONFIRMED na
Extra bills ordered no
Register prepared 2/7

NOTES:

Committee will be making contacts.

Washington, D. C. witnesses may include a representative of Rep. Walter Fontroy's office (delegate from D. C.) and Tom Ascik, Heritage Foundation.

phone contacts 2/7
✓ Frank Austin 265-4210
(Will announce at Alaska Bird Caucus lunch 2/7)
✓ Cot Dreker, ADC 337-5896
✓ Dan Stasse 277-2105
✓ Lu Hancock 263-5810
Tom Fink? 279-2522
✓ Alaska Libraries - OK contacts
✓ Alaska Legislature - Juneau, Anchorage
Committee will take up Tuesday in Juneau at TC.

PUBLICITY:

INVITATIONAL

	Date	Quantity
PSAs	2/7	25
Audio PSAs		
Video PSAs		
News ~~releases~~ (phone contacts)	2/7	9
Direct mail		
Phone contacts	2/7	6

Other: KINO 2/7/79
actuality, KYAK 2/7/79
Posted at LIO 2/7

Copies to LTN Juneau 2/9
Copies to committee 2/9
Copies to sponsor

NUMBER IN ATTENDANCE 11/12
NUMBER TESTIFYING 6

1-30-79

MEDIA CONTACTS - ANCHORAGE

279-5622	ANCHORAGE TIMES	Clint Andrews, Mike Todd, Connie Godwin	
272-8561	ANCHORAGE DAILY NEWS	Stan Abbott	
694-2719	EAGLE RIVER STAR		
274-1052	ALASKA ADVOCATE	Howard Weaver	
277-6397	KENI TV News	Patti Drewery, Andrew Holt	
279-9437	KIMO TV News	John Valentine	
272-3456	KTVA TV News	Steve Lamar	
276-7070	KAKM	Larry Makinson	
			Actualities
272-9591	KHAR, KKLV News	Sherida Hughes	
344-2522	KYAK, KGOT News	Dan Coulter, Barbara	
344-9622	KFQD News	Don Byron, Carl Kingsmore	
243-1300	KANC News	Peter Bie	
272-3456	KBYR News	Sarge McClintock	
272-7461	KENI Radio News	Lynn Roberts, Brad Parker	
276-3000	KSKA News	Jim Tighe	272-7041
277-2655	KJZZ News	Bill Hampton	
278-4631	KHVN News	Clay Shelton	
344-9915	Alaska Radio Network	Gordon Parker, Hilary Hilscher	

Alaska State Legislature

TELECONFERENCE HEARINGS

February 7, 1979

Contact: Judy Hopkins
278-3668

PUBLIC SERVICE ANNOUNCEMENT

Run through 10:00 a.m. FRIDAY, FEBRUARY 9, 1979

PUBLIC TESTIMONY ON RATIFICATION OF AN AMENDMENT TO THE U. S. CONSTITUTION DEFINING CONGRESSIONAL REPRESENTATION AND VOTING RIGHTS FOR THE RESIDENTS OF THE DISTRICT OF COLUMBIA IS INVITED BY THE HOUSE STATE AFFAIRS COMMITTEE IN A TELECONFERENCE STARTING AT 11:00 a.m. FRIDAY, FEBRUARY 9.

AREA RESIDENTS INTERESTED IN PRESENTING TESTIMONY OR OBSERVING THE HEARING CAN PARTICIPATE AT THE LEGISLATIVE INFORMATION OFFICE, 1024 WEST SIXTH AVENUE. WITNESSES SHOULD REGISTER IN ADVANCE BY CALLING 278-3668.

XXXXX

Name Louie Overstreet Here to TESTIFY ✓

Representing Alaska Black Caucus

Address P.O. 3342 Here to OBSERVE ____

Phone 272-5951

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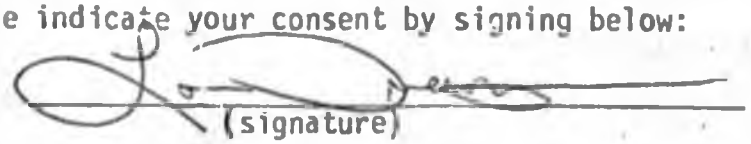

(signature)

Have you participated in other legislative teleconferences? no How many? ____

How did you learn about this hearing? Ms. Judy Hopkins

Would you have participated in this hearing if the network were not available? Yes

If yes, did you use the network:
___ instead of travel
___ instead of phone conversations
✓ instead of mailed testimony

Date: 2/9/79 Subject: HJR 4, HJR 2 - D. C. representation Location: Anchorage

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PLEASE PRINT

1/2

Name Frank Austin Here to TESTIFY ✓

Representing Interested Citizen

Address 3839 Apollo Dr, Anc Here to OBSERVE ____

Phone 333-1983

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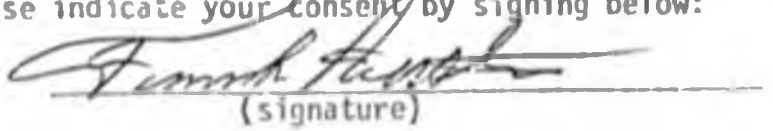

(signature)

Have you participated in other legislative teleconferences? ____ How many? ____

How did you learn about this hearing?

Would you have participated in this hearing if the network were not available? ____

If yes, did you use the network:
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___ instead of mailed testimony

Date: 2/9/79 Subject: HJR 4, HJR 2 - D. C. representation Location: Anchorage

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(T) (3)

Name Phillip A. Downing — Here to TESTIFY ✓

Representing Self

Address 8521 Golden #3 — Here to OBSERVE ____

Phone 243-7625

BROADCAST CONSENT: This proceeding may be broadcast live or recorded for later broadcast by radio or television stations. Please indicate your consent by signing below:

Phillip A. Downing
(signature)

Have you participated in other legislative teleconferences? No How many? ____

How did you learn about this hearing? Friends

Would you have participated in this hearing if the network were not available? No

If yes, did you use the network:
___ instead of travel
___ instead of phone conversations
___ instead of mailed testimony

Date: 2/9/79 Subject: HJR 4, HJR 2 - D. C. representation Location: Anchorage

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(T) 4

Name BOB WALKER — Here to TESTIFY ✓

Representing A.B.L.C. Political Comm.

Address 2506 Fairbanks Anch. — Here to OBSERVE ____

Phone 277-9654

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Bob Walker
(signature)

Have you participated in other legislative teleconferences? No How many? ____

How did you learn about this hearing? Judy

Would you have participated in this hearing if the network were not available? yes

If yes, did you use the network:
✓ instead of travel
___ instead of phone conversations
___ instead of mailed testimony

Date: 2/9/79 Subject: HJR 4, HJR 2 - D. C. representation Location: Anchorage

(1) 5

Name Sharon Richards — Here to TESTIFY ✓

Representing League of Women Voters

Address P.O. Box 1345 99510 — Here to OBSERVE ____

Phone 274-8477

BROADCAST CONSENT: This proceeding may be broadcast live or recorded for later broadcast b. radio or television stations. Please indicate your consent by signing below:

Sharon Richards
(signature)

Have you participated in other legislative teleconferences? no How many? ____

Would you have participated in this hearing if the network were not available? yes

How did you learn about this hearing?

Legislative Information Office

If yes, did you use the network:
___ instead of travel
___ instead of phone conversations
___ instead of mailed testimony

Date: 2/9/79 Subject: HJR 4, HJR 2 - D. C. representation Location: Anchorage

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(1) 6

Name Jean Stassel — Here to TESTIFY ✓

Representing League Women Voters Juneau

Address 911 'R' St. Anchorage 01 — Here to OBSERVE ____

Phone 277-2108

BROADCAST CONSENT: This proceeding may be broadcast live or recorded for later broadcast by radio or television stations. Please indicate your consent by signing below:

Jean Stassel
(signature)

Have you participated in other legislative teleconferences? — How many? ____

Would you have participated in this hearing if the network were not available? yes

How did you learn about this hearing?

word of mouth -

If yes, did you use the network:
X instead of travel
X instead of phone conversations
X instead of mailed testimony

Date: 2/9/79 Subject: HJR 4, HJR 2 - D. C. representation Location: Anchorage

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Last to leave

Name Olive Robison — Here to TESTIFY X

Representing Self

Address 7526 E. 17th, Anchorage — Here to OBSERVE ____

Phone 333-5605

BROADCAST CONSENT: This proceeding may be broadcast live or recorded for later broadcast by radio or television stations. Please indicate your consent by signing below:

Olive Robison
(signature)

Have you participated in other legislative teleconferences? no How many? ____

How did you learn about this hearing?

League of Women Voters phoned

Would you have participated in this hearing if the network were not available? no

If yes, did you use the network:
___ instead of travel
___ instead of phone conversations
___ instead of mailed testimony

Date: 2/9/79 Subject: HJR 4, HJR 2 - D. C. representation Location: Anchorage

PLEASE PRINT

Name Walter R. Furnace — Here to TESTIFY ____

Representing Alaska Business Development Center

Address 550 W 8th one — Here to OBSERVE X

Phone 274-3851 (267)

BROADCAST CONSENT: This proceeding may be broadcast live or recorded for later broadcast by radio or television stations. Please indicate your consent by signing below:

Walter R. Furnace
(signature)

Have you participated in other legislative teleconferences? ____ How many? ____

How did you learn about this hearing?

Would you have participated in this hearing if the network were not available? ____

If yes, did you use the network:
___ instead of travel
___ instead of phone conversations
___ instead of mailed testimony

Date: 2/9/79 Subject: HJR 4, HJR 2 - D. C. representation Location: Anchorage

Name William E. Allen Here to TESTIFY ____

Representing MBE Service Center

Address 2506 Fairbanks ST. Here to OBSERVE X

Phone 277-9654

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(signature)

Have you participated in other legislative teleconferences? ____ How many? ____

How did you learn about this hearing?

Would you have participated in this hearing if the network were not available? ____

If yes, did you use the network:
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___ instead of phone conversations
___ instead of mailed testimony

Date: 2/9/79 Subject: HJR 4, HJR 2 - D. C. representation Location: Anchorage

PLEASE PRINT

Name DAN COULTER Here to TESTIFY ____

Representing KYAK

Address ____ Here to OBSERVE ____

Phone 344-2550

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(signature)

Have you participated in other legislative teleconferences? ____ How many? ____

How did you learn about this hearing?

Would you have participated in this hearing if the network were not available? ____

If yes, did you use the network:
___ instead of travel
___ instead of phone conversations
___ instead of mailed testimony

Date: 2/9/79 Subject: HJR 4, HJR 2 - D. C. representation Location: Anchorage

PLEASE PRINT

Name DIANE ZEEDAR Here to TESTIFY ____

Representing FAA

Address _____ Here to OBSERVE ✓

Phone _____

BROADCAST CONSENT: This proceeding may be broadcast live or recorded for later broadcast by radio or television stations. Please indicate your consent by signing below:

Diane Zeedar
(signature)

Have you participated in other legislative teleconferences? ___ How many? _____

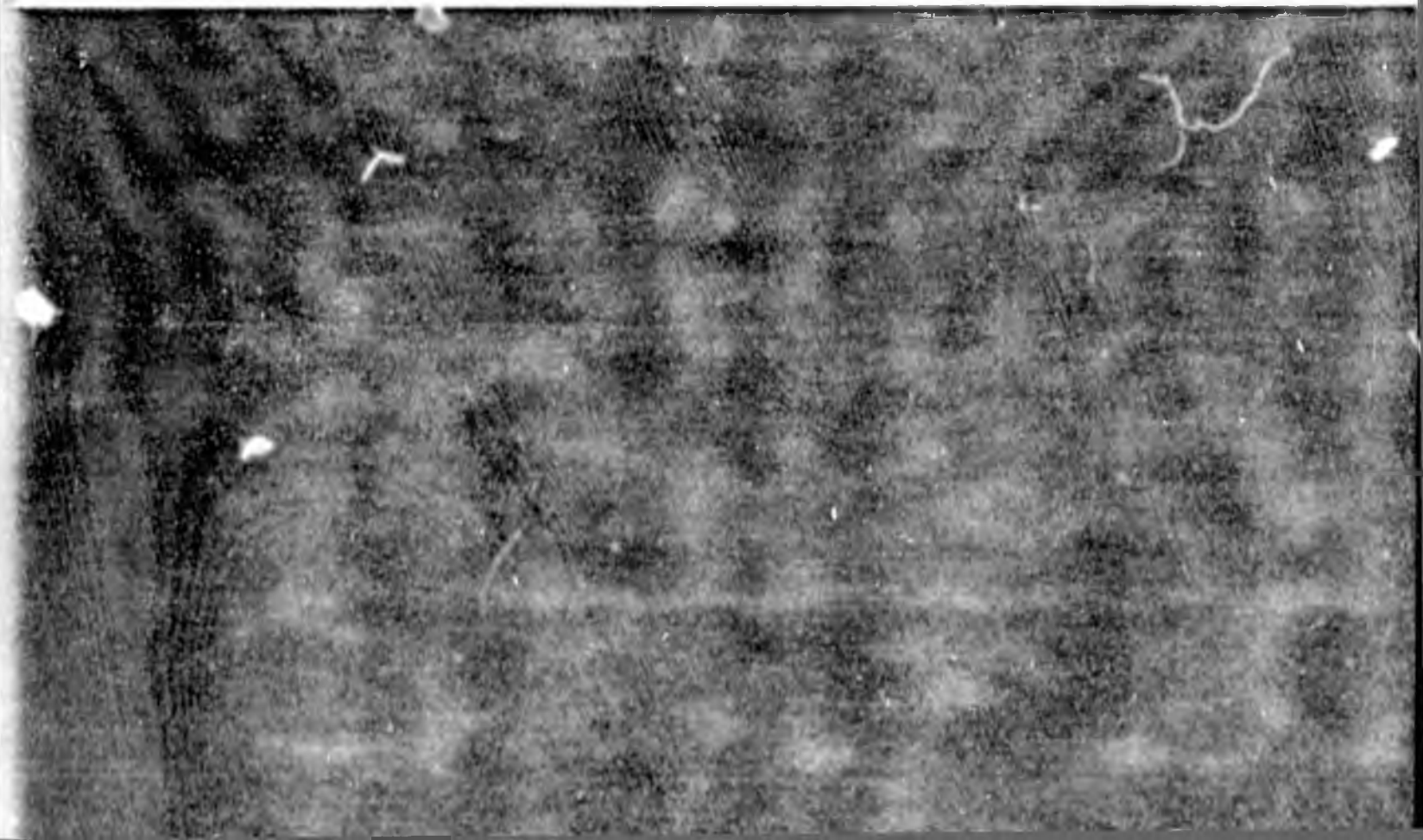
How did you learn about this hearing?

_____

Would you have participated in this hearing if the network were not available? _____

If yes, did you use the network:
___ instead of travel
___ instead of phone conversations
___ instead of mailed testimony

Date: 2/9/79 Subject: HJR 4, HJR 2 - D. C. representation Location: Anchorage



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NATIONAL CONFERENCE OF STATE LEGISLATURES

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Executive Director

1405 Curtis Street
Suite 2300
Denver, Colorado 80202
(303) 623-6600

TESTIMONY OF PROFESSOR STEPHEN A. SALTZBURG

UNIVERSITY OF VIRGINIA LAW SCHOOL

BEFORE THE SUBCOMMITTEE ON THE CONSTITUTION

of the

UNITED STATES SENATE

Friday, April 28, 1978

REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA; S. J. Res. 65

Thank you for inviting me to appear before the Subcommittee to provide my views on the necessity and propriety generally of providing full voting representation for citizens of the District of Columbia and more specifically on the wisdom of adopting S. J. Res. 65 as the means of providing the representation.

I. Summary of Views

On October 6, 1977, I had the opportunity to express to a House Subcommittee on Civil and Constitutional Rights my view that full voting representation in the Congress should be provided citizens of the District. At that time I also expressed my views on the best way to provide such representation. My comments today will be very similar to my previous comments in the House.

Although there has been controversy over the means to be used to accomplish the end, recently this august body in its debates over the Panama Canal treaties has expressed broad support for the proposition that even though the United States government at one time had legal control over the lives of citizens of a U.S. territory, control obtained long ago and exercised continually must be reviewed in the

light of current developments. In that light there can be no question that District citizens--who pay the same taxes as other Americans; who share the same democratic values as other Americans; who are affected by the growth of the federal government in the same way as all Americnas; and who know that the federal government exerts control over their lives that it does not exercise over the lives of other Americans--should be represented in the Congress of the United States like those who, by chance, live within the borders of one of the fifty states. And, in contrast to the difficulties of working out a treaty with another nation, there are no insurmountable problems in providing voting representation for the District.

That these are valid arguments was recognized by the House of Representatives on March 2d of this year when it approved by a vote of 287-127 H. J. Res. 554, a resolution proposing an amendment to the Constitution that would provide the District with full and effective voting representation in the Congress.

H. J. Res. 554 is, in my view, a better vehicle for providing the District with representation than is S. J. Res. 65. The basic problem with the Senate resolution is that it grasps the principle of one person, one vote at the same time that it attempts to depart from the principle. There is no need to offer District citizens anything less than a full loaf. Thus, there is some reason to favor the House's resolution.

It is important to recognize, however, that S. J. Res. easily can be amended so that it is at the least the equal of, and perhaps an even better resolution than, H. J. Res. 554. More important at this point than disputing the respective merits of the two resolutions is recognizing that fair-minded people who carefully examine the arguments

supporting full Congressional representation for the District can agree on an approach. There is no reason to allow the mechanics to stand in the way of making the principle a reality.

And it should be a reality. During all the consideration of H. J. Res. 554 by the House, not one valid argument emerged against full representation for the District. As I proceed, I hope to demonstrate the weakness of some of the opponents' positions.

There are reasons why some people may disfavor District representation that have not yet appeared, explicitly that is, in the debates. They are invalid concerns and I mention them now only to put them aside, hopefully forever. First, the suggestion has been made that with the addition of two Senators from the District, the Senate "club" will somehow be less exclusive. Whatever the merits of exclusivity, they can hardly be dealt a blow by adding two votes to a hundred. Did Americans see a decline of prestige and power in the Senate or its individual members when Alaska and Hawaii sent Senators to Washington? No, of course not. Two votes from District will make the Senate no less deliberative, no less powerful, and no less prestigious. Second, some may think that conservative Senators and those from rural areas might be disinclined to favor a resolution that well may add two urban and liberal votes to a balance that is not in their favor at the moment. If these Senators conclude, as I believe they will, that no valid argument overrides the principle of one person, one vote that underlies the resolution being considered, they hardly could justify denying the franchise to a considerable number of their fellow Americans. In the course of giving youth the right to vote, outlawing the poll tax, and even in proposing the twenty-third amendment, members of Congress have demonstrated the Constitution demands devotion to principle, not

to short-run partisan politics. Finally, there are some members of Congress, and surely some of their constituents as well, who never have felt comfortable in a District which is predominantly black. Biases against the District sometimes evince unconscious racial prejudices which have no place in American politics in 1978. Indeed, whether or not some of the opposition to voting representation for the District has its roots in racial prejudices, the paucity of other, valid reasons to support the opposition produces for those who read and hear the opposition a sense of fear--fear that race is again a behind the scenes/issue in a debate over fundamental rights.

It must be somewhat embarrassing for United States officials to chastise foreign governments over their treatment of minorities and to complain about the disenfranchisement of entire groups of voters when, at home, the citizens of the District still must seek the franchise they have too long been denied.

It should come as no surprise that American Presidents with constituencies as diverse as those of former President Richard Nixon and incumbent Jimmy carter have supported representation for the District. The idea is so firmly grounded in American concepts of equal justice under law and equal access to political change that it is difficult to oppose on principle. And when Americans debate fundamental rights, opposition without principle is no opposition at all.

Having completed this summary of my position, I turn now to consideration of more specific issues.

II. S. J. Res. 65 and Its Counterparts in the House

When I testified before the House Subcommittee, I was asked to comment on several joint resolutions that had been proposed in the House of Representatives. All provided in one form or another for an amendment to the Constitution to provide representation for the District of Columbia in the Congress of the United States. It may be useful to review them here so that you can better understand the differences between the resolution approved by the House and that set forth in S. J. Res. 65.

H. J. Res. 139 contained four short sections allocating two Senators and an appropriate number of Representatives to the District, providing for an election to fill vacancies, defining the relationship of the proposed amendment to the 23rd Amendment, and giving Congress the power to enforce the proposed amendment. It was identical to S. J. Res. 65. H. J. Res. 392 was very similar, except that it provided that Congress may allocate a power of temporary appointment to officials in the District under certain circumstances to fill vacancies in the Senate. Very different in form was H. J. Res. 554 which ultimately was adopted by the House. It now contains four sections.* They provide that the 23rd Amendment would be repealed, that the District would have voting representatives in the Congress and as much authority to elect a President and Vice-President of the United States and to ratify constitutional amendments as any State, generally that the rights and powers provided should be exercised by the people of the District in a manner to be selected by Congress, and that the amendment

*As originally proposed, H. J. Res. 554 had only three sections. The fourth was added prior to its adoption by the House, but after the Subcommittee hearings in the House.

would take effect if ratified by the requisite number of states within seven years.

In my House testimony I found myself favoring the basic approach of H. J. Res. 139, although I indicated that standing alone it was inadequate to fully accomplish the objectives of a constitutional amendment providing representation for the District. Thus, I suggested tha with several changes H. J. Res. 139 could have been improved.*

The improvements that I suggested would have produced a Resolution substantially identical to H. J. Res. 554 in its effect, but which might have been somewhat clearer than H. J. Res. 554 at certain points.** Both my proposed version of H. J. Res. 139 and H. J. Res. 554, the resolution ultimately adopted by the Houses were in accord on certain fundamentals, including the following:

A. The voting rights of District citizens should include full representation in the House and Senate and full participation in the election of a President. Hence, the Twenty-Third Amendment should be repealed.

B. Congress should be given authority to carry out the purposes of the amendment.

C. Some flexibility with respect to filling vacancies in the

---

*I will be making similar suggestions for amending S. J. Res. 65.

**One of my reservations about H. J. Res. 554 would have been removed if a proposed amendment, suggested by Assistant Attorney General Patricia M. Wald on behalf of the Administration, were adopted. See Statement of Attorney General Wald, Before the House Subcommittee on Civil and Constitutional Rights, October 6, 1977, at 15. The suggested change would have the resolution read, in part, as follows: "The exercise of the rights and powers conferred under this article shall be by the people of the District constituting the seat of government, in such manner as shall be provided by the Congress."

Congress should be retained.

The single point of departure from the goals of H. J. Res. 554 found in my version of H. J. Res. 139 was over the extent to which the District should be able to participate in the ratification of future constitutional amendments. As I shall point out in a few moments, there is a very practical reason to deny the District an opportunity to participate in the ratification process. But I believe that the argument is not overwhelming and easily could be rejected. Certainly it is not as important as the more basic question of full voting representation in the Congress. In my testimony I shall suggest a flexible, compromise position.

Whether H. J. Res. 554 or S. J. Res. 65 ultimately is the vehicle for affording voting representation in Congress to District citizens, the final resolution should embody the fundamentals that I have listed above as A, B, and C. I shall endeavor to explain why.

But, before doing so, I would like to address some basic question, the answers to which I have thus far only assumed.

III. Is There a Need for the District to be Represented in Congress?

In the Report accompanying H. J. Res. 280, which died on the floor of Congress several years ago, Representatives Butler, Kindness, Ashbrook, Danielson, Moorhead, and Hyde raise a threshold question that must be answered before any specific amendment to the constitution is considered: i.e., is representation for the District necessary? The right answer must be "yes."

In reaching this answer, one must recognize that it is impossible to derive anything useful from the study of the intention of the framers

in their treatment of the District in Article 1, Section 8 of the Constitution. It must be remembered that there was no District at the time the Constitution was drafted and ratified. We do know that a disruptive incident occurred in Philadelphia in 1783 involving soldiers who had been fighting against the British and that the response on the part of state officials gave rise to a general feeling that it would be beneficial to establish a special District run by the federal government which would not be dependent upon any State for protection. Beyond this we know little. It has been urged that because some 13 years after ratification of the Constitution a majority of the Congress took away the then recognized right of the District citizens to vote in Maryland and Virginia, the correct inference is that the framers believed that State representatives would also consider and take into account the interests of District citizens. The fallacy in this is that what happened in 1801 offers some support, but by no means conclusive support, for a reading of the intent of the framers of the Constitution. The fact that District residents voted in federal elections immediately after ratification of the Constitution might even be better evidence of the framer's intent. But more importantly, it must be recognized that even in 1801 it was impossible for those members of Congress who took away the vote from District citizens to anticipate the precise future development of the nation. When it is recalled that entire races of people, women, non-property holders and others were denied the right to vote, it is not hard to see why assumptions as to the adequacy of representation of all by a few might have been acceptable then, but not now.

The answer to the question of whether representation of the District in the Congress is necessary cannot turn on history, because history is too poor a guide to knowledge of how the framers would have intended the needs of the District to be handled throughout the life of a changing nation. Rather, the answer must be found in current attitudes about the right to vote. Since the Supreme Court has declared one person, one vote to be a fundamental part of our democracy, and since this has come to be a cherished idea to most American citizens, I find myself echoing the testimony of Representative Gilbert Gude, who said in hearings before this Committee: "I support the extension of voting representation for the District because it is right, it is fair, and it is an essential element of representative democracy." Hearings before the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary of the House of Representatives, 94th Cong., 1st Sess., 15-16 (1975) [hereinafter referred to as "Hearings"].

It is especially important that residents of the District be given the opportunity to elect voting members of Congress in view of the fact that Congress retains residual power over the government of the District. Citizens of the 50 states know that if the Congress fails to act on an important issue there is always the possibility that State or local governments will act to meet the needs of the citizens. State and local pressure might indeed be easier to mount and more sharply focused than is the national pressure on Congress. The residents of the District daily confront the fact that Congress often has acted and can continue to act to override decisions of any legislative body in the District. Thus, it is more,

not less, important that the District, an entity that is not a State, have the same vote in Congress as does a State because Congress is in many instances the equivalent of a State and local government, as well as a federal government, for District residents.

Even if Congress were to relinquish entirely the power it now retains over District lawmaking, the enormous legislative power of the federal government today would require, in my view, that District Citizens have an opportunity to participate in an effective way in federal decisionmaking. When someone like myself travels from Charlottesville, Virginia to Philadelphia, Pennsylvania to visit my family, I travel by car, train, or plane. Automobile travel takes me over the roads of Virginia, the District, Maryland, Delaware and Pennsylvania. I find no difference of significance between driving in the District and driving in any State. The roads are the same, the problems are the same, and the interrelationship between the States and the District is real and apparent. The same is true when I pass through Union Station on my way to Baltimore, Wilmington, and ultimately Philadelphia. In the rare instance that I travel by air, almost always I must change planes at National Airport. While National Airport technically is in Virginia, the proximity to and relationship with Washington, D.C. is readily apparent. Whatever differences there are between the District and the States pale before their similarities.

No matter what anyone thought in 1787, or in 1801, the District of Columbia, while not a State, faces most of the same problems as all the States. It is affected in the same way by general congressional legislation as the States. As

congressional power and congressional responsibility expand, it is ever more important that every citizen be able to directly express himself or herself on national issues. The only effective way is by representation in Congress. To the limited extent that the District is unique because it is a federal enclave heavily reliant on the Congress, the District has a greater need for voting representation in that body.

IV. Is a Constitutional Amendment Necessary?

Theoretically, the answer to this question is "no." If Congress were willing to cede the District back to Maryland, as it ceded land back to Virginia more than a century ago, and if Maryland were prepared to accept the cession, no amendment would be required. My reading of congressional and national sentiment is that practically speaking this solution is unacceptable to the people of the Nation. It might even be unacceptable to the citizens of Maryland and of the District respectively, if put to a vote. My personal view is that retrocession would be a bad idea for the same reasons that statehood would be a bad idea. These reasons will be set forth subsequently.

In the earlier Hearings and in the discussions of the joint resolutions now under consideration, a suggestion has been made that partial retrocession--i.e., retroceding jurisdiction over the District for voting purposes to Maryland--would be preferable to a constitutional amendment. It is somewhat ironic that this solution seems to be preferred by those whose opposition to a constitutional amendment is grounded in the argument that such an amendment might engender too many problems of interpretation. Article I, § 2 of the Constitution provides that the House of

Representatives shall be chosen by the "People of the several States, and the Electors in each State shall have the qualifications requisite for Electors of the most numerous Branch of the State Legislature." Assuming that Maryland were willing to accept partial retrocession and that the Congress were willing to take this approach to the problem of representation, the obvious question that would arise is whether residents of the District qualify as "People of the several States." Logically they do not. District citizens are not residents, domiciliaries, citizens or Maryland "people." They are District "people." Moreover, since a usual qualification for voting for the State legislature is residency in the State, arguably residents of the District would be barred by this Section despite partial retrocession, even if retrocession magically transformed District residents into Maryland people. Furthermore, Article I, § 2 also provides that "Representatives . . . shall be apportioned among the several States . . . according to their respective Numbers . . . ." This portion of the Article was not changed by the Fourteenth Amendment, Section 2. If partial retrocession were attempted and if District citizens were permitted to vote in Maryland, would they be counted among the number of Maryland persons to be used for apportionment purposes? If not, then District citizens would be treated unequally. If so, arguably the apportionment would be subject to challenge by citizens of other states, because the District citizens are not among the Maryland "Number" in any but the most theoretical way.

The Seventeenth Amendment presents a related problem; it provides that the Senate shall be composed of two Senators from

each State elected by the people there *. Would District citizens be considered to be among the people of Maryland? Perhaps partial retrocession could insure this, although I have doubts. But the Seventeenth Amendment also says that the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature. If residence is a requirement, as it almost always is, for voting for members of the State legislature, the Seventeenth Amendment stands as a bar, it seems, to partial retrocession by statute as a way of giving a formal vote in the Senate to District citizens.*

Even assuming arguendo that partial retrocession would be constitutionally permissible, politically it is a bad idea. The reason why District residents should have their own representatives is that, although the District is similar to a State like Maryland in may respects, including the problems both face, it cannot be denied that the District is a separate place with definite boundaries of great political significance and that it would remain separate after partial retrocession. The very fact that partial retrocession would transfer to Maryland only the authority to control the federal voting rights of District citizens clearly signals that the citizens of the District would be unable to look to Maryland to represent their distinct and unique interests in the Congress. Just as various States have a special interest in solving problems for and extending a helping hand to those persons residing within their borders, the District has a special interest in solving its own problems and helping its own people. As noted above, in one respect the District has more need for individual representation than any particular

*Although District residents voted in State elections from 1790 until 1800, State law was in effect in the District in this period, and the seat of Government had not yet been moved to the District.

State. Because it is the only federal enclave outside of the States in the continental United States, it finds that many of its laws are derived from the will of a Congress comprised of representatives of the various States rather than from the will of District people. It is plain to me that those who live in the District have a stake in the District that is considerably different from members of Congress who permanently reside in separate States but who locate in the District on a part-time basis while they serve their terms in Congress. For example, those who permanently reside in the District probably have a feeling quite different from that of most members of Congress about the large amount of federally owned tax exempt property in the District. Citizens of the District should be heard on this, as on all subjects, through their own members of Congress.

Some practical difficulties with partial retrocession are immediately obvious. For example, it is disturbing to note that if a vacancy in the office of Senator were to arise, the vacancy would be temporarily filled by appointment by the Governor. But District residents would not participate in the election of the Governor.

I must admit that I view points such as this as small ones. The fundamental point is that those people who locate within the boundaries of the nation's capital need and deserve full and vigorous representation.*

*In Raven-Hansen's, Congressional Representation for the District of Columbia: A Constitutional Analysis, 12 Harv. J. Leg. 167 (1975), the imaginative suggestion of "nominal statehood" is put forth. In light of the specific language in Articles I and IV and the language of the Supreme Court opinions cited by the author, I believe the suggestion should be rejected.

V. Is Statehood Desirable?

In my view the answer to this question is "no." Keeping the capital a federal enclave preserves something important to our government. The number of federal institutions in the District, the location of the Congress and the White House, and the very idea of a "center" for the nation suggest that it would be wrong to entrust complete power over the District to any State, whether it be Maryland by retrocession or a new State called "Columbia" or something like it by amendment. No State should have responsibility for and control over the critical parts of the federal power structure. Preserving a federal triangle or federal territories separate from, but located in, a State would pose enormous problems. See Testimony of Mayor Walter Washington in Hearings, supra, at 29; Testimony of John Hechinger, id. at 49. Rather than Statehood, the constitutional amendment to allow voting representation in the Congress seems to be a perfect compromise. It recognizes that citizens throughout the country should have a voice in what happens in the District of Columbia but that citizens of the District of Columbia should also have a voice both in federal programs that have as much impact in the District as in any State and, of course, in the ultimate decisions affecting the District only.

It must be emphasized that it would be unfair to say that the District is seeking the benefits but not the burdens of statehood. The District bears unique burdens and receives special benefits. It is different from a State, yes. But no difference justifies the denial to District citizens of the fundamental right of voting representation in Congress.

VI. Is S. J. Res. 63 an Acceptable Resolution?

With certain additions this resolution can, in my view, provide the citizens of the District with appropriate representation without causing unnecessary problems in constitutional interpretation. Alternatively, H. J. Res. 554 can serve the same end.

The principal constitutional argument against any constitutional amendment giving voting representation in the Congress to District citizens is that such an amendment would violate Article V of the Constitution which provides that in relevant part "that no State without its Consent, shall be deprived of its equal Suffrage in the Senate." As I understand the argument, it is as follows: to allow the District to be represented in the Senate deprives States of their equal Suffrage. To be candid, I find this argument to be nonsense. From reading the records of the Constitutional Convention, I can find little to explain the precise wording of the quoted portion of Article V. It appears to be an attempt by the smaller states who favored the New Jersey plan to ensure that the large states who favored the Virginia plan would not immediately amend the Constitution to do away with the provisions regarding the Senate that were so important to the smaller States. No matter how one views this provision -- e.g., under a "plain meaning" analysis, by focusing on constitutional history and the intent of the framers, or by utilizing a structural analysis -- letting the District vote in the Senate cannot be said to violate the letter, the spirit or the likely goals of the provision. Nothing in the language of this Article states that the Constitution cannot be amended to give entities other than States voting power in the Senate. All

that is required is that a State have an equal vote. If the District is given two Senators, no State is in an unequal position when compared to any other State or to the District. Those who use this language to argue against the validity of a constitutional amendment point to no hing in the background of the Constitution to support a reading that no amendments concerning the Senate would ever be permissible, which I believe must be the thrust of their argument. While it is possible that the Constitution contains parts that are unamendable, I would think that, where possible, a living document, one written for the ages, would be construed to allow amendments to meet the felt needs of the times. The need of our time is representation for the District's many citizens.

It has been argued in a philosophical vein that the Constitution should not be lightly amended. With this I agree. But I do not view affording the citizens of the District voting representation in the Congress as a great disruption of the status quo. Yes, it is the first time that voting representation would be given to some entity other than a State. Aside from this interesting historical fact, the mechanics are simply not that difficult. Compared to the disruption attributable to the Supreme Court's voting rights cases, and congressional legislation like the Voting Rights Acts, this proposed constitutional amendment is a rather simple proposition: it gives the District citizens a vote, it does it as simply as possible with as little confusion as possible, and it brings the District into our one person, one vote Twentieth Century.

It is a strange and very disturbing argument that the Constitution can be amended to affect the President, the House of Representatives, the Supreme Court, the Bill of Rights, and the balance between federal and state power, but that no amendment can touch the composition of the Senate--no matter why, how much needed or what the circumstances. If necessary, I would reject that argument. But I need not, since no reading of the Constitutional language suggests that it would be violated either by S. J. Res. 65 or H. J. Res. 554.

Is S. J. Res. 65 a simple, straight-forward proposal? I think that it is. Section 1 provides that the people of the District shall elect two Senators and the number of Representatives to which the District would be entitled if it were a State. According to the last census, the District would be likely to have two Representatives. Because Section 1 states that each Senator or Representative shall be an inhabitant of the District and shall possess the same qualifications as to age and citizenship and have the same rights, privileges and obligations as a Senator or Representative from the States, possible conflicts with Article 1, § 2 and the Seventeenth Amendment are avoided.* These two constitutional provisions generally require that electors voting for Senators or Representatives have the same qualifications as electors for the most numerous branch of the State legislature. Section 1 simply provides a different approach for elections in which District citizens vote for members of Congress. Read in conjunction with Section 4, it is evident that the proposed amendment would give to Congress the authority to define who could vote in the District's

*If H. J. Res. 554 is adopted, perhaps similar language should be included.

congressional races. No one need fear that Congress would usurp the power intended to be given to the people of the District, since the one person, one vote concept, together with the kind of legislation that is to be expected from a Congress once the proposed amendment is approved by three-quarters of the States, will ensure that the District elections are as fair and open as those held in any State.

Section 2 states that when vacancies happen in the representation of the District, in either the Senate or the House, the people of the District shall fill such vacancies by election. Once again, this Section should be read in conjunction with Section 4, and it is apparent that Congress is authorized to provide for special elections or to allocate the power to provide for special elections to local government. While this provision is simple and straight-forward, I oppose it. Although Article I, Section 2 of the Constitution provides that a vacancy in the House shall be filled by election, the Seventeenth Amendment authorizes temporary appointments of Senators until vacancies are filled by election. There are two possible reasons for distinguishing the District from the States with respect to the Senate: 1) it is not clear that Congress would trust the executive authority in the District to make appointments, and 2) it is also unclear whether the executive authority would ultimately be considered to be the Mayor or the President of the United States.

I would prefer language like the following in lieu of the current language of Section 2: "When vacancies happen in the representation of the District in either the Senate or the House of Representatives, the people of the District shall fill such vacancies by election or temporary appointment in

accordance with congressional legislation."* The advantages of this language are two: First, it avoids the need for current debate about whether election is appropriate in all circumstances as a way of filling a Senate vacancy and second, it assures the Congress that, if and when the District gets more power over its own affairs and the Congress trusts the District to run its affairs without close congressional scrutiny, it would be appropriate for Congress to allow the District's executive to fill temporary vacancies. There is no need to chisel in granite forever one approach to filling vacancies. It might be argued in response that such a proposal would represent the only place in the Constitution where Congress is given power to choose one or another method of filling a vacancy. But I think that the appropriate response is that the amount of local control allocated to the District government has changed over time, whereas the States have always had lawmaking power independent of the federal government. There is no reason why the changing nature of District government cannot be recognized by a sui generis constitutional provision.

The third Section leaves the 23rd Amendment to the Constitution untouched. I would repeal the 23rd Amendment. The thrust of S. J. Res. 65 is to give equal voting representation to District residents. I can see no good argument for doing this in the Congress and not in the Electoral College. I realize that the Congress is considering Electoral College reform. If it comes, it can come for the District as well as for the States.

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*If H. J. Res. 554 is adopted, the language could be clarified to make the same point.

Until such time, the 23rd Amendment should be viewed as a step along the way to equal voting rights for District citizens. Once the commitment to complete equal rights is made, the Amendment is an anomaly. The best argument for Section 3 is that to propose repeal of the 23rd Amendment is to add to the controversy surrounding S. J. Res. 65. Even so, one who supports an equal voice for the District in the Congress should appreciate the need for an equal voice in the selection of the leaders of a co-equal branch of government. If, for one reason or another, a judgment is made not to disturb the recently enacted 23rd Amendment, so be it. Otherwise, I would prefer that the language of Section 3 of H.J. Res. 554 be substituted for the first sentence of Section 3 of S. J. Res. 65. The second and last sentence of Section 3 of S. J. Res. 65 should be kept as it is to make clear that if the House of Representatives has to choose a President, the District would be treated in the House as if it were a State, which is important in view of the fact that the House votes by State under the 12th Amendment.

Section 4 provides that Congress shall have power to enforce the amendment by appropriate legislation. This Section should remove any difficulty posed by Article 1, § 4 of the Constitution, which provides, in part, that Congress may not alter the places of choosing Senators chosen by the States. Section 4 should make clear that Congress has authority to control the District's election of its Congressional representatives. While this gives Congress more power over the District than over the States, there is nothing in the Constitution to bar such an approach by constitutional amendment. Furthermore, this approach is consistent with the notion that at the same time that Congress

is treating the citizens of the District more equally than ever before, the Congress is recognizing that the District is in some ways unique and that Congressional oversight in the name of the United States is desirable.

If I were drafting the proposed amendment, I would probably add one more section. It would sound something like the following lines: "Congress shall have the power to provide that the District may be included in the ratification process for any future constitutional amendment." If District citizens are to be treated as equal in the halls of the Congress, it is somewhat ironic that S. J. Res. 65 would deny them an opportunity to be heard during the ratification process for future constitutional amendments. This is not to say that District citizens would have no voice. They would be able to express a view in both Houses of Congress on whether an amendment should be sent to the States for ratification. But the District would have no voice beyond this. Apparently, there is a good reason for this irony. It is not clear that the elected governing body of the District is the equivalent of a State legislature. Therefore, it is not clear that Congress should trust the elected governing body of the District to ratify in the name of the District a constitutional amendment. Over time more responsibilities may be given to the District government and confidence in its capacity to make decisions may grow. My proposed fifth Section would recognize that Congress should have the power to include the District in the ratification process in a manner that it deems desirable. There is little reason now to shut the door on the possibility that the District can effectively participate in the amendment process in the future. And there is scarcely

more reason to undertake a debate now the current state of local government in the District of Columbia. This is my compromise position between S. J. Res. 65 and H. J. Res. 554.

VII. Will the District be Over-Represented?

One final red herring needs to be disposed of before I conclude. The argument has been made that persons who would vote for members of Congress in the District have roots that do not run deep enough to warrant the same kind of representation given to citizens of the States. In this mobile society it is questionable whether most people have roots that run very deep in the community in which they vote. Assuming, however, that citizens in most States have drawn sustenance from the places in which they vote for a longer period than have District residents, the fact remains those who are in the District, even for a period of only a few years, have an interest in common with those who have been there for a longer period of time. One who resides in the District and can satisfy residency requirements has the same problems as any other District resident and the same stake in voting. What difference does it make whether someone is spending two, three or ten years in the District? Federal legislation that extends beyond the States to reach the District affects people who are in the District even for a short period. And more importantly, the legislation that Congress may enact with specific reference to the District has a particular impact on those who reside there for any length of time. The Supreme Court has made it quite clear that it is impermissible for States to attempt to differentiate people who have been present for a short period from those who have

been present for a long period when it comes to voting. The Congress paved the way for this view in its voting rights legislation. Those who have sufficient connection with the District qualify as voters and deserve a vote no matter how long or how short a period they have been present.

A carefully conducted census should assure that only those who are permanent residents of the District are counted for apportionment purposes.

VIII. Apportionment and the House of Representatives

Since the Constitution provides that Representatives shall be apportioned by population as determined by an enumeration made every ten years, and since Congress has usually authorized an apportionment after each census, reapportionment to accommodate the District is nothing out of the ordinary for the House. The Congress can provide by legislation that the number of Representatives will be increased temporarily to accommodate the District and when Congress next undertakes reapportionment it can confront the question whether to permanently expand the size of the House.

IX. Conclusion

On the basis of the testimony that I have provided, I can see no reasonable basis for any longer denying District citizens full voting representation in the Congress of the United States. I hope that the Subcommittee notices that, without identifying the members of the House of Representatives by name, I have endeavored to respond

to all of the arguments raised in opposition to the House resolution, H. J. Res. 554, in the separate statements appearing in H. R. Rep. 95-886 (February 16, 1978). At the moment, H. J. Res. 554 is superior to S. J. Res. 65, but the latter easily could be amended so that it would be equal to, and perhaps even a better resolution than, that passed by the House.

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SCHOOL OF LAW
August 16, 1978

W. Carey Parker, Esq.
Legislative Assistant to
Senator Edward Kennedy
United States Senate
Washington, D.C. 20510

Dear Mr. Parker:

After I testified before both a House Subcommittee on Civil and Constitutional Rights and a Senate Subcommittee on the Constitution in favor of a constitutional amendment giving full Congressional representation to citizens residing in the District of Columbia, several Senators raised points that previously were mentioned only obliquely, if at all. None of these points withstands more than superficial analysis, but they have received press coverage and require a response if the record before the Senate is to be complete. You have invited me to comment on the arguments. I do so now. Perhaps you would be so kind as to add this letter to my testimony.

Senator Bartlett wrote to the Washington Post on June 1, 1978 to explain a statement that he previously had made. His letter emphasized that the District gets unique benefits from the federal government and therefore is better represented than many states even without actual voting representation in the Congress. Matthew Watson, the District's auditor, responded in the Post with a "Taking exception" column published seventeen days later. He demonstrated quite convincingly that the District is worse off because of federal help than is Oklahoma, Senator Bartlett's state.

There is more that should be said in response to Senator Bartlett. The Senator argued that the District receives tourist and convention business as a result of being the Nation's capital. But the burdens of handling tourists, many of whom will pass through for a day or rent rooms in the neighboring states is real. For every "benefit" conferred upon the District because of its status as seat of the national government, there are corresponding burdens. Whether a given state of affairs is a benefit or burden is not even clear. What is clear is that in the United States citizens generally have a vote as to the way their government will be run. District citizens now have no such vote. Moreover, any "benefits" that can be identified have been imposed on District residents who may or may not have desired them, and who may have preferred another state of

affairs. In fact, there is every reason to believe that District residents, if they had exclusive control over their destiny, would make different choices than the Congress. This is the reason why people like me (and I believe the majority of the Congress and the American people) want to see the District remain a federal enclave, not a separate state. Because the District is denied ultimate control over its own destiny, it is imperative that its residents have a full voice in Congress that has the control.

Two more comments on the unique benefits the District receives from the federal government are in order. First, every state and even many cities and counties have from time to time vied for a piece of federal largess. They have sought unique forms of special help to satisfy their special needs. Never has it been suggested that receipt of federal benefits requires a diminution of a jurisdiction's voting rights. Hence, the District is no different with respect to federal benefits than any state. Second, the residents of the District do not believe that the Congress is as generous in its treatment of the District that no independent representation is necessary. The District hardly would give up a bonanza, if it existed. It does not. The District, like the states, receives some help from the federal government, and, like the states, it should have a voice in how federal assistance is allocated.

Senator Bartlett also refers to the history behind the formation of the District. As my full testimony before the Senate Subcommittee indicates, there is nothing in the background of the District that suggests that residents of today's District should not have full Congressional representation. The Constitution was drafted before a District existed. The framers apparently believed that people would not lose voting representation because the District was formed. Apparently, they viewed the District as a small unit which would remain so close in its interests to Maryland and Virginia that District residents would continue to vote there.

But the framers did not work out the details. And it is not really surprising that, [illegible] the seat of the government actually was transferred to the District, Congress enacted legislation consistent with the view that District residents were not residents of any state (i.e., Maryland or Virginia) and could not vote there. Depriving a few citizens of the franchise was not a major concern at a time when only the votes of white males counted. For a century and three quarters, the District has been separate from the surrounding states.

For the last 100 years this Nation has undergone a voting revolution. The Fifteenth Amendment, the Nineteenth Amendment, the

Twenty-Sixth Amendment, the one person, one-vote decisions of the Supreme Court have established voting as a basic right of Americans. To suggest that the framers would have opposed full voting representation for the District is to ignore the history of the District and of voting rights, not to rely on it. Moreover, it is to ignore the lessons of the Twenty-Third Amendment, giving the District participation in the electoral college, which was so quickly ratified by the people of the United States.

And to suggest, as did Senator McClure in his August 7, 1978 letter to the Washington Post, that ceding most District land back to Maryland or to opt for legislation allowing District citizens to vote in Maryland is to totally ignore the history. The District has developed on its own; its interests are not the same as those of Maryland. Since 1801, the District and Maryland have gone separate ways, developed separate identities, and separate governments. No shotgun wedding will easily bring these entities together. Even worse is the idea of giving voting rights in Maryland to District citizens. I have previously testified that such a statute would present serious constitutional problems and is a practical nightmare. I shall not repeat these arguments. It should suffice to say that the notion that District people should vote for Senators whose principal obligation will be to a state in which they do not live must be labeled as wrongheaded.

This brings me to one other argument made by Senator McClure: "[T]he Senate was designated to represent states, not cities. If Washington is singled out for this special status, what is to keep us from granting similar status to cities with populations as large or larger." The answer is clear: "What will keep you from doing this is commonsense and a regard for the Constitutional order." No city now part of a State can claim that for most of the Nation's history it has been an independent entity. Only the District presents the case of people, now disenfranchised, who have been forced to develop their identity separate from any State. By comparing the District to cities, Senator McClure should see that the history of the District is unlike that of any city and that those in the District who now have no voting representatives in Congress should have them.

Finally, there is the concern of Senator Bartlett and Senator Scott (expressed August 15, 1978, and reported by wire service in Virginia) that somehow the District would be overrepresented if it had full voting representation in Congress.

Because Congress has control over certain local activities of the District that it does not have over the states, District residents have a greater need for representation in Congress than do residents of the states. By giving the District two Senators and proportional

ay Parker, Esq.
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presentation in the House, the District would not even be equal o the states, since the elected members of Congress from the fifty states still would have control over the District's local affairs. To give the District an equal voice with any state is all that proponents of the constitutional amendment seek. To oppose that is to fight against the trend toward full and equal suffrage that has made this nation a symbol of freedom to the world.

Sincerely,

Stephen A. Saltzburg
Professor of Law

SAS/vpt

The Heritage Foundation

Issue Bulletin

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DISTRICT OF COLUMBIA REPRESENTATION: "AS THOUGH IT WERE A STATE"

STATUS

On August 22, the Senate approved and sent to the states a constitutional amendment that would give the District of Columbia voting representation in the House and Senate and, in addition, would allow the District to participate, like the states, in the ratification of constitutional amendments. The vote was 67-32, one more than the required two-thirds majority. The House of Representatives had previously passed the amendment, 289-127, on March 2. As of the date of this Issue Bulletin, two state legislatures have considered the amendment, but neither has ratified. In California, the House approved the amendment, but on August 30 the Senate refused, by a 20 to 17 vote (30 votes being necessary), to suspend the rules in order to bring the measure to the floor. In Delaware, the House rejected ratification by a 21-16 vote on August 31 and, therefore, the Senate did not consider the amendment.

THE PROPOSED AMENDMENT

The text of the amendment is as follows:

> Joint Resolution proposing an amendment to the Constitution to provide for representation of the District of Columbia in the Congress.
>
> Section 1. For purpose of representation in the Congress, election of the President and Vice President, and Article V of this Constitution, the District constituting the seat of government of the United States shall be treated as though it were a state.

Note: Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

Section 2. The exercise of the rights and powers conferred under this article shall be by the people of the District constituting the seat of government, and as shall be provided by the Congress.

Section 3. The twenty-third article of amendment to the Constitution of the United States is hereby repealed.

Section 4. This article shall be inoperative, unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

BACKGROUND ON THE DISTRICT OF COLUMBIA

The exceptional case of the area of land known as the District of Columbia is defined in Article I, Section 8, Clause 17, of the Constitution.

The Congress shall have the power:

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings....

In Federalist No. 43, James Madison explains the above-quoted clause in this way: "The indispensable necessity of complete authority at the seat of government, carries its own evidence with it. It is a power exercised by every legislature of the Union, I might say of the world, by virtue of its general supremacy. Without it, not only the public authority might be insulted and its proceedings interrupted with impunity; but a dependence of the members of the general government on the State comprehending the seat of the government, for protection in the exercise of their duty, might bring on the national councils an imputation of awe or influence, equally dishonorable to the government and dissatisfactory to the other members of the Confederacy."

Congress assumed authority over the District of Columbia, an area of 100 square miles created from lands ceded by Virginia and Maryland, by an act of February 27, 1801, that provided merely that the laws of Virginia and Maryland should continue in force where they had previously applied. At first there were five units of local government in the District--the county of Washington, the city of Washington, and the city of Georgetown, all in the former Maryland territory; and the county and city of Alexandria in the former Virginia territory. The last two left the District with the retrocession of the lands of Virginia back to the state in 1846. Since that date, Washington has remained the same area: 62.7 square miles.

The dramatic rise in population spurred by the events of the Civil War led to the adoption of District-wide government in 1871. Controversy preceding the establishment of the new form of government centered on the issue of suffrage and secondarily on the division of authority between Congress and local officials. A territorial form of government was agreed on as a compromise. This form provided for a governor appointed by the President for a term of four years, an upper legislative chamber composed of eleven members appointed by the President for two-year terms, and a house of delegates composed of twenty-two members elected annually from twenty-two districts. The District was entitled to elect a non-voting territorial delegate to the House of Representatives. Broad powers to make regulations and disburse money on its own warrant were vested in a five-man Board of Public Works, headed by Alexander R. Shepherd. The Board energetically set about making public improvements but spent $20 million in so doing--nearly three times what had been estimated by Congress. Having made Washington a city habitable but bankrupt, the territorial government died ignominiously. In 1874 Congress replaced the territorial form of government with a three-man Board of Commissioners appointed by the President. The office of non-voting delegate to the House of Representatives was abolished.

With the ratification of the Twenty-Third Amendment to the Constitution, which gave the city three electoral votes, in 1961, Washingtonians were given the right to vote in presidential elections for the first time. The Reorganization Plan No. 3 of 1967 instituted a mayor-council form of government with appointed offices. In 1968 Congress passed an act allowing residents of the city to elect members of their school board. In 1968 President Nixon proposed that the nation's capital be granted both "meaningful self-government" and the right to elect representatives to Congress. In 1970, Congress granted the people of the District the right to elect a non-voting delegate to Congress, a position that has been held by Walter E. Fauntroy ever since. The delegate sits on House committees where he may vote, and participates in floor debates where he may not vote. In 1973, the Council received power to legislate in local matters. Congress retains power, under Article I of the Constitution, to enact legislation and to veto or supersede the Council's acts.

Since assuming his delegate seat, Fauntroy has been diligently championing full voter representation in Congress for the District. On February 18, 1976, the House Rules Committee agreed, for the first time in more than a century, to release a constitutional amendment proposing District voting representation in the Senate and House. The bill failed to receive the necessary two-thirds affirmative votes for passage.

SECTION I -- REPRESENTATION IN THE HOUSE

A constitutional amendment is required in order to give the District voting representation in Congress. The Constitution states (Article I, Section 2) that "the House of Representatives shall be composed of members chosen every second year by the people of the several States," and (Article I, Section 3) "the Senate of the United States shall be composed of two senators from each state." Because the District of Columbia is not a state, the proposed amendment provides that "for purposes of representation in the Congress...the District...shall be treated as though it were a state." Since the ratification of the Constitution in 1789, no lands or territories have achieved voting representation in Congress without first becoming a state under Article IV, Section 3, Clause 1 of the Constitution.

Because representation in the House of Representatives is based on the apportionment of population by state, it has become a firm tradition to regard the House as "the people's house." Proponents of the D.C. amendment argue that it is unjust to deny representation to nearly 700,000 citizens. Thus, the favorable report of the House Committee on the Judiciary maintains that "It seems indeed ironic that a nation which has, over the years, continued, through congressional and judicial action, to extend the franchise still denies representation in the National Legislature to American citizens residing in the Nation's Capital."

The regular membership of the House of Representatives has remained unchanged at 435 for 66 years. When Alaska and Hawaii became states, each was assigned one seat, temporarily increasing the size of the House to 437. However, the statehood enactments for both of these states provided that the total of 435 would be restored in the apportionment based on the 1960 census. If the proposed constitutional amendment is ratified, one of the several unanswered questions confronting Congress would be whether to increase the size of the House of Representatives.

Article I, Section 2, Clause 3, of the Constitution provides that even though the number of representatives shall be apportioned according to the national population, "each state shall have at least one representative." After one representative has been assigned to each state as required by the Constitution, the apportionment by population takes place.

Proponents of the constitutional amendmsnt contend that the District of Columbia has a larger population than seven of the states. And since the populations of these states are represented by at least one United States representative, the residents of the District should be at least equally represented. Further, they argue that land area is no qualification for voting representation in the House. (Rhode Island, the smallest state, has an area of 1,214 square miles, as compared to the 62.7 square miles of the District.)

The following table compares certain important characteristics of the District and those states with the smallest representation in Congress:

	Pop. 1970	Estimated Pop. 1977	No. of Reps.	Elec. Votes	Total Votes for Pres. 1976	% of Reg. Voters Voting in 1976	% of Voting Age Pop. Voting in 1976
Alaska	302,173	407,000	1	3	122,398	59%	47%
Wyoming	332,416	406,000	1	3	155,671	82	60
Vermont	444,732	483,000	1	3	182,186	73	64
Nevada	488,738	633,000	1	3	195,271	82	49
Delaware	548,104	582,000	1	3	234,673	78	58
North Dakota	617,761	653,000	1	3	292,970	N/A	71
South Dakota	666,257	689,000	2	4	300,192	71	64
Montana	694,409	761,000	2	4	322,962	75	66
New Hampshire	737,681	849,000	2	4	338,611	71	59
Washington, D.C.	756,510	690,000	1	3	165,965	59	31

NOTES

1. Population estimates for 1977 are by the Bureau of the Census.

2. The District's representative in Congress is non-voting.

3. The number of electoral votes is the sum of a state's United States senators and representatives. The Twenty-third Amendment to the Constitution stipulates that Washington, D.C. shall have the same number of electors as the least populous state.

HIGHLIGHTS

1. Compared to the nine least populous states, the population of the District of Columbia is decreasing while the others are increasing. In fact, the District's population has been decreasing steadily since 1950, when it reached a high of 802,178.

2. If the District of Columbia had been granted congressional voter representation in 1970, it would have received two members of the House. If the proposed amendment is ratified by three-fourths of the states, the District will probably receive one member of the House after the 1981 reapportionment based on the 1980 decennial census.

3. Although the population of the District is 690,000, its registered voter turnout for the 1976 presidential elections was lower in percentage than any of the least populous states (59 percent, the same as Alaska). Its voter turnout f those eligible to vote, registered or non-registered (31 percent),* was substantially lower than the next lowest turnout (Alaska with 47 percent.) In addition, the percent of eligible voter turnout in the District for the 1976 elections was the lowest in the nation, and the percent of the registered voters voting was the lowest in the nation.

4. Since the District turned out 59 percent of the registered voters and 31 percent of the voting age population for the presidential election of 1976, then the lack of voter representation in Congress can be calculated to affect 281,355 registered voters and 535,483 persons of voting age.

By way of comparison, the residents of the following territories of the United States are United States citizens but do not vote for president or have voting representation in Congress.

	POPULATION
Puerto Rico	3,210,000
Virgin Islands	100,000
American Samoa	31,000
Guam	100,000

Most of the amendment's proponents have resurrected the great American battle cry: "No taxation without representation!" They argue that since the residents of the District of Columbia have

*The problems in determining how many citizens of the District are in fact affected by the lack of voting representation in Congress is complicated by the sizable number of citizens who reside in the District but maintain legal domiciles in other states. No records exist of the number of District residents casting absentee ballots in other states. In the court case of Carliner v. Board of Education, it was estimated that 200,000 residents of the District were eligible to vote in other jurisdictions. Whether this number is accurate cannot be determined.

no immunity from federal taxation, they should by right have voting representation in Congress. But, it must be remembered that during the first several decades of the Republic, the converse of the battle cry was also true, that is, most states allowed only tax-paying land owners to vote and thereby have a say in their representation. And, the notion of no taxation without representation (and its converse), while still very much a part of the American spirit, has been somewhat attenuated by modern American history. In the federal and state legislatures, and in court rulings, the modern trend has been to separate the issue of taxation from the issue of representation. Numerous classes of citizens, fully subject to and protected by the laws, pay no federal or state income tax whatever even though they regularly vote in federal elections in the state of their residence. These groups include, among others, retired persons living solely on social security, students attending colleges and universities, disabled Americans supported entirely by veteran's or other compensation, and individuals living entirely on welfare.

As stated before, if the proposed amendment is ratified by the required three-fourths of the states, the Congress will have to decide whether to increase the membership of the House of Representatives or keep it at 435. The population of the District of Columbia is not currently figured into the national population for purposes of apportionment. The United States is facing a decennial census in 1980 which will be the basis of reapportionment of Congressional districts in 1981. If the House decides to keep its membership at 435 and if the population trends, as estimated by the Bureau of the Census, continue until 1981, then adding the population of the District to the apportionment population would result in the loss of one seat from Illinois and the assigning of that seat to the District.* In other words, Illinois, a state whose population is increasing, will be deprived of representation in the House by a non-state whose population has been declining for 28 years. (This reapportionment is in addition to the prognosticated reapportionment resulting from the 1980 census of national population migration.)

SECTION I -- THE SENATE

The case for representation in the Senate is conceded by both proponents and opponents to be more difficult. Members of the House represent numbers of people. But senators represent their states at-large. The Senate is the body of equal representation of the states while the House is the body of proportional representation of the people. This distinction is a result of the "Great Compromise" of the Constitutional Convention of 1787 which resolved the competing interests of the large versus the small states. It is the foundation of the uniquely American ideas of governmental federalism and state "sovereignty." Thus, in Federalist No. 62, the author

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*This was calculated using the Census Bureau's "method of equal proportions" which has been the official method since 1910.

(either Hamilton or Madison) remarks: "In this spirit it may be remarked, that the equal vote allowed to each state is at once a constitutional recognition of the portion of sovereignty remaining in the individual states, and an instrument for preserving that residuary sovereignty."

STATE SOVEREIGNTY

The proposed amendment would give the District federal representation "as though it were a state." But what is a "state" and what matter of sovereignty is there in the states? Chief Justice Marshall, in Cherokee Nation v. Georgia (1831), defined a state as "a political community of free citizens, occupying a territory of defined boundaries, and organized under a government sanctioned and limited by a written Constitution, and established by the consent of the governed." James Brown Scott in Sovereign States offered this definition: "The State is an artificial person, representing and controlled by its members but not synonymous or identical with them. Created for a political purpose, it is a body politic. It is a distinct body, and artificial person; it has a will distinct from its members, although its exercise is controlled by them."

In the Constitution, all the powers and authorities enumerated in the several articles are derived from the "more perfect union" of the states. In Federalist No. 39, Madison establishes his important idea that the proposed Constitution is neither a confederacy of sovereign states nor a consolidation of the states but a combination of both: "It appears, on one hand, that the Constitution is to be founded on the assent and ratification of the people of America, given by deputies elected for the special purpose; but, on the other, that this assent and ratification is to be given by the people, not as individuals composing one entire nation, but as composing the distinct and independent States to which they respectively belong." Thus, Madison does not claim the type of state sovereignty enjoyed by the states under the Articles of Confederation but he does claim that the states are "distinct and independent."

State sovereignty, or the "portion" of state sovereignty envisaged by Madison, has been much reduced by events of American history. The Civil War destroyed the notion, as championed by John C. Calhoun, that the states were almost entirely sovereign. The Fourteenth and Fifteenth Amendments to the Constitution were squarely aimed at limiting the independence of the states. The Sixteenth Amendment established a federal tax on everyone's income. But, the Seventeenth Amendment, which changed the selection of United States senators from appointment by the state legislatures to the direct election of the people, was the most crippling blow. Appointment of senators by the states, through the state legislatures, was a continuing imposition of the reality of state sovereignty on the federal government. And the Supreme Court of the twentieth century has consistently imposed federal mandates on the states, especially through its interpretation of the Fourteenth Amendment.

So what is left of state sovereignty that by definition would preclude the awarding of two Senate seats to the District of Columbia? The states are sovereign or "distinct and independent," to use Madison's definition, in that they are political beings that can tax, spend, create and execute law, punish crime and administer justice. All of these authorities are carried out by the City Council of the District of Columbia but all are subject to congressional approval. So the District cannot be said to have "independence" in its city council's deliberations as the states do in the deliberations of their legislatures. And the yearly budget, that exercise of the power of the purse, is not legislated at all by the District but is a duty of the appropriate committees of each House. And the police power in the District is not the exclusive jurisdiction of the city government since the city police exercises joint jurisdiction with several federally-chartered police forces in some areas and has no jurisdiction over certain federal properties at all.

In addition, the states may enter into interstate treaties and compacts, permissible under the Constitution subject to the approval of Congress, with other states. The states have used this right to a significant extent in the twentieth century, especially concerning matters of commerce, large public-works, and transportation. No other power of the states seems to be more definitive of the states' continuing distinctness and independence. The District of Columbia is currently party to several interstate compacts, but they have all been negotiated between the Congress and the interested states. Currently the procedures by which the District will become party to additional compacts are undergoing reexamination. Some interpret the home rule charter to mean that the District can enter into interstate compacts while others interpret it to mean the opposite. Legislation has been introduced into Congress to grant unequivocally the right for the District to enter into such compacts. But until such legislation passes, the District, unlike the states, has no such right.

THE TWO HOUSES

In his famous work, Democracy in America, Alexis de Tocqueville, after scrutinizing the make-up of the national legislature, remarked: "The principle of the independence of the States prevailed in the formation of the Senate, and that of the sovereignty of the nation predominated in the composition of the House of Representatives." That the Senate balances the House in terms of the use of political power is argued by the Federalists as one of the most fundamental underpinnings of the Constitution. A representative, facing reelection every two years and representing only a locale of a state, not an entire state, can be subject to the demands of a narrow constituency. His constituency might be the political opposite of a bordering constituency of the same state. For instance, a congressman representing a district heavily populated by members of labor unions would necessarily represent this interest in his voting record or face eviction from office at the next election. But the neighboring district of the same state might be rural and inclined to support

the right-to-work laws, and such support would be reflected, in all likelihood, by its congressman. In the words of the Federalists, the House is "the numerous body" and "the representative ought to be acquainted with the interests and circumstances of his constituents" (No. 56) because "...it is particularly essential that the branch of it under consideration (i.e. the House) should have an immediate dependence on, and an intimate sympathy with, the people" (No. 52) and because "the House of Representatives is so constituted as to support in the members an habitual recollection of their dependence on the people." (No. 57)

Because of this constitutional mandate to keep close ties to the people, it has become customary for congressmen to attend very closely to the needs and complaints of constituents. Thus, some congressmen maintain as many as four constituent offices in their congressional districts while it is unusual for a senator to maintain more than two offices in his entire state.

While competing interests may be few in a congressional district, a senator, representing all the congressional districts in his state, must necessarily face a multitude of competing interests. As a result, he must have a more general view of all political issues. By way of example, the senators from Illinois must represent a state whose House delegation is evenly split between the two parties (twelve Republicans, twelve Democrats), and likewise the senators from Arizona (two Republicans, two Democrats). Today a senator faces from within his state what Madison saw as a national characteristic in 1787, namely, a "dissimilarity in the ingredients," and a "diversity in the state of property, in the genius, manners, and habits of the people of the different parts of the union." (No. 60)

In addition, the framers of the Constitution gave certain other powers to the Senate that they regarded as non-political functions, namely the power to try impeachments, to ratify treaties, and to approve executive nominations. These tasks were assigned to the Senate because it is more likely to be free from the "demon of faction" than the House, that "numerous and changeable body." Thus, the Senate was contemplated by the Federalists to be "a select and stable body," (No. 63) an idea that Tocqueville later reemphasized by calling it "the great executive council of the nation," a body that will be "sufficiently independent" (No. 65) to wisely tend to "national concerns" (No. 64) and "the comprehensive interests of their country" (No. 62).

THE INDEPENDENCE OF THE STATES

The Constitution guarantees a "republican form of government" to each state (Article IV, Section 4). And all states have a republican constitution that closely mirrors the federal Constitution -- but not the District of Columbia whose city council takes the place of the state legislature, but every action of which is conditional on the approval of Congress, and therefore, not independent.

As Ignazio Silone said in his School for Dictators: "The first test to be applied in judging an alleged democracy is the degree of self-governing attained by its institutions." The District has self-government at the pleasure of Congress--not independent of it. Indeed, Congress could abolish the City Council or the District of Columbia at will. It retains such constitutional prerogatives. To give such a unique area equal standing with the several states in the Senate would effect a fundamental change in the Senate indeed. One must wonder if certain other cities, for instance, New York City, should make an equally justiable claim to representation in the Senate.

Proponents of the amendment have maintained that the clause of Article V: "no state, without its consent, shall be deprived of its equal suffrage in the Senate," is not at issue here because this clause merely insures that no state can receive proportionally more representation in the Senate than any other and because this clause has never been an impediment to the admission of new states under Article IV, Section 3. But a strict reading of Article IV and Article V taken together might lead to the conclusion that a state can have its proportional suffrage in the Senate reduced by the admission of a state only but cannot be denied its proportional suffrage by the admission of any other entity.

THE SPECIAL CASE OF THE DISTRICT OF COLUMBIA

Washington, D.C. is the "federal enclave" and as such can be considered a company town. It is not possible to separate the land area of the District of Columbia from its one and only activity, the daily business of the federal government. The federal government employs 18.3 percent (223,900 employees) of those working in the District while the service industry, which is closely aligned with the federal government, employs 25.5 percent (149,200 employees). Employment trends show an ever increasing domination by the federal government.

The District receives a direct grant from the federal government annually. This payment is provided in recognition of the District's role as the nation's capital and helps compensate the city for tax losses due to the large amount of non-taxable federal property in the city. It is based on Congress's jurisdiction over the city as provided in Article I, Section 8, Clause 18 of the Constitution, already referred to above. Needless to say, none of the fifty states receives such an unrestricted annual grant from the federal government. Since 1950, when the population of the District began to decline, the amount of the federal payment has steadily increased to the point that for 1978 the sum will be $300 million, or 28.04 percent of the District's budget. Total federal aid to the District was $1,010 per capita in 1975, about four times more, on the average, than federal aid to any of the states, except Alaska which received $739 of federal money per capita. Compared to the forty-eight largest cities in 1974, Washington (the eleventh largest) received more aid from the federal government than any city except New York City.

Washington would have a recession-proof economy as long as federal spending stayed constant. Since federal spending is ever increasing, the area of the District has an assured boom economy. In Washington the federal government is omnipresent and nearly omnipotent. There are no competing factions or interests. Manufacturing employment in 1976 was only 16,100.

Because of all this, it would seem that U.S. senators from the District of Columbia would be in the seemingly paradoxical, but at least unique, position of representing the interests of the federal government to the federal government. In addition, it would seem that a senator from the District would be under no compulsion to weigh the interests of any competing interests since there are not any other interests that could have a significant influence in his election. It is rather obvious to point out that the employees of the federal bureaucracy, the overwhelmingly dominant class in the District, will elect representatives to the U.S. Congress who are sympathetic to the continued growth and prosperity of the federal working class. But bigger and more federal agencies and programs, something which favors the economy of the District, has the effect on the people of the several states of greater federal taxes, and more federal regulations. While the senators from the several states must continually balance the claims of competing factions from within their own states and also balance the federalist distinction of state versus federal sovereignty, senators from the District would have no immediately practical reason for so doing.

Under the home rule charter, the City Council can be regarded as a kind of state legislature for the District of Columbia, but one of no sovereignty because of Congress' absolute veto over any of the actions of the council and absolute legislative control over the city's budget. Providing for election of senators from the District would give the District the status of a state since it would have equal representation in the Senate, almost the definition of a state. With the District regarded as a state in the Senate, it would seem that the federal government has become incarnated in a new way in that in addition to federal law, regulation, and influence, there comes into existence a physical manifestation of the federal government--the land of the state of District of Columbia, and a human manifestation--the senators from the District.

With this in mind, it would seem that, for the senators from the District, none of the state restraints on the federal government that Madison speaks of would be any longer applicable: "Thus each of the principal branches of the federal government will owe its existence more or less to the favor of the State governments, and must consequently feel a dependence, which is much more likely to beget a disposition too obsequious than too overbearing towards them. On the other side, the component parts of the State governments will in no instance be indebted for their appointment to the direct agency of the federal government, and very little, if at all, to the local influence on its members." (No. 45)

SPECIAL PRIVILEGES FOR THE DISTRICT

Another power granted to the District under Section 1 of the amendment is the participation of the District in the ratification of constitutional amendments under Article V of the Constitution. But Article V states that proposed constitutional amendments shall be ratified by the state legislatures of the several states. Since it is not a state, the District has no state legislature. Congress would have to decide whether the City Council can function in this capacity.

Several of the legislatures of the states that have not yet ratified the controversial Equal Rights Amendment have considered putting the ratification to a referendum of the people. But the state attorneys general have all rightly pointed that such a referendum would be unconstitutional since the Constitution specifically provides that constitutional amendments shall be ratified b, the state legislatures. Since there are inherent contradictions in declaring that the City Council of the District can function as a state legislature, Congress might decide that the people of the District may vote on the ratification of constitutional amendments in which case the people of the District would enjoy a constitutional privilege not enjoyed by the people of the several states.

This problem leads directly to a discussion of Section 2 of the proposed constitutional amendment, namely: "The exercise of the rights and powers conferred under this article shall be by the people of the District constituting the seat of government, and as shall be provided by the Congress." Neither a reading of the committee report of the House Committee on the Judiciary nor a reading of the record of the debates on the floor of the House or Senate gives a satisfactory explanation of either the intent or the meaning of this section. In the dissenting committee views of Congressmen Henry Hyde, Carlos Moorhead, Jack Brooks, Charles Wiggins, and John Ashbrook, this section:

> implies that the exercise of these foregoing "rights and powers" must be exercised jointly with the "people of the District" and the Congress, each holding veto power over the other. This might entail the Congress, for example, voting twice on the ratification of a constitutional amendment, first in discharging its constitutional role under Article V in proposing an amendment and a second time as a sort of legislative endorser for the "people of the District" under this proposed amendment.

Of the sixteen amendments to the Constitution ratified since the Bill of Rights, seven stipulate that Congress shall have the power "to enforce this article by appropriate legislation." The Prohibition Amendment, since repealed, gave concurrent enforcement power to Congress and the several states. The proposed District of Columbia amendment would be the first to give enforcement powers to Congress and the people of what is in this case neither a state nor a territory.

This "Congress and people" section of the amendment was probably included in order to take into account the peculiar interlocking legislative relationship between Congress and the District's city council. In debate on the floor of the Senate, Senator Edward Kennedy stated that any details about how the amendment should be implemented "can be worked out by the D.C. government and Congress."

What authority should Congress grant the City Council to determine the procedure to be employed concerning the three powers of Section 1? And even if the City Council is granted substantial authority in these matters, it must be remembered that Congress always maintains absolute veto over all actions of the City Council. And since the Congress, not the City Council, has legislative authority over the city's budget, Congress would be appropriating the funds necessary to hold elections of its own members, in addition to issuing regulations on campaign contributions, expenditures, and campaign procedures.

In addition, if the District should ever have sufficient population to be allotted two representatives in the House, then Congress would have some authority in determining the lines of the two congressional districts. In the states, the drawing of district lines based on re-apportionment is done by the state legislatures, another example of the continuing viability of state sovereignty. And, finally, it would seem that the Hatch Act, which prohibits federal employees and the employees of the D.C. government from participating in political campaigns would necessarily have to be relaxed for the special case of the District of Columbia. Otherwise, a majority of the adult residents of the District would be unable to be active in campaign politics.

Because of this unique relationship between the District's city council and the U.S. Congress, other questions arise when the three powers provided by Section 1 are contemplated in light of Section 2. It appears likely that the states are going to be unable to determine the precise nature of what they are considering ratifying. In the event of the required three-fourths ratifications of the states, it could happen that the District of Columbia, with its new constitutional position "as though it were a state" might end up with substantial constitutional privileges not enjoyed by the several states.

Thomas Ascik
Policy Analyst

self-determination for DC

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The Ripon Society
The Urban League
United Methodist Church, Board of Church and Society
United Presbyterian Church
V O I C E
Washington Bar Association
Washington Teacher's Union
Woman's National Democratic Club Political Action Committee

December 21, 1978

The Honorable Mike Miller
State Capitol
Juneau, Alaska 99811

Dear Representative Miller:

Thank you for expressing your interest in the DC Amendment at the meeting at the National Conference of State Legislators meeting in Washington last week.

We are very pleased that you will be filing a resolution for ratification. I am enclosing the form used in the Pennsylvania Assembly. I hope it is of use to you.

We prepared strategy guidelines which we are suggesting to our friends in the states. I am also enclosing a copy.

We will be sending a specially prepared guide to the amendment and to the District of Columbia early in January but, meanwhile, enclosed is some background material.

We thank you for your help in securing ratification in Alaska and wish you a very happy New Year.

Sincerely,

Elena S. Hess

Elena S. Hess
Executive Director

Enclosures (4)

Printer's No. 3609

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2678 Session of 1978

INTRODUCED BY MESSRS. IRVIS, JOHNSON, MANDERINO, OLIVER, ZITTERMAN, BARBER, MRS. WISE, MESSRS. DOMBROWSKI, RITTER, WHITE, D'CARLO, RICHARDSON, DUMAS, RHODES, MRS. HARPER, MESSRS. WILLIAMS AND WIGGINS, SEPTEMBER 11, 1978

REFERRED TO COMMITTEE ON FEDERAL-STATE RELATIONS, SEPTEMBER 11, 1978

A JOINT RESOLUTION

Ratifying the proposed amendment to the Constitution of the United States regarding representation of the District of Columbia in Congress.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. Article V of the United States Constitution provides for ratification of the United States Constitutional amendments by the legislatures of three-fourths of the several states. Congress approved House Joint Resolution 554 on August 22, 1978, proposing to amend the Constitution to provide for representation of the District of Columbia in the Congress and submitted said resolution to the states for their ratification.

Section 2. The proposed amendment to the Constitution of the United States providing as follows is hereby ratified by the General Assembly of the Commonwealth of Pennsylvania:

"Article

"Section 1. For purposes of representation in the Congress, election of the President and Vice President, and Article V of

this Constitution, the District constituting the seat of government of the United States shall be treated as though it were a State.

"Section 2. The exercise of the rights and powers conferred under this article shall be by the people of the District constituting the seat of government, and as shall be provided by the Congress.

"Section 3. The twenty-third article of amendment to the Constitution of the United States is hereby repealed.

"Section 4. This article shall be inoperative, unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission."

Section 3. A certified copy of the foregoing resolution shall be forwarded to the Administrator of General Services in accordance with 1 U.S.C. § 106(b), to the President of the United States Senate and to the Speaker of the United States House of Representatives.

self-determination for DC

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Americans for Democratic Action
American Veterans Committee
B'nai B'rith Women
Catholic Archdiocese of Washington
Central Labor Council
CHANGE, Inc.
Common Cause
Committee for Aid and Development of Latin Americans in the Nation's Capital
Delta Sigma Theta
Democratic National Committee
Democratic State Committee
DC Citizens for Better Public Education
DC Federation of Civic Associations
DC Federation of College Democrats
DC Jaycees
DC NOW
Friends Committee on National Legislation
Friendship House
Jewish Community Council
League of Women Voters
Metropolitan Washington Board of Trade
Metropolitan Washington Housing and Planning Association
National Alliance of Postal and Federal Employees
National Association for the Advancement of Colored People
National Association of Black Women Attorneys
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National Women's Political Caucus
People Organized for Progress and Equality
Republican Central Committee
SEO Center
The Newspaper Guild
The Ripon Society
The Urban League
United Methodist Church, Board of Church and Society
United Presbyterian Church
V O I C E
Washington Bar Association
Washington Teacher's Union
Woman's National Democratic Club Political Action Committee

Dear Friend:

As you know, the campaign is underway to secure ratification of the proposed Constitutional Amendment which will give the people of the District of Columbia full voting representation in Congress. Our experiences in the few states which have considered ratification to date have suggested several guidelines for a successful ratification campaign.

The first recommendation is that all national and state level activity preserve the two primary ingredients that brought victory at the Congressional level:

1) Broad, bi-partisan, multi-racial, multi-interest support should be secured and publicized.

2) Detailed research, planning and execution must typify all activities.

In addition, to ensure that the kind of broad support and detailed preparation needed to succeed is generated, we are asking all of our friends and supporters to make every effort towards establishing the following:

1) Bi-partisan co-sponsorship and support of the ratification resolution by the leaders of the legislature. At a minimum, the leaders include the President of the Senate, the Speaker of the House, the Majority and Minority leaders in the Senate and House and the Chairpersons of the Committees to which the ratification will be referred.

2) An effective education program to include at a minimum, the distribution of materials and the organization of small group education sessions for key legislators including the formal, as well as informal assembly leaders.

3. A timetable which does not require the waiver of any rules and that allows for full deliberation and consideration of the issue.

4. The identification and convening of local coalition support groups and to the extent possible, the coordination of the state house lobbying activity.

Ratification Campaign staff can be a resource for you in the development and implementation of your state plans, based on the above guidelines. For example, we can provide background information and specialized research for hearing preparation and follow-up. In addition, we may be able to call upon national offices, such as the Republican National Committee, the Democratic National Committee, Congressional Delegations and the White House, to encourage support by uncommitted legislators. We can also make persons familiar with the issue available to boost your education programs. Finally, we can supply the names from state affiliates of our National Coalition to promote local constituent support and involvement.

Ratification by 38 states is a reachable goal if the four-point plan of operation is put in place in each state. The D.C. Ratification Campaign leadership and staff look forward to working with you.

Sincerely,

Richard W. Clark
Executive Coordinator

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United Presbyterian Church
VOICE
Washington Bar Association
Washington Teacher's Union
Women's National Democratic Club
Political Action Committee

LOCKED OUT OF CONGRESS

The residents of the District of Columbia are locked out of their own government--denied voting representation in the United States Congress despite their payment of over a billion dollars a year in federal taxes.

*****The annual per capita federal tax burden for the District of Columbia is $2116--higher than 49 of the 50 states. And yet, this community of 700,000 is relegated to inferior status--granted only one "non-voting delegate" in the Congress.

*****237 young men from the District of Columbia were killed in the Vietnam War, although their mothers and fathers had absolutely no voice in whether money should be appropriated to wage that war.

****Seven states--South Dakota, North Dakota, Nevada, Delaware, Vermont, Alaska, and Wyoming--have fewer people than the District of Columbia. And yet, unlike D.C., each of these states is represented by two Senators and one or two House Members.

****Of the 115 nations in the world community with national legislatures, only the United States and the military dictatorship of Brazil share the dubious distinction of denying full representation to citizens of the federal capital.

****To put the present plight of D.C. residents in perspective, one need only consider the tax revolt sweeping across America. Taxpayers who live in Washington, D.C. are uniquely frustrated: their ability to influence the federal tax rate is blocked by a lack of voting representation. At the same time, D.C. residents who might contemplate a Proposition 13, instead, face a Catch 22: Local taxes in Washington, D.C. are obviously a function of the District's budget, which is set, incredibly enough, by a Congress lacking a single voting member from our nation's capital.

The case for D. C. voting rights is an overwhelming one, linked to essential concepts of American democracy.

THE KEY TO CHANGE

Recognizing that the continued exclusion of the 700,000 District of Columbia residents from the political process is a violation of basic human rights, the House and Senate have passed a constitutional amendment providing full voting representation for D. C.

If ratified by 38 states, this amendment will insure that the citizens of our nation's capital are treated on an equal basis with their 200 million fellow Americans. It will give the District: two Senators, the number of House Members (one or two) warranted by population, and participation in the ratification of constitutional amendments.

In short, the amendment approved by the House and Senate, with strong bi-partisan support, merely extends to the men and women of Washington, D. C. the benefits of first-class citizenship exercised and taken for granted by citizens of the fifty states.

UNDERSTANDING THE ISSUE

WHY SENATE REPRESENTATION?

1. Critics have asserted that the District's representation should be limited to the House. Yet, it is the Senate which is charged with confirming Presidential appointments and ratifying treaties. Under current law, the citizens of the District of Columbia will have as much say on the critical question of ratifying the SALT Treaty or confirming a nominated Supreme Court Justice as will the citizens of Pago-Pago. It is simply unaceptable that we disenfranchise nearly three-quarters of a million Americans on an issue so vital to war and peace and government spending priorities as arms limitation.

WHY NOT RETROCESSION?

2. Other critics contend the amendment should be rejected in favor of an allegedly more equitable solution: retrocession of the District to Maryland which in 1788 ceded to the federal government the land that now comprises the District of Columbia. Such a suggestion is impractical and unfair to the residents of the District. In the first place, Maryland would resist retrocession. Secondly, the District of Columbia has evolved as a distinct community which deserves its own representation in Congress, rather than an artificial linkage with a state with which it has no common history.

WHAT ABOUT ARTICLE V?

3. Finally, some opponents of full voting rights for D. C. have charged that the amendment now submitted for ratification violates Article V of the Constitution, which declares, "no state, without its consent, shall be deprived of its equal suffrage in the Senate." However, this argument has been invalidated by many scholars, including one of America's most learned constitutional law professors, Charles Alan Wright of the University of Texas.

"It seems to me that the clear purpose of (the Equal Suffrage Clause) was to insure that the Great Compromise [between large and small states] would not be undone and that the representation in the Senate would not be put on the basis of population," Professor Wright has said. "That purpose is not compromised by allowing the District to have two Senators any more than it is when a new state is admitted."

D E A T H A N D T A X E S

The men and women who live in the District of Columbia are not about to dump chests of tea in the Tidal Basin. Nor do they plan to storm the Internal Revenue Service building. Rather they are relying upon the good faith of state legislators from Alaska to Alabama, from New Mexico to New Hampshire, who will be called upon to correct a profound injustice which undermines our commitment to equal rights for all citizens.

The nature of that injustice was poignantly expressed in a 1971 letter from a District of Columbia Gold Star mother to Missouri Senator Thomas Eagleton.

"I have lost one son," she wrote. "I may lose another. Yet I have no voice in voting on how far this war should go, or how long it should go on, or how much expanded it should be....I am hopeless, and in that sense I am voiceless."

Senator Eagleton later said, "I think that one letter did more to shape my thinking than a million words or a 200-page memorandum. The appeal is not simplistic; it is just fair and equitable."

A hopeless, voiceless mother who feels totally estranged from her government is a far cry from the democratic process our Founding Fathers envisioned. And that's one reason organizations ranging from the Republican National Committee, United Presbyterian Church, to the League of Women Voters have given their enthusiastic support of the voting rights amendment.

It's not an issue defined by political party or ideology. It's an issue of simple justice.

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EDWARD M. KENNEDY
MASSACHUSETTS

United States Senate

WASHINGTON, D.C. 20510

March , 1979

Dear State Legislator:

As you know, an important campaign is now underway in the 50 states to secure ratification of a constitutional amendment to give representation in Congress to the District of Columbia. As a strong supporter of this amendment in the United States Senate, I am hopeful that you will give your support to the ratification effort, so that the amendment may become part of the Constitution.

For your interest, I am enclosing a lengthy statement dealing in detail with the many different issues involved in the amendment.

At bottom, however, I believe the question is really a very simple one -- whether the 700,000 citizens of the District of Columbia deserve the same basic right to representation in their government that all other Americans enjoy.

I hope that, after reading these materials, and giving careful consideration to the issue, you will agree with the goal of the amendment and give your support to its ratification.

The proposed amendment was approved by a two-thirds vote in both the United States Senate and the House of Representatives. The vote was 67-32 in the Senate and 289-127 in the House. In each body, as you will see from pages 41-42 of the enclosed statement, it had strong bipartisan support -- Senate Republicans split 19-19 for and against the amendment, and House Republicans split 61 for and 79 against the amendment.

With my best regards, and I hope you will let me know if I can provide any additional assistance or material

Sincerely,

Ted Kennedy

Edward M. Kennedy

from the office of

Senator Edward M. Kennedy

of Massachusetts

OPENING STATEMENT OF SENATOR EDWARD M. KENNEDY IN SENATE DEBATE ON FULL VOTING REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

AUGUST 16, 1978

We begin an historic debate in the Senate today on a significant issue of civil rights and human rights -- an amendment to the Constitution to provide representation in Congress for the people of Washington, D.C.

In matters of fundamental justice and human rights involving the citizens of our nation, there is no left or right, liberal or conservative. Yet, under the Constitution and laws of the United States, there is an anachronism that defies justice and denies one of the basic and most cherished rights of representative government for the people of the nation's capital -- the right to have a voice in the decisions of the Senate and the House of Representatives.

The issue is one of simple justice for the 690,000 citizens of the nation's capital. For decades, going back to the beginning of the 19th century, ordinary District citizens, concerned local leaders, and many members of Congress have sought this basic goal. Indeed, the goal is remarkable and unusual only in the sense that it has been so flagrantly denied for so long to so many citizens. In a nation that was founded on the principle of representative government and that has prided itself for two centuries on the strength and vitality of its democracy, it is a travesty of history that the District of Columbia has no voice in Congress.

The eyes of three constituencies are upon us -- the hundreds of thousands of citizens of the District of Columbia who ask only the same basic political right that all other Americans enjoy, the Americans in states throughout the country, who have made this question a national issue of civil rights; and millions more throughout the world who will see in our action a sign of America's real commitment to human rights. No other action Congress takes can so clearly demonstrate that our nation's worldwide concern and sensitivity for human rights begin at home, on the doorstep of the Capitol, in the chambers of the House and Senate.

In recent weeks, the Senate has spoken out with a virtually unanimous voice in condemning the violations of human rights in the Soviet Union. Our noble words, however -- important as they are in giving hope to so many in other lands who are denied their basic rights -- would acquire a hollow ring if the Senate now turns its back on the rights of the people of the District of Columbia to share in our democracy.

In the view of legal scholars, there is no constitutional impediment to enactment of this measure. Enfranchisement of the District was not an issue the founding fathers faced. They could hardly foresee that the sparsely settled marshy area along the Potomac River -- the "District (not exceeding ten miles square)" about which they wrote in 1787 -- would one day be not only the seat of government of the United States, but the capital of the free world, a celebrated city of several hundred thousand residents.

The population of the District is now larger than seven states. Residents of the District pay large amounts of taxes to the Federal Government. District residents fought and died in Vietnam and in all the nation's other wars. And yet they continue to endure both taxation without representation and conscription without representation.

Last March, by an impressive two-thirds vote, the House of Representatives approved the pending constitutional amendment (H.J. Res. 554) to provide full voting representation for the District of Columbia in both the House and the Senate -- two Senators and two members of the House of Representatives on the basis of recent population estimates.

Now, the spotlight is on the Senate. We have a realistic opportunity to achieve the goal, and we should not let the opportunity slip away. One of the most honored principles of our democracy is the concept of "one person, one vote." In the District of Columbia, however, that principle has no application. Instead, for District citizens, the rule is "690,000 persons, no votes." Nowhere in America should the principles of democracy be more firmly established than in the nation's capital. The time has come to remove the cloud of America's "Last Colony" from the District of Columbia.

The proposed amendment has strong bipartisan support. It has been endorsed by the chairmen of both the Democratic National Committee and the Republican National Committee. Both the Democratic and Republican party platforms in the 1976 election contained explicit planks supporting voting representation in the Senate and House for citizens of the District. In 1970, testifying before a Senate committee on behalf of the Nixon Administration, Assistant Attorney General William H. Rehnquist, now a Supreme Court Justice, endorsed a constitutional amendment to achieve this goal. His words emphasized the long-standing injustice perpetrated on citizens of the District:

> "The need for an amendment of that character at this late date in our history is too self-evident for further elaboration; continued denial of voting representation from the District of Columbia can no longer be justified."

But what was self-evident to Mr. Rehnquist and the platform committtees has not been obvious to Congress. In recent years, the Senate has usually been regarded as the graveyard for aspirations of District residents to participate in their national government. A breakthrough occurred in 1961, when the 23rd Amendment to the Constitution gave the District the vote in Presidential elections; that amendment was ratified by the states in nine months -- a record at the time.

But success has not come as easily for Congressional representation. Opposition so far has seemed to arise from four "toos" on the part of some members of the Senate -- the fear that Senators elected from the District of Columbia may be too liberal, too urban, too black or too Democratic. There is also the mystique of the Senate club, the reluctance to expand the membership beyond the current 100 Senators. But such arguments cannot bear the light of day. They deny basic justice. They are unworthy of the Senate and the nation, and provide no justification for denying representation in Congress to the people of the District of Columbia.

Here in the Senate, we often differ on the degree to which the Federal Government should be involved in the affairs of the citizens of this country. But we should all agree that in this age of big government, no Americans are truly free unless they have a voice in the election of those who write the nation's laws. Two hundred years and ninety-five Congresses after the nation was founded, it is time to welcome Senators and Representatives from the District of Columbia into our congressional deliberations and decisions -- and our cloakrooms.

Wherever I travel, I find people surprised to learn that the citizens of Washington cannot vote for members of Congress. This mood, and the precedent of swift approval for the 23rd Amendment, give confidence that the generous and decent instincts of the American people will produce prompt ratification of an amendment to give the District the vote in Congress, once we send the amendment to the states.

THE CASE BASED ON POPULATION

One of the strongest arguments in favor of H.J. Res. 554 is the simple fact that the District of Columbia is not just a museum collection of Federal monuments and government buildings. It is also the home of hundreds of thousands of men, women and children -- 690 000 people in all.

Under one of the most basic principles of our democracy, the citizens of each of the states are represented in the Senate and the House. Yet, the 690,000 citizens of the District are denied this fundamental right

As Table 1 indicates, the District of Columbia has a population greater than, or equal to, that of six states, based on the most recent data available from the Bureau of the Census -- the population estimates for 1978.

District of Columbia	674,000
Nevada	660,000
North Dakota	652,000
Delaware	583,000
Vermont	487,000
Wyoming	424,000
Alaska	403,000

If, instead of the 1978 estimates, the official census figures for 1970 are used, the District has a population greater than the population of 10 states -- including Idaho, Montana, and New Hampshire, in addition to the above seven states. Each of these states has its own representation in Congress -- two Senators, and either one or two Members of the House of Representatives, depending on the population of the state. Yet, the people of the Nation's Capital have no such voice.

In this era of profound involvement by Congress in so many different aspects of American life, it is a denial of basic justice and human rights for the citizens of the District to have no voice in the decisions of Congress.

THE CASE BASED ON TAXES

Since the days of the Revolutionary War, a fundamental principle of our nation has been the rejection of taxation without representation.

Yet, today, two centuries after America was founded, the citizens of the District of Columbia are forced to endure the unfair burden of such taxation. As citizens of the United States, the residents of Washington, D.C. are obliged to pay large amounts in taxes each year to the Federal Government. Yet these citizens are denied representation in Congress, which writes the nation's tax laws.

The Library of Congress has prepared data summarizing Federal tax payments from each of the 50 states and the District of Columbia. The data, based on concepts developed by the Tax Foundation, shows dramatically the degree to which the District of Columbia bears the burden of taxation without representation.

As shown by Table 1, residents of the District paid out $1.4 billion in taxes to the Federal Government in fiscal year 1977. That amount is greater than the taxes paid by 11 states:

	($ BILLION)
DISTRICT OF COLUMBIA	$1.470
Maine	1.400
New Hampshire	1.330
Alaska	1.225
Nevada	1.190
Idaho	1.155
Delaware	1.120
Montana	1.085
North Dakota	0.945
South Dakota	0.840
Wyoming	0.735
Vermont	0.630

Each of these states is represented in Congress by two Senators and by either one or two Members of the House of Representatives, depending on the population of the state. The citizens of these states, therefore, have a voice in the way they are taxed by the Federal Government. But the citizens of the District of Columbia have no such voice.

If the Federal tax burden is calculated on a per capita basis, the comparison becomes even more stark. For District of Columbia residents, the per capita tax burden is $2,116, or $491 above the national average of $1,625. Only one other state -- Alaska -- has a higher per capita tax burden; in 49 of the 50 states, the Federal tax burden is smaller than in the District of Columbia.

These figures provide a compelling argument for granting representation in Congress to the District of Columbia. H.J. Res. 554 would enable the District to elect members of both the Senate and the House of Representatives. It deserves to be enacted, so that at last we can end a serious blight on our contemporary democracy, the burden of taxation without representation that has existed so long and so unfairly for the citizens of the Nation's Capital.

THE CASE BASED ON CASUALTIES IN VIETNAM

One of the most important arguments in favor of H.J.Res. 554 is contained in the statistics of the Department of Defense on casualties in the Vietnam War. The figures reveal that 237 citizens of the District lost their lives in Vietnam. As Table 1 indicates, the casualty level for the District is higher than the levels for 10 states -- Alaska, Delaware, Idaho, Nevada, New Hampshire, North Dakota, Rhode Island, South Dakota, Vermont and Wyoming.

The people of those 10 states, and of every other state, were represented in the House and Senate throughout the period of the Vietnam War. These people -- and the people in every other state -- had a voice in the decisions of Congress on the war, decisions that affected the lives of so many thousands of their citizens who were asked and compelled to serve their country in that war. But the citizens of the District of Columbia had no such representation and no such voice.

We cannot remedy that injustice for the past. But we can do so for the future. At a time when Congress exerts such a profound and growing influence over so many different aspects of American life, the people of the District of Columbia have a right to be heard in our deliberations. H.J. Res. 554 would give them the voice they deserve.

A DISTRICT OF COLUMBIA GOLD STAR MOTHER'S CASE

At the Senate hearings in 1978 on the pending amendment, one of the most dramatic and moving moments came in the testimony by our distinguished colleague from Missouri, Senator Eagleton.

In that testimony, he told of a letter he had received from a District of Columbia Gold Star mother, whose son had been killed in the Vietnam War. Yet, as she told Senator Eagleton, she had no one in Congress to represent her views in decisions on the war. As Senator Eagleton testified:

> "This letter was from a mother who had two sons in the army 1971, as the Chairman will recall, was still a very high point in the Vietnam War. Her elder son had been killed, and naturally that had had a traumatic impact on her, her thinking, et cetera, and she wrote me a very moving but simple letter saying, in essence, 'I have lost one son. I may well lose another. Yet

I have no voice in voting on how far this war should go, or how long it should go on, or how much expanded it should be -- into the Parrot's Beak, or how many bombs we should drop on the Ho Chi Minh Trail. I am hopeless, and in that sense I am voiceless.'

"I think that one letter did more to shape my thinking than a million words or a 200-page memorandum. The appeal is not simplistic, it is just fair and equitable."

That letter sums up very well what this issue is all about. On basic issues of vital importance to the lives of all Americans -- issues like war and peace, inflation and unemployment, and the countless other areas in which actions by Congress affect the daily lives and hopes of every citizen of this land -- the people of the District of Columbia are denied their rightful voice. That denial contradicts the most central principles on which our democracy rests. It is an anachronism of history that no American should tolerate.

THE NEXT GENERATION

Few things matter more to the long run future of the United States than the values we hand on to the next generation of the nation's leaders.

One of the most impressive witnesses at the Senate hearings in 1978 was Natasha Pearl, a 17 year old student who graduated this year from Woodrow Wilson High School in the District of Columbia.

Ms. Pearl's testimony goes directly to the heart of the issue -- the fact that the 700,000 citizens of Washington, D. C. are denied one of the basic rights that other American citizens enjoy, the right to participate in our democracy by sending their own elected representatives to Congress.

Recalling her experience as a delegate to the Senate Youth Program, Ms. Pearl testified:

"The lack of voting representation for the District was an issue I often discussed with my fellow delegates. Shock and disbelief were expressed upon learning of the grossly unfair and undemocratic situation existing in our nation's capital. Knowing that our forefathers fought and died so that taxation without representation would never again occur in this country, many delegates could not understand why my parents and other District residents pay federal taxes, bearing all the burdens of citizenship, like their parents -- yet have no representation. To the Senate Youth delegates, it was incomprehensible that in 1978, in the United States of America, nearly three quarters of a million American citizens are without the privilege that all the other Senate Youth delegates took for granted -- voting representation in the Senate and House of Representatives."

She also recalled her feelings on the day set aside for the delegates to visit the offices of their Senators:

"You may recall the one day of the Senate Youth Program that was set aside for the delegates to visit their Senators. I have never before felt inferior to fellow Americans. That day I did. All I could do was listen at dinner that evening when my friends told of how they had discussed important national issues, such as the Panama Canal Treaties, energy policy, and health care with their Senators. I, too, have opinions on these and other vital issues. That day, I could share them with no one who had a voice or a vote in the United States Senate."

Finally, she spoke of an occasion last February when she represented the District of Columbia at "Convention II," a mock Constitutional Convention held in Washington

> "It was a marvelous experience. Two hundred and seventy-five students from nine states and the District considered one hundred and fifty-five constitutional amendments. These amendments dealt with a wide variety of issues, many of which are currently being considered by Congress. Only two of the one hundred and fifty-five proposed amendments were passed. I sponsored one of them. It provided voting representation for the District of Columbia. The vote was 182 in favor and 16 opposed -- an overwhelming statement of support by youth for this issue."

Ms. Pearl's testimony makes a compelling case for approval of H.J. Res. 554. The question is really a very simple one -- is it fair for Congress to continue to deny to Ms. Pearl and the other residents of the nation's capital the same full rights that 200 million other Americans enjoy? To a large extent, the way we answer questions like this one will be a signal to the next generation of the depth of our commitment to the democratic ideals on which the nation was founded.

THE CASE BASED ON THE EXPERIENCE OF FOREIGN NATIONS

According to a study earlier this year by the Library of Congress, among 113 nations in the world with elected national legislatures, the United States and Brazil stand alone in denying representation in the legislature for citizens of their capital cities.

The analysis is an important study in comparative government and a significant source of additional support for H.J. Res. 554, which offers Congress the chance to end the serious injustice perpetrated on the citizens of Washington, D. C. They deserve a voice in the Senate and the House like any other American citizen, and like citizens in other nations the world over.

The study provides dramatic documentation of the lonely and reactionary position of the United States in the international community with respect to one of the fundamental and most widely recognized human rights in the world today -- the right to vote for elected representatives. The study makes clear that in this important respect the United States, the emperor of human rights, has no clothes. Aside from the authoritarian and repressive regime of Brazil, America stands alone among the nations of the world in imposing this flagrant restriction on the civil and political rights of the citizens of its capital city.

As Table 2 reveals, the virtually universal practice in nations with elected legislatures -- whether democracies or totalitarian systems -- is to accord representation to the capital city on a parity with other cities in the nation.

A key element of the study is its documentation that even in nations with federal systems of government like the United States, this principle of parity is followed.

The study included 16 federal nations, with the following findings:

-- Nine federal nations (Austria, Canada, West Germany, India, Nigeria, Pakistan, Switzerland, the Soviet Union and Yugoslavia) have capital cities which are not special federal districts and which receive the same represention in the legislature afforded to other cities.

-- Seven federal nations (Argentina, Australia, Brazil, Malaysia, Mexico, Venezuela, and the United States) have capital cities which are federal districts with a special status similar to that of the District of Columbia. Only Brazil and the United States, however, deny voting representation in the legislature for residents of the capital cities.

It is clear from this study that opponents of representation in Congress for the District of Columbia cannot hide behind the Federal analogy. Theoretical arguments for denying representation, based on the view that the District of Columbia is not a state, are easily out-weighed by the demand of the citizens of the capital city to participate in the basic rights of democracy. With the exception of Brazil, other federal nations modeled on our own Federal Government have resolved this issue against discrimination and in favor of representation for the capital. In this respect, the onrushing tide of world democracy and human rights has left the United States sadly in its wake.

THE BLEMISHED RECORD OF ADMISSION OF STATES TO THE UNION

The effort to end discrimination against D.C. residents is hardly a novel chapter in American history. One of the continuing currents in the nation's 200 year history has been the struggle of peoples in the various territories of the Union to achieve the full rights of citizenship. The pages of our history contain numerous examples of the frustrations, failures, and eventual successes of the citizens of various regions of the nation in becoming full partners in the Union.

In these cases, of course, the goal was statehood. But statehood is a goal not readily available to the District of Columbia, because of the unique character of the District as the nation's capital within our federal system. In a larger sense, however, the aspiration is the same and is independent of the statehood issue. That aspiration is the desire of American citizens to enjoy as nearly as possible the full benefits of American democracy.

Analysis of the issues involved in the admission of states to the Union provides a number of illuminating examples. In many cases, states were admitted without any great difficulty. In other cases, however, there were long delays and serious controversies, involving complex political, economic and social issues. The best known of these controversies was the 19th century issue over whether new states should be admitted as slave states or free states. The Missouri Compromise and the Compromise of 1850 were the landmark events of this period. Missouri, Maine, Arkansas, Florida, Texas, Michigan, Iowa, Wisconsin and California were able to join the Union as a result of these famous but fragile compromises.

In other cases, other issues were involved. Often, admission to the Union was delayed by partisan or racial factors:

-- The admission of Oregon was hindered by Republican fears that it would be a Democratic State. But Oregon was admitted in 1859 and voted for Lincoln in 1860.

-- Kansas endured severe civil violence and divided the Democratic Party before it became a state in 1861.

-- The admission of Idaho was delayed in part by religious controversies over the Mormon minority.

-- The admission of Wyoming was resisted in part because of its progressive attitude toward the political equality of women.

-- The admission of Utah was delayed more than 40 years, in large part because of the controversy over the Mormon religion.

-- The admission of Oklahoma was resisted because of the controversy over the status of the Indian territory.

-- The admission of Montana was delayed for over 20 years by Republican opponents, who feared that the State would be a Democratic stronghold, and who refused to agree to statehood unless the Dakota Territory was divided into two states likely to be Republican. In 1889, an omnibus statehood bill admitted Montana, North Dakota, South Dakota, and Washington to the Union.

-- Blatant racial discrimination against the Spanish-speaking population was a key factor in the long delay before admission of New Mexico to the Union.

-- In more recent times, before they finally gained statehood in 1959, the admission of Alaska and Hawaii became a political football, with Democrats fearing a Republican Hawaii and Republicans fearing a Democratic Alaska.

The lesson of these numerous examples is that partisan and discriminatory factors have no place in the decision to admit citizens anywhere in the nation to the blessings of full participation in our system of government. The people of the District of Columbia have already waited far longer than the citizens of any territory to obtain the basic right of representation in Congress. H.J. Res. 554 would end this long injustice.

ORIGIN OF THE DISTRICT OF COLUMBIA

The concept of a separate federal district under the exclusive control of Congress developed as the response of the founding fathers at the Constitutional Convention to the "Philadelphia Mutiny" of June 21, 1783. On that occasion, 80 to 250 disgruntled and angry Revolutionary Army soldiers demanding back pay disobeyed their officers and marched on Independence Hall in Philadelphia, where the Continental Congress was meeting. The Congress requested protection from the Pennsylvania militia, but the request was refused, and the Congress was forced to flee to Princeton, New Jersey, under cover of darkness.

The Philadelphia Mutiny was the central factor in the approval of Article I, Section 8, Clause 17 of the Constitution by the Convention in 1787, which gave Congress the power to protect itself at the site to be chosen for the nation's capital:

> "The Congress shall have Power ... To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States ...."

When the First Congress met in New York in 1789, a major question was the "residence" issue -- the selection of a site for the capital city. The primary concern of the legislators was the issue of economic advantage. As the historian Constance Green has written, the assumption underlying the debate was that

> "Wherever Congress chose to locate the federal city, there a great commercial center would arise. That conviction explains more fully than any consideration of prestige or legislators' convenience why sectional controversy had run so strong during the congressional debates on the 'residence' bill."

The debates narrowed the issue to a choice between a Southern site near the "geographic center" of the nation (a site on the Potomac River) and a Northern site near the "population center" (a site on the Susquehanna River in Pennsylvania). In a compromise achieved by Secretary of State Thomas Jefferson and Secretary of the Treasury Alexander Hamilton, the Southern site was accepted by the Northern faction in Congress, in return for Southern acceptance of a Northern proposal by which the Federal Government would assume the debts of the states from the Revolutionary War.

In anticipation of the action by Congress, territory for the site had been ceded to the Federal Government by Maryland in 1788 and by Virginia in 1789. The Residence Act of 1790 enacted by the First Congress specified in general terms a broad area on the Potomac River from which the site could be chosen. But the Act fixed the southernmost possible portion of the site at the junction between the Potomac and the Anacostia River. In addition, the Act authorized President Washington to appoint and supervise three commissioners to choose the actual site and survey and define the District. In effect, the selection of the precise site was left to President Washington.

President Washington, however, because of his desire to include the City of Alexandria in the capital area, chose a southern corner for the site a few miles farther south than the 1790 Act of Congress permitted, with the result that approximately one third of the actual area selected by the President lay outside the authorization by Congress. Subsequently, Congress enacted additional legislation approving the site.

On the first Monday in December 1800, in accord with the original legislation enacted by Congress in 1790, the national capital was officially transferred from its temporary location in Philadelphia to the new site.

The area originally included in the District of Columbia consisted of only two significant communities -- Georgetown in the Maryland portion with a population of about 3,000 and Alexandria in the Virginia portion with a population of about 5,000. In addition, there were two tiny trading post settlements in the territory -- Carrollsburgh on the present Anacostia River, and Hamburg on the site of the present Foggy Bottom.

During the period 1790-1800, the City of Washington came into being, covering the area east of Georgetown and north of the Potomac to the present Florida Avenue. The region north of the City of Washington became Washington County. According to the census of 1800, the population of the entire District of Columbia was 14,000.

Until the official transfer of the federal government to the District of Columbia in 1800, Maryland and Virginia laws continued in operation in the territory and residents of the local communities voted in federal elections as citizens of their respective states. This practice ended, however, in December 1800, when the exclusive jurisdiction of Congress over the District took effect, and the residents lost their status as citizens of a state.

THE FEDERAL PAYMENT FALLACY

So far, opposition to H.J. Res. 554 has crystallized around a series of arguments that are easily rebutted.

Some opponents argue that if the District of Columbia is to receive the status of a State with respect to representation in Congress, then the District must give up the so-called "Federal Payment" by which, it is claimed, the District receives special financial treatment from Congress not available to the States.

But the argument misconstrues the nature of the Federal Payment, which is an annual appropriation intended to offset the overall negative fiscal impact of the Federal Government on the District. In effect, the appropriation -- $276 million in FY 1978 -- represents an effort by Congress to account for the difference between the special burdens imposed on the city (such as tax-exempt Federal land and buildings) and the special benefits (such as revenues from tourism and federal construction projects) accruing to the city as a result of the Federal presence.

Obviously, there is occasional fiscal tension between Congress, in its role as legislator for the District, and the municipal government of the District, as shown by the continuing controversies over D. C. Appropriations Bills. But these controversies have little to do with the right of the citizens of the District to be represented in Congress and to have a voice in the many actions of the House and Senate on issues of foreign and domestic policy. Whatever the view of individual Senators as to the excessive or inadequate nature of the Federal Payment, I hope we can agree that the issue is separate from the question of representation in Congress and should be considered accordingly.

In fact, the Federal Payment for FY 1979 is likely to be significantly lower than the figure for 1978. Over the years, the amount of the Federal Payment has ranged from a high of 43% of total Congressional appropriations in 1921, to a low of 9% in 1953. In the 1970's, the figure has fluctuated between 27% in 1975 and 20%, where it is today.

In addition, there are a number of specific factors that help to explain the purpose and size of the current Federal Payment:

-- The Federal Government owns 25% of the land area in the District, and this land is exempt from the local tax rolls. For many states, the figure is in the range of 4%. If this low figure applied to the District, it is estimated that local property tax revenues would be increased by $60 million, and that local sales and income taxes would go up by even larger amounts.

-- The District must provide extensive fire and police protection for the federal facilities, as well as sidewalks, streets, and other services not required in States with a smaller federal presence.

-- So far, Congress has forbidden the District to enact a commuter tax, which would spread the special costs imposed by the federal presence more equitably among the federal employees who work in the District but live in the suburbs. Other states make reasonable use of such taxes in such situations. But Congress denies this source of revenue to the District -- estimated at $200 million a year in the typical versions used by various states.

-- Congress refuses to permit the District to issue tax-exempt bonds. States have this option, and use it extensively to borrow funds at interest rates significantly below the market rate for tax-free bonds. Currently, the federal tax subsidy for tax-exempt bonds in the various states totals $6 billion, or an average of $120 million per state. Yet the District is denied access to this source of revenue.

-- Congress imposes a height limit on buildings in the District. These limits restrict business development, and reduce the access of the District to property and other taxes.

-- Finally, District residents pay 11.7% of their principal income in the form of local taxes to the District. That figure exceeds the percentage for 23 states. Clearly, the Federal Payment is not a device that allows District residents to avoid their fair share of local taxes.

As the above examples indicate, there are substantial areas in which Congress restricts the revenue sources available to the District. In effect, the Federal Payment is a lump sum appropriated by Congress in lieu of these alternative revenues. It is hardly a symbol of an undeserved financial windfall for the District that impairs the case for representation of District citizens in the Senate and House of Representatives.

THE FEDERAL EMPLOYEE FALLACY

One of the major sources of misunderstanding in the States about the pending constitutional amendment to give representation in Congress to the District of Columbia is the widespread confusion over the actual nature of the District.

Opponents of the D. C. Voting Rights Amendment have seized on the confusion and misunderstanding to spread the myth that the District of Columbia is nothing more than a "Company Town" of federal bureaucrats and government employees which has essentially no independent economic life and which is therefore not entitled to representation in Congress.

But the myth is false. Less than one-third of the employees in the District are federal workers. The remaining two-thirds are engaged in a variety of non-governmental jobs that reflect the truly heterogeneous character of the District's economic life. Those who take the myopic view of the District of Columbia as a sheltered federal sanctuary are in the position of those who see a glass two-thirds full and call it one-third empty. Unfair as this myth is to federal workers, it is even more unfair to the hundreds of thousands of other citizens of the District whom the myth ignores altogether.

The myth was not a serious source of opposition in the debate on the D. C. amendment last year in either the Senate or the House of Representatives, each of which approved the amendment by an overwhelming margin. Members of Congress serve in the District and are thoroughly familiar with the reality of the modern District of Columbia. I am hopeful that, as the ratification effort proceeds, the debate will dispel the myth in the various states and enhance the prospects of ratification.

During the consideration of the amendment by Congress last year, the three most widely cited facts about the District of Columbia were that (1) the District has a population greater than in six states; (2) its citizens pay more federal taxes than in eleven states; and (3) more D. C. sons lost their lives in the Vietnam War than did those of ten states. These facts symbolized the reality of the District as an independent economic entity with a substantial private sector life of its own, and demonstrated that the District easily holds its own in various comparisons with the states.

But there are many other facts about the District of Columbia that also demonstrate the vitality of the District and the substantial degree to which its economic and political life is independent of involvement with the federal government. Publications of the Department of Commerce and available information from the D. C. local government and other sources reveal that the District of Columbia also rivals the states in the following additional ways:

-- It produces more electric power than Rhode Island.

-- It spends more on new plants and equipment than Nevada and Wyoming.

-- It has more non-governmental employees than 14 states.

-- It has more manufacturing employment than three States; more construction employment than eleven states, more non-farm employment than 17 states; and more non-farm-non-manufacturing employment than 19 states.

-- The value added by manufacturing in D. C. is greater than in four states.

-- The wages of D. C. production workers are greater than in five states.

-- Retail sales in D. C. are greater than in nine states.

-- Its construction contracts are worth more than in ten states.

-- And its commercial bank deposits total more than in fifteen states

As these facts reveal, there is a great deal more to the District of Columbia than the myth of the sheltered federal sanctuary suggests.

It is unfair to hold the citizens of the District hostage to this myth and to the prevailing anti-government mood. We must find effective ways to deal with the legitimate national concerns about the size of government, the level of government spending, and the degree of government regulation in our lives. But there are better ways to reach these goals than by discriminating against the hundreds of thousands of ordinary private American citizens who live and work and make their homes in the nation's capital. They deserve the same rights that all other citizens enjoy -- the right to representation in their government.

Members of the House and Senate elected from the District would represent the interests of business, the construction industry, banks, veterans, teachers, the elderly, the poor, and virtually all the interest groups found in the various states

It is true that a significant number of District workers are federal employees. As shown by Table 1, there are 211,000 federal jobs in the District, reflecting the following pattern according to residence:

D.C. residents:	112,000
Maryland residents:	63,000
Virginia residents:	46,000
TOTAL	221,000

If the number of federal jobs in the Maryland and Virginia suburban counties is also taken into account, the result is that each of the two suburban areas has more federal employees than the District of Columbia. In fact, the District accounts for less than one-third of all federal employees in the Washington area.

District of Columbia:	110,000
Maryland suburbs:	140,000
Virginia suburbs:	143,000
TOTAL	393,000

In addition, as Table 1 also shows, three other states -- California, Texas and Virginia -- provide more federal jobs than the District of Columbia.

Table 3 provides detailed comparisons between the District of Columbia and the states with respect to fifteen economic indicators. Table 4 provides a detailed breakdown of non-government employment in the District. The figures in these tables demonstrate the great variety of life in the modern District of Columbia and clearly refute the federal employee fallacy.

It is a gross distortion of the issue for opponents of the D. C. amendment to argue that D. C. representatives in Congress would be special pleaders only for federal employees. Members of the House and Senate elected from the District would also represent the interests of small business, the construction industry, banks, veterans, teachers, the elderly, the poor, and virtually all the other interest groups found in the various states. It would be just as unreasonable to deny representation to the District because of its federal employees' bloc, as to deny representation to a state because of its farm bloc.

The work of Congress impinges increasingly heavily on all Americans, whether they are residents of the District or the States, and the citizens of the District deserve to participate in the decisions of Congress on a parity with all other American citizens.

The challenge facing ratification of the D. C. amendment is a difficult one, and it is being made even more difficult by the distortions of those who oppose the amendment. But the challenge can be met. I am confident that, as the American people and their representatives in the State legislatures understand the true reality of the District of Columbia, they will accept the elementary justice and fairness of the D. C. Voting Rights Amendment and make it a part of our Constitution.

THE STATEHOOD FALLACY

Opposition to the proposed amendment has usually crystallized around a series of fallacious arguments that are easily rebutted.

Some opponents of full representation claim that the District is a city, not a state, and that only states are entitled to representation in the House and Senate. They argue that there is no greater reason for this city to be represented in Congress than there is for other large cities which are also denied this right.

But this argument ignores the obvious fact that other American cities are political subdivisions of states. They already have representation in both the Senate and the House, while the citizens of the District have no representation at all.

In other ways, Congress has been willing to treat the District of Columbia as a state. For example, the District has long been treated as a state in virtually every major federal grant legislation. In program after program, in statute after statute, all of us in Congress are familiar with the well-known clause in legislation, "For the purposes of this legislation, the term 'state' shall include the District of Columbia."

The statehood argument is no more than a thinly veiled excuse to perpetuate the denial of Congressional representation to the people of the District. The District is neither a city nor a state. In fact, statehood may well be an impossible alternative, given the practical and constitutional questions involved in changing the historical status of the nation's capital But such debate should not be allowed to mask the basic fact that, two hundred years after the nation was founded, the people of Washington are second class citizens, deprived of the right to participate in the making of the laws by which they are governed.

THE ARTICLE V CONSTITUTIONAL FALLACY

Another occasional objection to representation in Congress for the District of Columbia rests on the proviso in Article V of the Constitution, which declares that "no State, without its Consent, shall be deprived of its equal Suffrage in the Senate."

To state the obvious, however, what H.J. Res. 554 proposes is a constitutional amendment. Since, by definition, a constitutional amendment cannot be unconstitutional, the suggestion that H.J. Res. 554 is unconstitutional is a contradiction in terms and a fatal flaw in the logic of those who raise this curious objection

In any event, it is far too late in our history to argue that granting representation in Congress to the District of Columbia would deprive any state of its "equal Suffrage in the Senate." Since the ratification of the Constitution by the original thirteen states, 37 additional states have been admitted to the union. As a result, the suffrage of the original thirteen states in the Senate has been "diluted" nearly fourfold, from 2/26 to 2/100. Yet, no one seriously argues that any of the older states has been deprived of its equal suffrage in the Senate by the admission of new states.

The principle is clear. So long as the District of Columbia is represented in the Senate equally with every other state, representation for the District of Columbia will not offend the provisions of Article V. Each state will still have two votes in the Senate, and each state will still have the same proportionate vote as every other state.

During extensive hearings by both the Senate and House Judiciary Subcommittees on this issue, leading constitutional scholars strongly endorsed full voting representation for the District, including representation in the Senate as well as in the House. Among those testifying on H.J. Res. 554, for example, was Professor Charles Alan Wright of the University of Texas School of Law, who dealt bluntly with the Article V objection:

> "It seems to me that the clear purpose of (the 'Equal Suffrage Clause') was to insure that the Great Compromise would not be undone and that the representation in the Senate would not be put on the basis of population. That prupose is not compromised by allowing the District to have two Senators any more than it is when a new state is admitted."

THE RETROCESSION FALLACY

It is sometimes argued that voting representation for the people of the District should not be achieved by independent representation in Congress, but by alternative methods linking the District in various ways to the State of Maryland. But there are serious objections to these alternatives, which go by the names of "full retrocession" (ceding the District's territory back to Maryland) or "partial retrocession" (allowing District citizens to vote in Maryland elections).

First, as a matter of principle, it would be unwise policy and unfair to the citizens of both Maryland and the District. The geographical area comprising the original District was originally ceded to the Federal Government in the 18th century, shortly after the ratification of the Constitution and consisted of Maryland and Virginia portions. The Virginia portion of the District was retroceded to Virginia in 1846, but the Maryland portion has continued to the present time as the District of Columbia.

Thus, the District has not been a part of Maryland since 1788, when the territory that now comprises the District was ceded by Maryland to the Federal Government. Two centuries after the original Act of Cession by Maryland, there are simply no cultural, community, or similar ties that would warrant attempting to re-link the District to Maryland, and the ancient historical tie is far too slender and obsolete to justify that step today. The District has developed its own community and its own interests, separate and apart from Maryland, and it deserves representation in Congress in its own right, and not merely as an artificial adjunct to a state with which it has no common history.

We might just as well try to link the District to Virginia -- or even to Oklahoma or Idaho -- as try to fit it back into Maryland.

Those who favor retrocession draw on the fact that under the different circumstances of an earlier era, the territory ceded by the State of Virginia to the Federal Government in 1789, which formed roughly one-third of the original District, was ceded back to Virginia by Congress in 1846.

But historical analysis indicates that the circumstances surrounding the Virginia retrocession are in no way comparable to the situation that exists today. In fact, at the time of the Virginia retrocession, there was nothing "federal" to retrocede. To allay criticism of his role in selecting a site for the new federal district so close to his Mount Vernon estate, President Washington had insisted that no federal buildings should be constructed in the Virginia portion of the District.

The preamble to the retrocession Act of 1846 recites the view that the Federal Government had not used the Virginia portion of the District and would probably never need it. The preamble also refers to the fact that a few months earlier, the Virginia legislature had enacted legislation accepting the retrocession.

The historical analysis also indicates that the Virginia retrocession was directly affected by the political, social and economic factors of the time, particularly the resentment of the citizens of the town of Alexandria over their inclusion in the District. A major additional factor was the struggle between the slave-holding eastern regions of Virginia and the western portions of the state for control of the Virginia legislature. Neither retrocession nor any other measure could resolve the enormous pressures that were building in this period. As the Civil War began, the State of West Virginia was created from the western counties of Virginia and was admitted to the Union in 1863.

Seen in historical perspective, the retrocession of the Virginia portion of the District in 1846 is not a precedent for action today on the issue of voting representation in Congress for the District of Columbia.

Second, there is a much more obvious and recent precedent which argues strongly in favor of independent representation in Congress for the District of Columbia, rather than in combination with Maryland or any other state. That precedent is the 23rd amendment, which was ratified in 1961 and which gave citizens of the District an independent voice in Presidential elections through the electoral college. It does not, obviously, route District voters through Maryland elections to achieve its goal.

Recently, I asked the Library of Congress whether the concept of retrocession -- allowing District residents to vote in Maryland Presidential elections, instead of giving the District independent representation in the electoral college -- was considered as a possible alternative during the debates on the 23rd amendment. The Library of Congress has informed me:

> To our knowledge, there was no mention of retrocession to Maryland or any related alternative arrangement during discussion of the 23rd amendment in Congress -- either in the hearing records or during floor debate.

Thus, Congress overwhelmingly recognized in 1960 that there was no justification for tying the District to Maryland for purposes of voting in Presidential elections. There is no justification today for tying the District to Maryland for purposes of voting in Senate and House elections.

Our action on the 23rd amendment is, therefore, a strong precedent against any current effort by Congress to tie the District to Maryland for voting purposes. The District now has its own voice in Presidential elections, and it is entitled to its own voice in Congressional elections.

Third, as a practical matter, I know of nothing to indicate that Maryland would be at all receptive to the idea. Retrocession proposals surfaced briefly in the course of the House Subcommittee's consideration of H.J. Res. 554. But they were quickly discarded, in large part because of the obvious resistance of the Maryland Congressional delegation. The proposals were not raised again, either in the full House Judiciary Committee proceedings or as a floor amendment in the House.

Fourth, there are a number of legal, even constitutional, questions that would have to be resolved to make retrocession a serious possibility. Full retrocession would subject the Federal Government to the powers of the State of Maryland and fly in the face of the settled constitutional provision creating the District as a Federal entity. Partial retrocession -- simply turning District citizens into Maryland residents for the purpose of voting in Senate and House elections -- would raise such questions as whether District residents should then be entitled to send representatives to Annapolis to participate in drawing new Congressional District boundaries to vote for the Governor of Maryland who would have the power to fill vacancies in the Congressional delegation, and other similar issues.

For these reasons, retrocession is a blind alley we ought not to go down in seeking Congressional representation for the people of the District.

In sum, the arguments against full voting representation in Congress for the District of Columbia are shallow at best and pernicious at worst. It is a sad commentary on American democracy that such flimsy arguments have consistently been used to deny representation in Congress for the citizens of our nation's capital. At a time when the role of Congress has an increasingly profound influence on the lives of each American, it is also time to honor the promise of America for every citizen, without exception.

APPENDIX

MATERIALS ON FULL VOTING REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

PAGE

Quotations on Representation in Congress for the District of Columbia 18

Table 1: Statistical Comparisons Between the District of Columbia and the 50 States 20

Republican and Democratic Platforms 1976 22

Comparisons with States on Population, Taxes, Vietnam Casualties and with the Experience of Foreign Nations. 23

States That Have Smaller Populations, Pay More Federal Taxes, and Had Fewer Vietnam Casualties than the District of Columbia 24

Comparisons with States on Population 25

Comparisons with States on Federal Taxation 26

Comparisons with States on Vietnam Casualties 27

Comparisons with States on Non-Government Employment 28

Map Comparing Experience of Foreign Nations 29

Table 2: Experience of Foreign Nations with Elected National Legislatures 30

Table 3: Comparisons with States on 15 Economic Indicators 31

Table 4. Non-government Employment in the District of Columbia 33

Map of the District of Columbia in 1791, Showing the Maryland and Virginia Portions (Divided by the Potomac River) 35

Early Scenes of Capitol Hill (1844) and Wisconsin Avenue (c. 1790-1814) 36

Bipartisan Letter of March 2, 1978 by Senators Supporting H.J. Res. 554 37

Bipartisan Letter of May 23, 1978 by Party and Local Officials Supporting H.J. Res. 554 39

Growth of American Democracy Through Amendments to the Constitution 41

Vote in the United States Senate 42

Vote in the United States House of Representatives 43

QUOTATIONS ON REPRESENTATION IN CONGRESS

FOR THE DISTRICT OF COLUMBIA

Republican Party Platform 1976:

"We ... support giving the District of Columbia voting representation in the United States Senate and House of Representatives."

Democratic Party Platform 1976:

"We support ... full voting representation in the Congress [for the District of Columbia.] "

James Madison (The Federalist No. 43):

"The extent of this federal district is sufficiently circumscribed to satisfy every jealousy of an opposite nature. And as it is to be appropriated to this use with the consent of the State ceding it; as the State will no doubt provide in the compact for the rights and the consent of the citizens inhabiting it; as the inhabitants will find sufficient inducements of interest to become willing parties to the cession; as they will have had their voice in the election of the government which is to exercise authority over them; as a municipal legislature for local purposes, derived from their own suffrages, will of course be allowed them; and as the authority of the legislature of the State, and of the inhabitants of the ceded part of it, to concur in the cession, will be derived from the whole people of the State, in their adoption of the Constitution, every imaginable objection seems to be obviated."

President Andrew Jackson 1831:

"It was doubtless wise in the framers of our Constitution to place the people of this District under the jurisdiction of the General Government. But to accomplish the objects they had in view, it is not necessary that this people should be deprived of all the privileges of self-government... I earnestly recommend the extension to them of every political right which their interests require and which may be compatible with the Constitution."

President Richard Nixon; Message to Congress; April 28, 1969:

"It should offend the democratic sense of this nation that the 850,000 citizens of its Capital, comprising a population larger than 11 of its States, have no voice in the Congress."

Assistant Attorney General William H. Rehnquist; Senate Hearings, 1970:

"The need for an amendment of that character at this late date in our history is too self-evident for further elaboration; continued denial of voting representation from the District of Columbia can no longer be justified."

Vice President Walter F. Mondale, September 1977:

"We believe there is no justification for denying citizens equal representation at the federal level because they happen to reside in the District of Columbia."

President Jimmy Carter, State of the Union Message 1978:

> We proposed last year a series of reforms, including full voting representation in Congress, designed to give the residents of the District significantly greater control over their local affairs. My administration will continue to work for the passage of those reforms this year.

Professor Charles Alan Wright; University of Texas Law School; Senate Hearings 1978:

> "It seems to me that the clear purpose of [the Equal Suffrage Clause, Article V of the Constitution] was to ensure that the Great Compromise would not be undone and that representation in the Senate would not be put on the basis of population. That purpose is not compromised by allowing the District to have two Senators any more than it is when a new state is admitted."

Senator Thomas F. Eagleton; Senate Hearings 1978:

> "This letter was from a mother who had two sons in the army. 1971, as the Chairman will recall, was still a very high point in the Vietnam War. Her elder son had been killed, and naturally that had had a traumatic impact on her, her thinking, et cetera, and she wrote me a very moving but simple letter saying, in essence, 'I have lost one son. I may well lose another. Yet I have no voice in voting on how far this war should go, or how long it should go on, or how much expanded it should be -- into the Parrot's Beak, or how many bombs we should drop on the Ho Chi Minh Trail. I am hopeless, and in that sense I am voiceless.'
>
> "I think that one letter did more to shape my thinking than a million words or a 200-page memorandum. The appeal is not simplistic, it is just fair and equitable."

Natasha Pearl; Senior, Woodrow Wilson High School, D.C.; Senate Hearings 1978:

> "You may recall the one day of the Senate Youth Program that was set aside for the delegates to visit their Senators. I have never before felt inferior to fellow Americans. That day I did. All I could do was listen at dinner that evening when my friends told of how they had discussed important national issues, such as the Panama Canal Treaties, energy policy, and health care with their Senators. I, too, have opinions on these and other vital issues. That day, I could share them with no one who had a voice or a vote in the United States Senate."

TABLE 1 -- STATISTICAL COMPARISONS BETWEEN THE DISTRICT OF COLUMBIA AND THE 50 STATES

STATE	POPULATION		TAXATION (FY 1977)			KILLED IN VIETNAM WAR 1961-1977	EMPLOYMENT		PERCENT LAND AREA HELD BY FEDERAL GOV'T.
	1970 CENSUS	1978 ESTIMATE	TOTAL FEDERAL TAXES (BILLION)	PER CAPITA FEDERAL TAXES	STATE AND LOCAL TAXES (% PERSONAL INCOME)		NO. FEDERAL JOBS	PERCENT FEDERAL JOBS	
Alabama	3,444,000	3,742,000	$4.482	$1,221	9.9	1,187	79,173	1.9	3.4
Alaska	303,000	403,000	1.225	3,011	21.8	55	36,873	.9	96.4
Arizona	1,775,000	2,354,000	3.211	1,418	13.9	604	57,756	1.4	42.8
Arkansas	1,923,000	2,186,000	2.381	1,117	9.8	580	28,050	.7	9.7
California	19,971,000	22,254,000	39.186	1,805	14.9	5,472	497,438	12.1	45.1
Colorado	2,210,000	2,670,000	4.167	1,604	12.3	609	91,720	2.2	36.1
Connecticut	3,032,000	3,099,000	6.478	2,086	11.2	590	25,469	.6	.3
Delaware	548,000	583,000	1.120	1,925	11.4	120	10,380	.2	3.2
D.C.	757,000	674,000	1.470	2,116	11.7	237	221,156	5.4	25.6
Florida	6,791,000	8,594,000	12.957	1,542	10.1	1,905	146,615	3.6	10.1
Georgia	4,588,000	5,084,000	6.513	1,298	10.9	1,550	129,237	3.1	6.0
Hawaii	770,000	897,000	1.575	1,770	14.6	274	67,414	1.6	9.9
Idaho	713,000	878,000	1.155	1,367	11.6	210	15,598	.4	63.7
Illinois	11,113,000	11,243,000	21.536	1,919	11.4	2,883	150,511	3.7	1.5
Indiana	5,195,000	5,374,000	8.334	1,566	10.4	1,513	48,229	1.2	2.1
Iowa	2,825,000	2,896,000	4.517	1,570	11.5	820	19,396	.5	.6
Kansas	2,249,000	2,348,000	3.922	1,695	11.0	614	47,705	1.2	1.3
Kentucky	3,221,000	3,498,000	4.447	1,290	11.4	1,039	82,243	.2	5.3
Louisiana	3,643,000	3,966,000	5.217	1,338	12.6	672	50,323	1.2	3.7
Maine	994,000	1,091,000	1.400	1,299	14.2	332	17,491	.4	.7
Maryland	3,924,000	4,143,000	7.669	1,856	12.7	996	168,116	4.1	3.2
Massachusetts	5,689,000	5,774,000	9.875	1,706	14.7	1,303	67,590	1.6	1.7
Michigan	8,882,000	9,189,000	15.618	1,712	12.1	2,603	66,274	1.6	9.3
Minnesota	3,806,000	4,008,000	6.198	1,563	14.3	1,053	32,231	.8	6.6
Mississippi	2,217,000	2,404,000	2.416	1,016	12.0	630	40,870	1.0	5.4

TABLE I (Cont.)

STATE	POPULATION 1970 CENSUS	POPULATION 1978 ESTIMATE	TAXATION (FY 1977) TOTAL FEDERAL TAXES (BILLION)	TAXATION (FY 1977) PER CAPITA FEDERAL TAXES	TAXATION (FY 1977) STATE AND LOCAL TAXES (% PERSONAL INCOME)	KILLED IN VIETNAM WAR 1961-1977	EMPLOYMENT NO. FEDERAL JOBS	EMPLOYMENT PERCENT FEDERAL JOBS	PERCENT LAND AREA HELD BY FEDERAL GOV'T.
Missouri	4,678,000	4,860,000	$7.213	$1,504	10.3%	1,384	91,265	2.2%	4.8%
Montana	694,000	785,000	1.085	1,432	13.2	260	17,639	.4	29.7
Nebraska	1,485,000	1,565,000	2.416	1,552	10.9	386	28,148	.7	1.4
Nevada	489,000	660,000	1.190	1,911	12.7	144	17,880	.4	86.6
New Hampshire	738,000	871,000	1.330	1,587	10.8	218	14,030	.3	12.3
New Jersey	7,171,000	7,327,000	14,708	2,005	11.8	1,438	95,581	2.3	2.7
New Mexico	1,017,000	1,212,000	1.505	1,275	12.8	392	42,241	1.0	33.6
New York	18,241,000	17,748,000	32.497	1,806	17.3	4,043	196,017	4.8	.8
North Carolina	5,084,000	5,577,000	7.038	1,281	10.7	1,580	120,166	3.0	6.3
North Dakota	618,000	652,000	0.945	1,456	11.7	194	20,820	.5	5.2
Ohio	10,657,000	10,749,000	17.474	1,633	10.0	3,028	106,973	2.6	1.3
Oklahoma	2,559,000	2,880,000	3.852	1,380	10.2	975	81,819	2.0	3.5
Oregon	2,092,000	2,444,000	3.747	1,593	12.4	692	26,308	.6	52.6
Pennsylvania	11,801,000	11,750,000	19.400	1,644	11.5	3,073	142,354	3.5	2.3
Rhode Island	950,000	935,000	1.610	1,722	12.1	200	13,877	.3	1.1
South Carolina	2,519,000	2,918,000	3.396	1,187	10.7	883	80,441	2.0	5.9
South Dakota	666,000	690,000	0.840	1,221	12.2	187	16,756	.4	6.7
Tennessee	3,926,000	4,357,000	5.638	1,321	10.1	1,277	62,930	1.5	6.7
Texas	11,199,000	13,014,000	20.100	1,581	10.5	3,332	295,746	7.2	1.9
Utah	1,059,000	1,307,000	1.575	1,260	12.2	353	40,756	1.0	66.1
Vermont	445,000	487,000	0.630	1,313	15.1	100.	4,161	.1	4.7
Virginia	4,651,000	5,148,000	7.984	1,567	10.7	1,273	226,664	6.0	9.4
Washington	3,413,000	3,774,000	6.723	1,849	11.9	1,019	98,386	2.4	29.5
West Virginia	1,744,000	1,860,000	2.451	1,328	12.0	715	15,410	.4	6.9
Wisconsin	4,413,000	4,679,000	7.003	1,512	14.0	1,133	27,950	.7	5.2
Wyoming	332,000	424,000	0.735	1,843	14.4	117	10,004	.2	47.8
UNITED STATES	203,305,000	216,332,000	$350.191	$1,625	11.8%	56,447	4,092,386	100.0%	5.4%

REPUBLICAN PARTY PLATFORM 1976

"We . . . support giving the District of Columbia voting representation in the United States Senate and House of Representatives."

DEMOCRATIC PARTY PLATFORM 1976

"We support . . . full voting representation in the Congress [for the District of Columbia.]"

FULL VOTING REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

- D.C. HAS A LARGER POPULATION THAN ALASKA, DELAWARE, NEVADA, NORTH DAKOTA, VERMONT, WYOMING
- D.C. PAYS MORE TOTAL FEDERAL TAXES THAN ELEVEN STATES, AND PAYS MORE ON A PER CAPITA BASIS THAN EVERY STATE EXCEPT ALASKA
- D.C. HAD MORE PERSONS KILLED IN VIETNAM THAN 10 STATES, AND MORE KILLED ON A PER CAPITA BASIS THAN 47 STATES.
- OF 115 FOREIGN NATIONS WITH ELECTED NATIONAL LEGISLATURES, ONLY THE UNITED STATES AND BRAZIL DENY REPRESENTATION IN THE LEGISLATURE TO CITIZENS OF THE CAPITAL CITY.

FULL VOTING REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

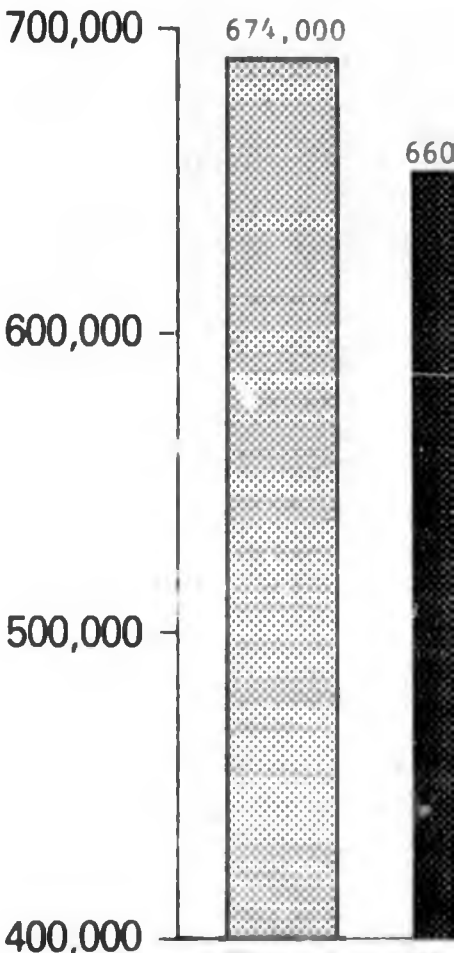
PEOPLE	FEDERAL TAXES (1977)	KILLED IN VIETNAM WAR
DIST. OF COLUMBIA	DIST. OF COLUMBIA	DIST. OF COLUMBIA
NORTH DAKOTA	MAINE	NEW HAMPSHIRE
NEVADA	NEW HAMPSHIRE	IDAHO
DELAWARE	ALASKA	RHODE ISLAND
VERMONT	NEVADA	NORTH DAKOTA
ALASKA	IDAHO	SOUTH DAKOTA
WYOMING	DELAWARE	NEVADA
WYOMING	MONTANA	DELAWARE
	NORTH DAKOTA	WYOMING
	SOUTH DAKOTA	VERMONT
	WYOMING	ALASKA
	VERMONT	

D.C. HAS MORE PEOPLE THAN 6 STATES

D.C. PAYS MORE TAXES THAN 11 STATES

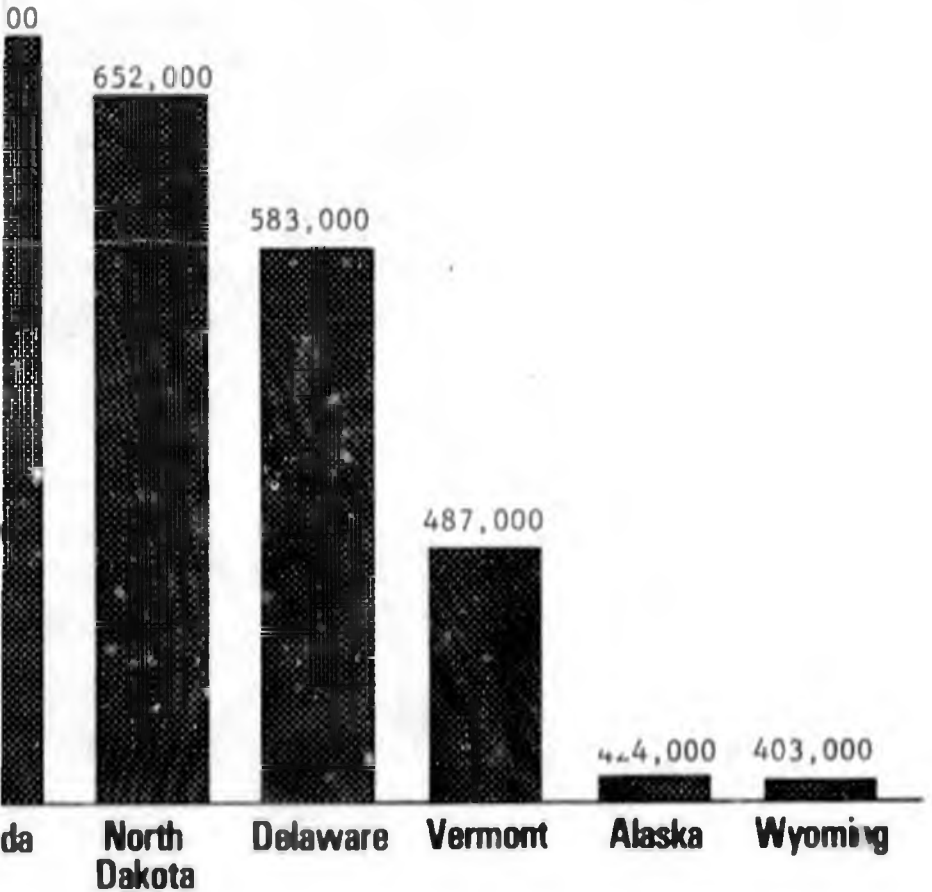
D.C. HAD MORE DEATHS IN VIETNAM THAN 10 STATES

POPULATION



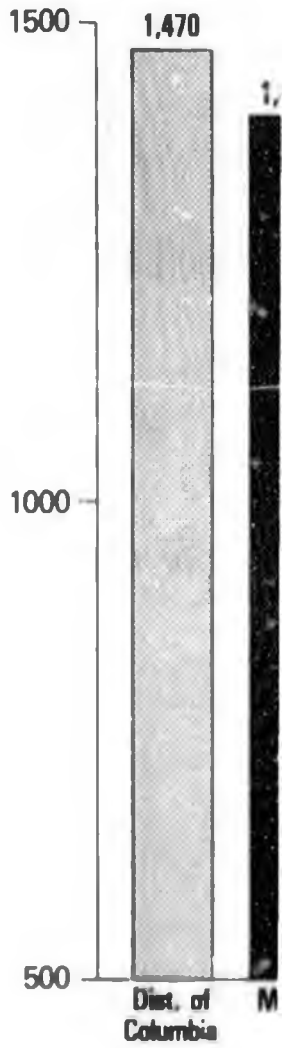
(1978)

D.C. IS LARGER THAN SIX STATES

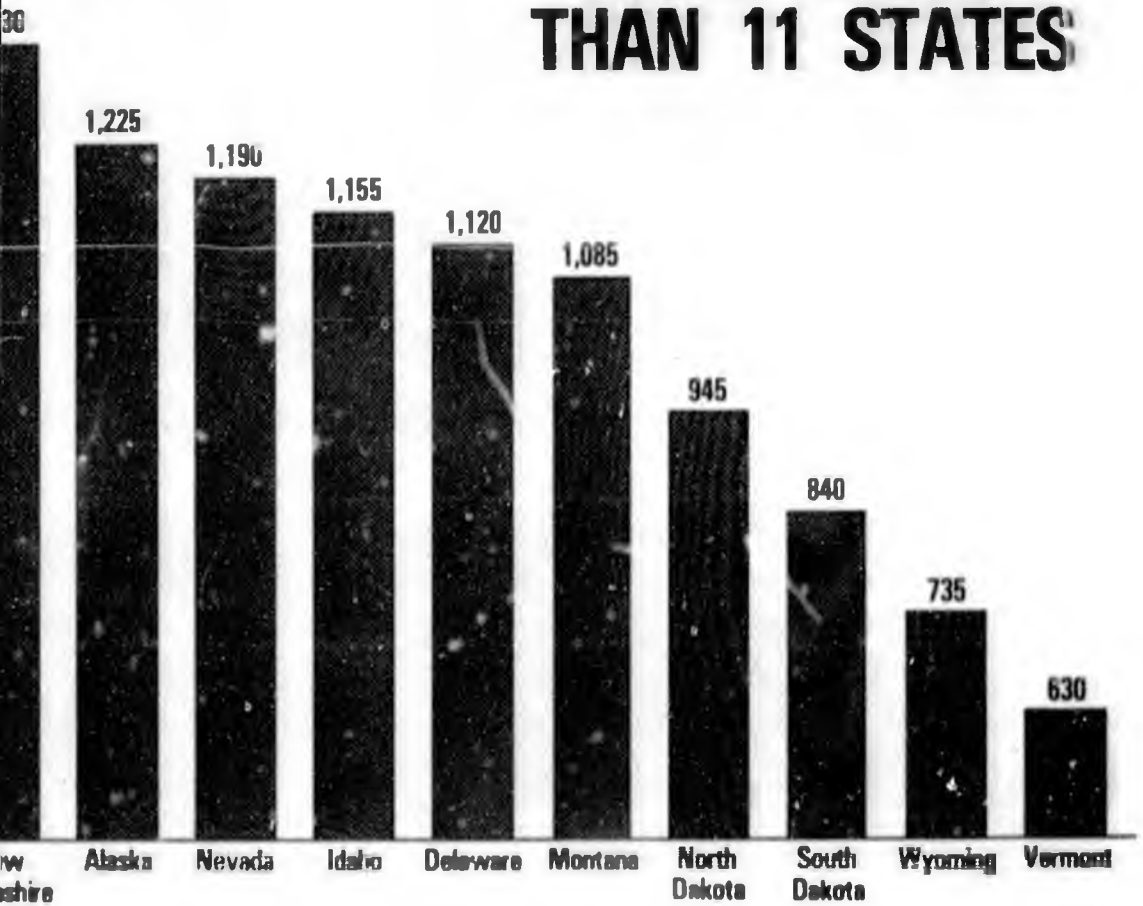


FEDERAL T

($ MILLION)

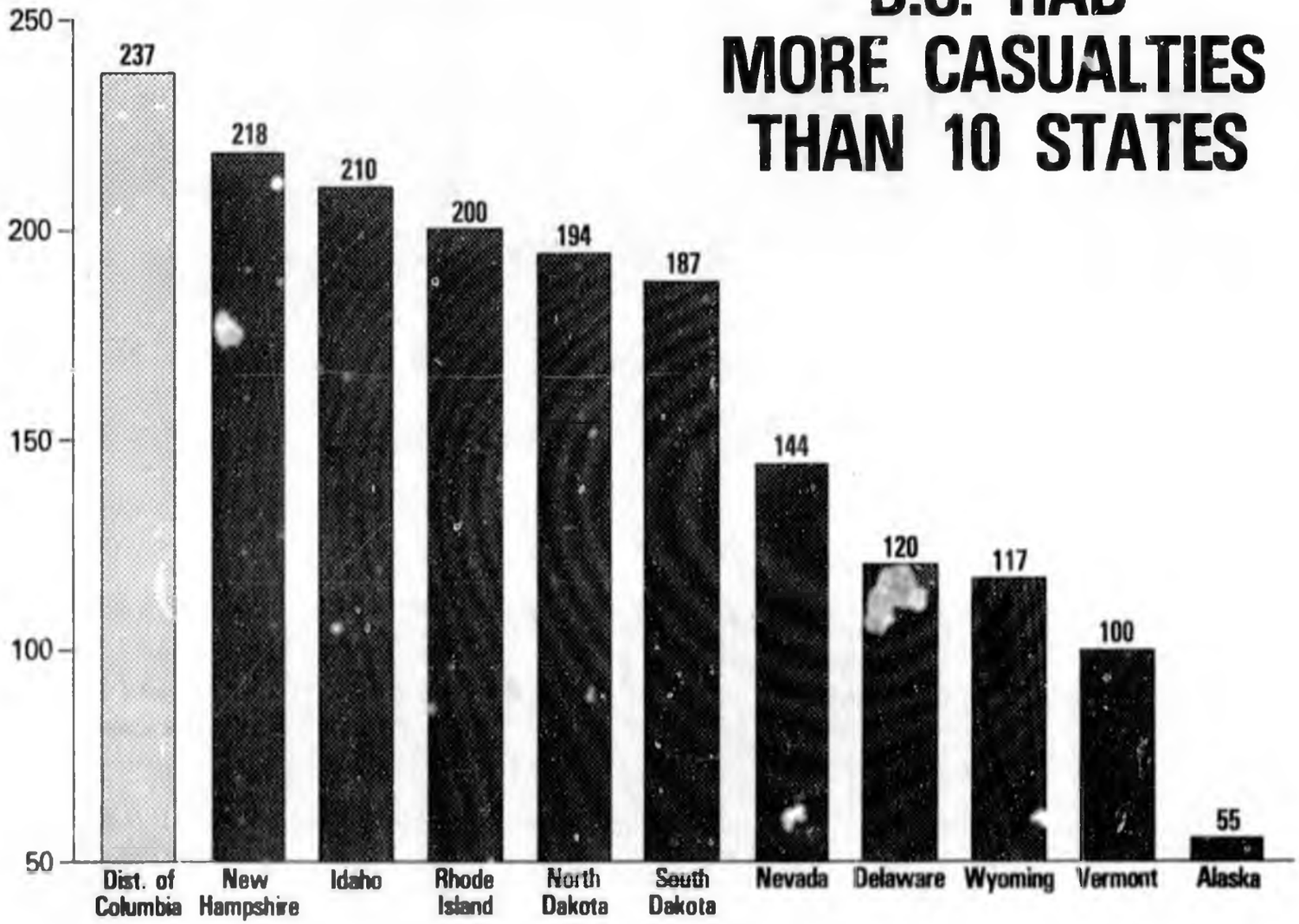


D.C. PAYS MORE TAXES THAN 11 STATES

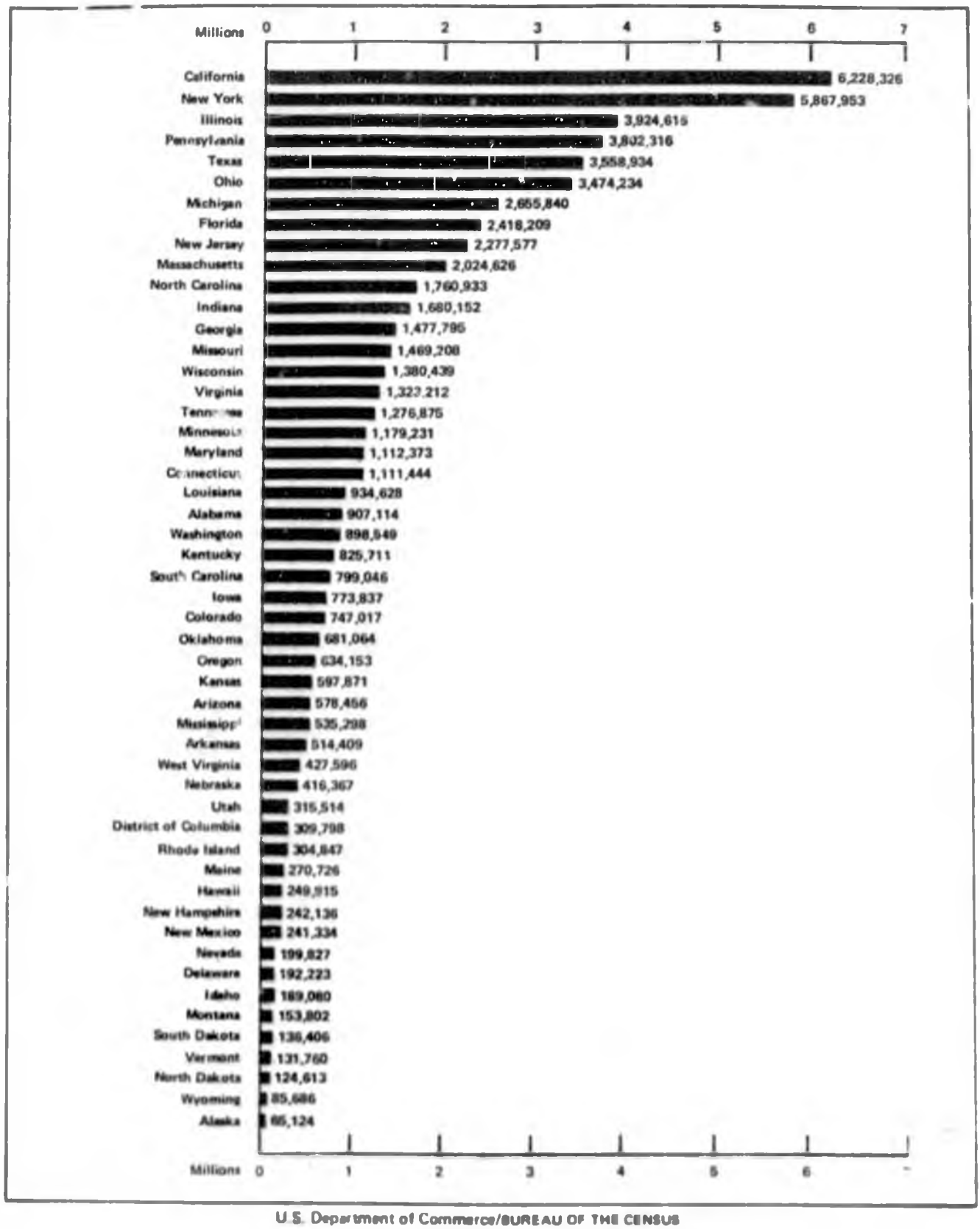


KILLED IN VIETNAM WAR

D.C. HAD MORE CASUALTIES THAN 10 STATES



Employment by State (NON-GOVERNMENTAL)



U.S. Department of Commerce/BUREAU OF THE CENSUS

County Business Patterns 1974 (April 1977)

EXPERIENCE OF FOREIGN NATIONS WITH ELECTED NATIONAL LEGISLATURES

OF 115 NATIONS ONLY THE UNITED STATES AND BRAZIL DENY REPRESENTATION TO RESIDENTS OF THE CAPITALS.

TABLE 2

EXPERIENCE OF FOREIGN NATIONS
WITH ELECTED NATIONAL LEGISLATURES

A. NATIONS THAT EXCLUDE THEIR CAPITAL CITY FROM REPRESENTATION IN THE LEGISLATURE

1. UNITED STATES (Washington, D. C.)
2. BRAZIL (Brasilia)

B. NATIONS THAT GRANT REPRESENTATION TO THEIR CAPITAL CITY IN THE LEGISLATURE

1. ALBANIA (Tirana)
2. ALGERIA (Algiers)
3. ANDORRA (Andorra la vella)
4. ANTIGUA (St. Johns)
5. ARGENTINA (Buenos Aires)
6. AUSTRALIA (Canberra)
7. AUSTRIA (Vienna)
8. THE BAHAMAS (Nassau)
9. BARBADOS (Bridgetown)
10. BELGUIM (Brussels)
11. BELIZE (Belmopan)
12. BOTSWANA (Gaborone)
13. BULGARIA (Sofia)
14. BURMA (Rangoon)
15. CAMBODIA (Phnom-Penh)
16. CAMEROON (Yaounde)
17. CANADA (Ottawa)
18. CAPE VERDE ISLANDS (Praia)
19. CHINA, REPUBLIC OF (Taipei)
20. COLOMBIA (Bogota)
21. COOK ISLANDS (Rarotonga)
22. COSTA RICA (San Jose)
23. CYPRUS (Nicosia)
24. CZECHOSLOVAKIA (Prague)
25. DENMARK (Copenhagen)
26. DJIBOUTI (Djibouti)
27. DOMINICA (Roseau)
28. DOMINICAN REPUBLIC (Santo Domingo)
29. EGYPT (Cairo)
30. EL SALVADOR (San Salvador)
31. EQUATORIAL GUINEA (Malabo)
32. FIJI (Suva)
33. FINLAND (Helsinki)
34. FRANCE (Paris)
35. GABON (Libreville)
36. THE GAMBIA (Banjul)
37. GERMANY, EAST (Berlin)
38. GERMANY, WEST (Bonn)
39. GREECE (Athens)
40. GRENADA (St. George's)
41. GUATEMALA (Guatemala City)
42. GUINEA (Conakry)
43. GUYANA (Georgetown)
44. HAITI (Port-au-Prince)
45. HUNGARY (Budapest)
46. ICELAND (Reykjavik)
47. INDIA (New Delhi)
48. INDONESIA (Jakarta)
49. IRAN (Teheran)
50. IRELAND (Dublin)
51. ISRAEL (Jerusalem)
52. ITALY (Rome)
53. IVORY COAST (Abidjan)
54. JAMAICA (Kingston)
55. JAPAN (Tokyo)
56. KENYA (Nairobi)
57. KOREA, NORTH (Pyongyang)
58. KOREA, SOUTH (Seoul)
59. LIBERIA (Monrovia)
60. LIECHTENSTEIN (Vaduz)
61. LUXEMBOURG (Luxembourg-ville)
62. MACAO (Macao)
63. MADAGASCAR (Antananarivo)
64. MALAWI (Lilongwe)
65. MALAYSIA (Kuala Lumpur)
66. MALDIVES (Male)
67. MALTA (Valletta)
68. MAURITANIA (Nouakchott)
69. MAURITIUS (Port Louis)
70. MEXICO (Mexico City)
71. MONACO (Monaco-Ville)
72. MONGOLIA (Ulan Bator)
73. MOROCCO (Rabat)
74. NAURU (Yaren:Administrative District)
75. NETHERLANDS (Amsterdam)
76. NEW ZEALAND (Wellington)
77. NICARAGUA (Managua)
78. NIGERIA (Lagos)
79. NORWAY (Oslo)
80. PAKISTAN (Islamabad)
81. PANAMA (Panama City)
82. PAPUA NEW GUINEA (Port Moresby)
83. PARAGUAY (Asuncion)
84. PHILIPPINES (Manila)
85. POLAND (Warsaw)
86. PORTUGAL (Lisbon)
87. RHODESIA (Salisbury)
88. ROMANIA (Bucharest)
89. SAN MARINO (San Marino)
90. SENEGAL (Dakar)
91. SIERRA LEONE (Freetown)
92. SINGAPORE (Singapore City)
93. SOUTH AFRICA (Pretoria)
94. SOVIET UNION (Moscow)
95. SPAIN (Madrid)
96. SRI LANKA (Colombo)
97. SUDAN (Khartoum)
98. SURINAM (Paramaribo)
99 SWEDEN (Stockholm)
100. SWITZERLAND (Bern)
101. SYRIA (Damascus)
102. TANZANIA (Dar es Salaam)
103. TONGA (Nukualofa)
104. TRINIDAD AND TOBAGO (Port of Spain)
105. TUNISIA (Tunis)
106. TURKEY (Ankara)
107. UNITED KINGDOM (London)
108. VENEZUELA (Caracas)
109. VIETNAM (Hanoi)
110. WESTERN SAMOA (Apia)
111. YUGOSLAVIA (Belgrade)
112. ZAIRE (Kinshasa)
113. ZAMBIA (Lusaka)

TABLE 3

FIFTEEN INDICATORS -- COMPARISONS BETWEEN CERTAIN STATES AND THE DISTRICT OF COLUMBIA

POPULATION (1978)	
D. C.	674,000
Alaska	403,000
Delaware	583,000
Nevada	660,000
North Dakota	652,000
Vermont	487,000
Wyoming	424,000

FEDERAL TAXES ($ MILLION) (1977)	
D.C.	1,470
Alaska	1,225
Delaware	1,120
Idaho	1,155
Maine	1,400
Montana	1,085
Nevada	1,190
New Hampshire	1,330
North Dakota	945
South Dakota	840
Vermont	630
Wyoming	735

KILLED IN VIETNAM	
D. C.	237
Alaska	55
Delaware	120
Idaho	210
Nevada	144
New Hampshire	218
North Dakota	194
Rhode Island	200
South Dakota	187
Vermont	100
Wyoming	117

ELECTRIC POWER PRODUCTION (MILLION KWH) (1975)	
D.C.	1,226
Rhode Island	820

EXPENDITURES FOR NEW PLANTS AND EQUIPMENT ($ MILLION) (1973)	
D.C.	23
Nevada	13
Wyoming	16

MANUFACTURING EMPLOYMENT (1975)	
D.C.	15,000
Alaska	9,000
Nevada	12,000
Wyoming	8,000

VALUE ADDED BY MANUFACTURING ($ MILLION) (1973)	
D. C.	407
Alaska	245
Nevada	224
North Dakota	330
Wyoming	171

WAGES OF PRODUCTION WORKERS ($ MILLION) (1973)	
D. C.	107
Alaska	69
Nevada	63
North Dakota	63
South Dakota	106
Wyoming	42

RETAIL SALES ($ MILLION) (1972)	
D.C.	1,797
Alaska	772
Delaware	1,480
Idaho	1,660
Montana	1,614
Nevada	1,600
North Dakota	1,275
South Dakota	1,316
Vermont	1,103
Wyoming	816

CONSTRUCTION CONTRACTS ($ MILLION) (1975)	
D.C.	499
Delaware	226
Idaho	399
Maine	400
Montana	332
Nevada	466
New Hampshire	311
Rhode Island	247
South Dakota	273
Vermont	143
Wyoming	232

CONSTRUCTION EMPLOYMENT (1975)	
D.C.	20,000
Delaware	15,000
Idaho	16,000
Maine	17,000
Montana	12,000
Nevada	12,000
New Hampshire	13,000
North Dakota	14,000
Rhode Island	10,000
South Dakota	9,000
Vermont	7,000
Wyoming	14,000

BANK DEPOSITS ($ MILLION) (1975)	
D.C.	3,511
Alaska	1,165
Delaware	1,843
Hawaii	2,529
Idaho	2,447
Maine	1,917
Montana	2,721
Nevada	1,853
New Hampshire	1,561
New Mexico	2,798
North Dakota	2,759
Rhode Island	3,267
South Dakota	2,711
Utah	2,885
Vermont	1,275
Wyoming	1,485

NON-FARM EMPLOYMENT (1975)	
D.C.	578,000
Alaska	162,000
Delaware	227,000
Hawaii	339,000
Idaho	268,000
Maine	356,000
Montana	240,000
Nebraska	554,000
Nevada	264,000
New Hampshire	293,000
New Mexico	355,000
North Dakota	203,000
Rhode Island	343,000
South Dakota	209,000
Utah	441,000
Vermont	159,000
West Virginia	561,000
Wyoming	143,000

NON-FARM NON-MANUFACTURING EMPLOYMENT (1975)	
D. C.	563,000
Alaska	153,000
Arkansas	444,000
Delaware	160,000
Hawaii	315,000
Idaho	221,000
Maine	260,000
Mississippi	469,000
Montana	218,000
Nebraska	469,000
Nevada	252,000
New Hampshire	208,000
New Mexico	338,000
North Dakota	187,000
Rhode Island	234,000
South Dakota	189,000
Utah	374,000
Vermont	120,000
West Virginia	441,000
Wyoming	135,000

NON-GOVERNMENTAL EMPLOYMENT (1974)	
D.C.	309,000
Alaska	65,000
Delaware	192,000
Hawaii	249,000
Idaho	189,000
Maine	270,000
Montana	153,000
Nevada	199,000
New Hampshire	242,000
New Mexico	241,000
North Dakota	124,000
Rhode Island	304,000
South Dakota	136,000
Vermont	131,000
Wyoming	85,000

SOURCES:

1. "Selected Statistics on the Developing USA," Office of Economic Research, Economic Development Administration, Department of Commerce (May 1977)

2. Current Population Reports Bureau of the Census, Department of Commerce (December 1978).

3. "Statistics on Estimated Federal Tax Payments by Individual States, Fiscal Year Ending September 30, 1977," Economics Division, Congressional Research Service, Library of Congress (1978).

4. "Number of Casualties Incurred by U.S. Military Personnel in Connection with the Conflict in Vietnam," Department of Defense (1978).

TABLE 4

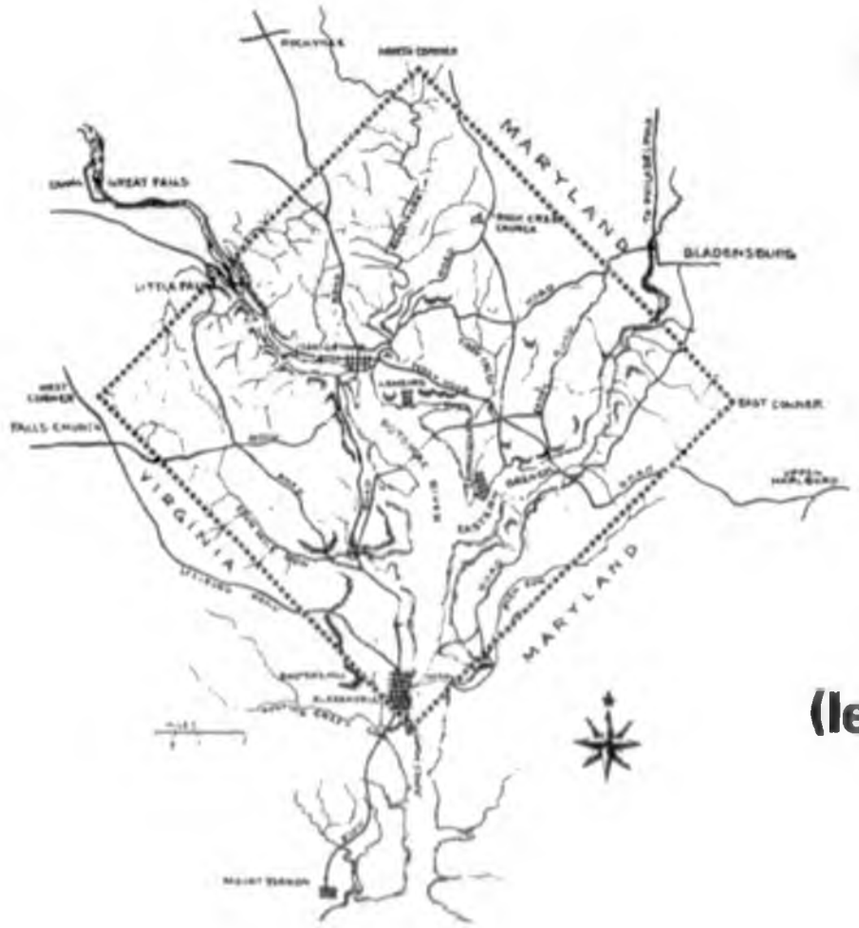
NON-GOVERNMENT EMPLOYMENT IN THE DISTRICT OF COLUMBIA BY INDUSTRY (1976)

Industry	Number of employees for week including March 12
Total	**318 386**
Agricultural services,forestry,fisheries	326
Agricultural services	274
Landscape and horticultural services	186
Mining	47
Contract construction	11 940
General contractors and operative builders	2 785
General building contractors	3 065
Operative builders	606
Heavy construction contractors	(H)
Highway and street construction	(F)
Heavy const ruction, except highway	1 847
Special trade contractors	5 495
Plumbing, heating, air conditioning	1 475
Painting, paper hanging, decorating	421
Electrical work	1 371
Masonry, stonework, and plastering	450
Masonry and other stonework	(C)
Plastering, drywall and insulation	(C)
Carpentering and flooring	260
Carpentering	102
Floor laying and floor work, nec	158
Roofing and sheet metal work	257
Concrete work	233
Misc. special trade contractors	1 125
Structural steel erection	(C)
Glass and glazing work	137
Excavating and foundation work	158
Wrecking and demolition work	110
Installing building equipment, nec	398
Special trade contractors, nec	210
Manufacturing	16 341
Food and kindred products	968
Dairy products	(B)
Condensed and evaporated milk	(B)
Bakery products	(F)
Bread, cake, and related products	(F)
Beverages	(C)
Bottled and canned soft drinks	(C)
Misc. foods and kindred products	80
Food preparations, nec	(B)
Apparel and other textile products	712
Misc. fabricated textile products	153
Curtains and draperies	(B)
Lumber and wood products	158
Sawmills and planing mills	(B)
Sawmills and planing mills, general	(B)
Millwork, plywood & structural members	(B)
Millwork	(B)
Furniture and fixtures	123
Miscellaneous furniture and fixtures	(B)
Drapery hardware & blinds & shades	(B)
Paper and allied products	(E)
Misc. converted paper products	(E)
Die-cut paper and board	(E)
Paperboard containers and boxes	(B)
Printing and publishing	13 910
Newspapers	(H)
Periodicals	1 995
Books	931
Book publishing	530
Book printing	443
Miscellaneous publishing	(F)
Commercial printing	2 520
Commercial printing, letterpress	404
Commercial printing, lithographic	2 019
Engraving and plate printing	82
Bindeboards and looseleafing	97
Bookbinding and related work	83
Printing trade services	535
Typesetting	436
Lithographic platemaking services	(B)
Chemicals and allied products	(E)
Miscellaneous chemical products	(C)
Printing ink	(C)
Stone, clay, and glass products	764
Concrete, gypsum, and plaster products	(E)
Ready-mixed concrete	(E)
Fabricated metal products	324
Fabricated structural metal products	479
Fabricated structural metal	(B)
Fabricated plate work (boiler shops)	(C)
Sheet metal work	(C)
Architectural metal work	52
Machinery, except electrical	183
Office and computing machines	(C)
Office machines, nec	(C)
Electric and electronic equipment	143
Communication equipment	113
Radio and tv communication equipment	(B)
Instruments and related products	63
Miscellaneous manufacturing industries	139
Miscellaneous manufactures	85
Signs and advertising displays	88
Administrative and auxiliary	1 110
Transportation and other public utilities	27 000
Local and interurban passenger transit	1 073
Local and suburban transportation	566
Local and suburban transit	234
Local passenger transportation, nec	332
Taxicabs	797
Trucking, highway transportation	(F)
Bus terminal and service facilities	(C)
Bus terminal facilities	(C)
Trucking and warehousing	1 265
Trucking, local and long distance	1 164
Public warehousing	100
General warehousing and storage	81
Water transportation	57
Transportation by air	3 082
Air transportation	2 634
Air transportation services	387
Transportation services	(F)
Arrangement of transportation	645
Passenger transportation arrangement	534
Freight transportation arrangement	111
Rental of railroad cars	(C)
Communication	13 131
Telephone communication	(B)
Telegraph communication	(C)
Radio and television broadcasting	2 000
Communication services, nec	1 078
Electric, gas and sanitary services	(H)
Electric services	(H)
Gas production and distribution	(H)
Combination utility services	(H)
Gas and other services combined	(H)
Administrative and auxiliary	299
Wholesale trade	13 881
Wholesale trade-durable goods	8 870
Motor vehicles & automotive equipment	732
Automobiles and other motor vehicles	85
Automotive parts and supplies	555
Tires and tubes	84
Furniture and home furnishings	484
Furniture	(E)
Home furnishings	(C)
Lumber and construction materials	132
Construction materials, nec	(C)
Sporting goods, toys, and hobby goods	271
Photographic equipment and supplies	(C)
Metals and minerals, except petroleum	54
Metals service centers and offices	(B)
Electrical goods	927
Electrical apparatus and equipment	357
Electrical appliances, tv and radios	183
Electronic parts and equipment	370
Hardware, plumbing & heating equipment	605
Hardware	297
Plumbing & hydronic heating supplies	197
Warm air heating & air conditioning	(C)
Machinery, equipment, and supplies	3 201
Commercial machines and equipment	1 687
Industrial machinery and equipment	405
Industrial supplies	77
Professional equipment and supplies	119
Service establishment equipment	224
Transportation equipment & supplies	100
Miscellaneous durable goods	446
Scrap and waste materials	264
Durable goods, nec	(C)
Wholesale trade-nondurable goods	4 990
Paper and paper products	673
Printing and writing paper	253
Stationery supplies	338
Industrial & personal service paper	82
Drugs, proprietaries, and sundries	210
Apparel, piece goods, and notions	121
Men's clothing and furnishings	71
Groceries and related products	1 922
Groceries, general line	201
Frozen foods	(B)
Dairy products	(C)
Poultry and poultry products	138
Fish and seafoods	50
Meats and meat products	693
Fresh fruits and vegetables	364
Groceries and related products, nec	265
Petroleum and petroleum products	284
Petroleum bulk stations & terminals	(C)
Beer, wine, and distilled beverages	(F)
Beer and ale	(C)
Wines and distilled beverages	431
Miscellaneous nondurable goods	661
Tobacco and tobacco products	178
Paints, varnishes, and supplies	(B)
Nondurable goods, nec	704
Administrative and auxiliary	1 258
Retail trade	37 201
Building materials & garden supplies	851
Lumber and other building materials	331
Hardware stores	255
General merchandise stores	7 846
Department stores	6 751
Variety stores	544
Misc. general merchandise stores	211
Food stores	4 261
Grocery stores	3 466
Meat markets and freezer provisioners	209
Meat and fish (seafood) markets	208
Fruit stores and vegetable markets	(B)
Candy, nut, and confectionery stores	132
Dairy products stores	(C)
Retail bakeries	141
Miscellaneous food stores	67
Automotive dealers & service stations	3 520
New and used car dealers	1 379
Used car dealers	(C)
Auto and home supply stores	321
Gasoline service stations	1 771
Apparel and accessory stores	3 873
Men's & boys' clothing & furnishings	641
Women's ready-to-wear stores	1 144
Women's accessory and specialty stores	(B)
Children's and infants' wear stores	116
Family clothing stores	852
Shoe stores	785
Furriers and fur shops	(B)
Miscellaneous apparel & accessories	164
Furniture and home furnishings stores	1 881
Furniture and home furnishings stores	1 139
Furniture stores	819
Floor covering stores	84
Drapery and upholstery stores	94
Misc. home furnishings stores	(C)
Household appliance stores	147
Radio, television, and music stores	(C)
Radio and television stores	(C)
Music stores	459
Eating and drinking places	25 890
Eating places	10 703
Drinking places	1 802
Miscellaneous retail	9 289
Drug stores and proprietary stores	2 268
Liquor stores	1 541
Used merchandise stores	215
Miscellaneous shopping goods stores	1 842

A 0-10 B 20-99 C 100-249 D 250-499 E 500-999 F 1000-2499 G 2500-4999 H 5000-9999 I 10 000-24 999 J 25 000-49 999 K 50 000-99 999 L 100 000 or more

Sporting goods and bicycle shops	188
Book stores	348
Stationery stores	88
Jewelry stores	375
Hobby, toy, and game shops	106
Camera & photographic supply stores	146
Gift, novelty, and souvenir shops	233
Luggage and leather goods stores	88
Sewing, needlework, and piece goods	96
Nonstore retailers	573
Mail order houses	88
Merchandising machine operators	144
Direct selling organizations	341
Fuel and ice dealers	481
Fuel oil dealers	481
Retail stores, nec	1 222
Florists	460
Cigar stores and stands	88
News dealers and newsstands	188
Miscellaneous retail stores, nec	567
Administrative and auxiliary	5 855
Finance insurance and real estate	35 891
Banking	5 386
Commercial and stock savings banks	(D)
Credit agencies other than banks	4 120
Savings and loan associations	1 517
Personal credit institutions	957
Business credit institutions	(F)
Mortgage bankers and brokers	995
Security, commodity brokers & services	1 335
Security brokers and dealers	1 231
Security and commodity services	(D)
Insurance carriers	7 007
Life insurance	2 366
Medical service and health insurance	2 463
Accident and health insurance	118
Hospital and medical service plans	2 336
Fire, marine, and casualty insurance	743
Surety insurance	88
Title insurance	294
Pension, health, and welfare funds	1 030
Insurance agents, brokers & service	1 030
Real estate	13 000
Real estate operators and lessors	8 700
Real estate agents and managers	4 010
Title abstract offices	91
Subdividers and developers	729
Subdividers and developers, nec	468
Cemetery subdividers and developers	156
Combined real estate, insurance, etc	140
Holding and other investment offices	864
Holding offices	120
Investment offices	88
Trusts	507
Educational, religious, etc. trusts	488
Trusts, nec	170
Miscellaneous investing	78
Investors, nec	(D)
Administrative and auxiliary	672
Services	151 044
Rooming and other lodging places	9 348
Hotels, motels, and tourist courts	78
Rooming and boarding houses	488
Personal services	4 067
Laundry, cleaning, & garment services	2 634
Power laundries, family & commercial	894
Garment pressing & cleaners' agents	1 488
Linen supply	288
Diaper service	(D)
Coin-operated laundries and cleaning	88
Dry cleaning plants, except rug	988
Laundry and garment services, nec	170
Photographic studios, portrait	88
Beauty shops	1 178
Barber shops	138
Funeral service and crematories	270
Miscellaneous personal services	288
Business services	36 881
Advertising	888
Advertising agencies	512
Radio, tv, publisher representatives	(C)
Credit reporting and collection	348
Mailing, reproduction, stenographic	1 838
Direct mail advertising services	(D)
Blueprinting and photocopying	79
Commercial photography and art	438
Stenographic and reproduction, nec	814
Services to buildings	9 881
Window cleaning	(D)
Disinfecting and exterminating	(C)
Building maintenance services, nec	8 888
News syndicates	429
Personnel supply services	2 868
Employment agencies	(D)
Temporary help supply services	1 798
Personnel supply services, nec	(C)
Computer and data processing services	1 748
Computer programming and software	738
Data processing services	(F)
Computer related services, nec	178
Miscellaneous business services	9 834
Research & development laboratories	611
Management and public relations	5 783
Detective and protective services	1 738
Equipment rental and leasing	338
Photofinishing laboratories	(C)
Business services, nec	1 883
Auto repair, services, and garages	3 886
Automotive rentals, without drivers	(D)
Passenger car rental and leasing	(C)
Truck rental and leasing	(C)
Automobile parking	1 384
Parking lots	626
Parking structures	758
Automotive repair shops	722
Top and body repair shops	184
General automotive repair shops	330
Automotive repair shops, nec	207
Automotive services, except repair	311
Car washes	247
Automotive services, nec	64
Miscellaneous repair services	788
Electrical repair shops	(D)
Radio and television repair	248
Electrical repair shops, nec	88
Watch, clock, and jewelry repair	98
Reupholstery and furniture repair	88
Miscellaneous repair shops	278
Repair services, nec	(C)
Motion pictures	1 488
Motion picture production & services	(D)
Motion picture production, except tv	(D)
Services allied to motion pictures	888
Motion picture distribution and services	114
Motion picture film exchanges	88
Motion picture theaters	888
Motion picture theaters, ex drive-in	(F)
Amusement & recreation services	2 888
Producers, orchestras, entertainers	883
Theatrical producers and services	373
Entertainers & entertainment groups	438
Commercial sports	(C)
Sports clubs and promoters	(D)
Racing, including track operation	88
Misc. amusement, recreational services	1 483
Membership sports & recreation clubs	388
Amusement and recreation, nec	884
Health services	21 576
Offices of physicians	2 011
Offices of dentists	918
Offices of other health practitioners	141
Offices of optometrists	(F)
Offices of health practitioners, nec	53
Nursing and personal care facilities	728
Hospitals	15 371
Medical and dental laboratories	347
Medical laboratories	262
Dental laboratories	85
Outpatient care facilities	(D)
Health and allied services, nec	888
Legal services	6 974
Educational services	22 148
Elementary and secondary schools	2 357
Colleges and universities	17 847
Libraries and information centers	301
Correspondence and vocational schools	626
Correspondence schools	(F)
Schools & educational services, nec	1 083
Social services	9 774
Social services nec	9 111
Residential care	663
Museums, botanical, zoological gardens	1 007
Museums and art galleries	(F)
Membership organizations	31 821
Business associations	8 110
Professional organizations	3 109
Labor organizations	8 450
Civic and social associations	8 826
Political organizations	1 873
Religious organizations	3 626
Membership organizations, nec	4 844
Miscellaneous services	8 343
Engineering & architectural services	3 379
Noncommercial research organizations	3 442
Accounting, auditing & bookkeeping	2 316
Services, nec	103
Administrative and auxiliary	1 888
Nonclassifiable establishments	946

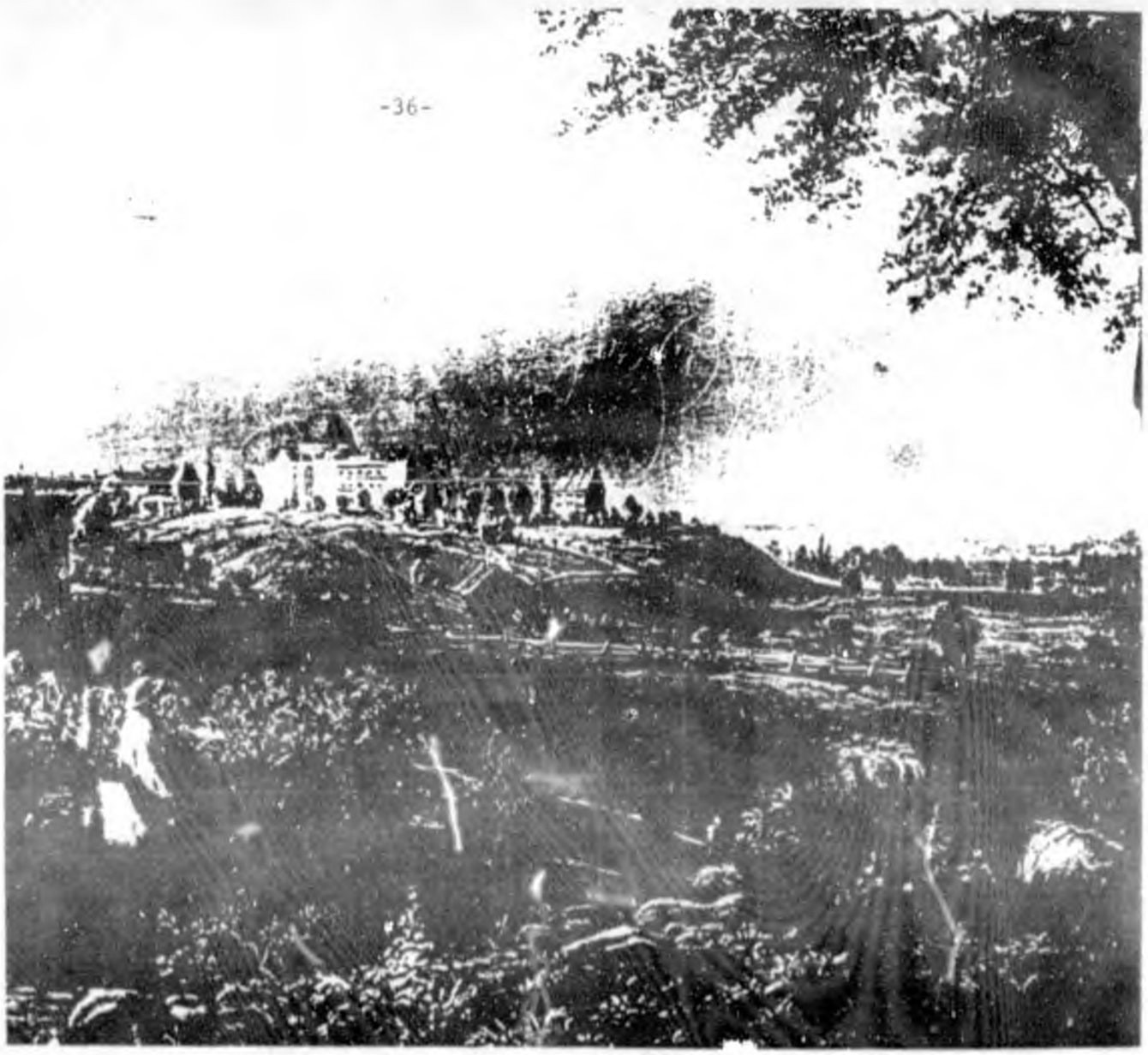
SOURCE: "County Business Patterns 1974," Bureau of the Census, Department of Commerce.



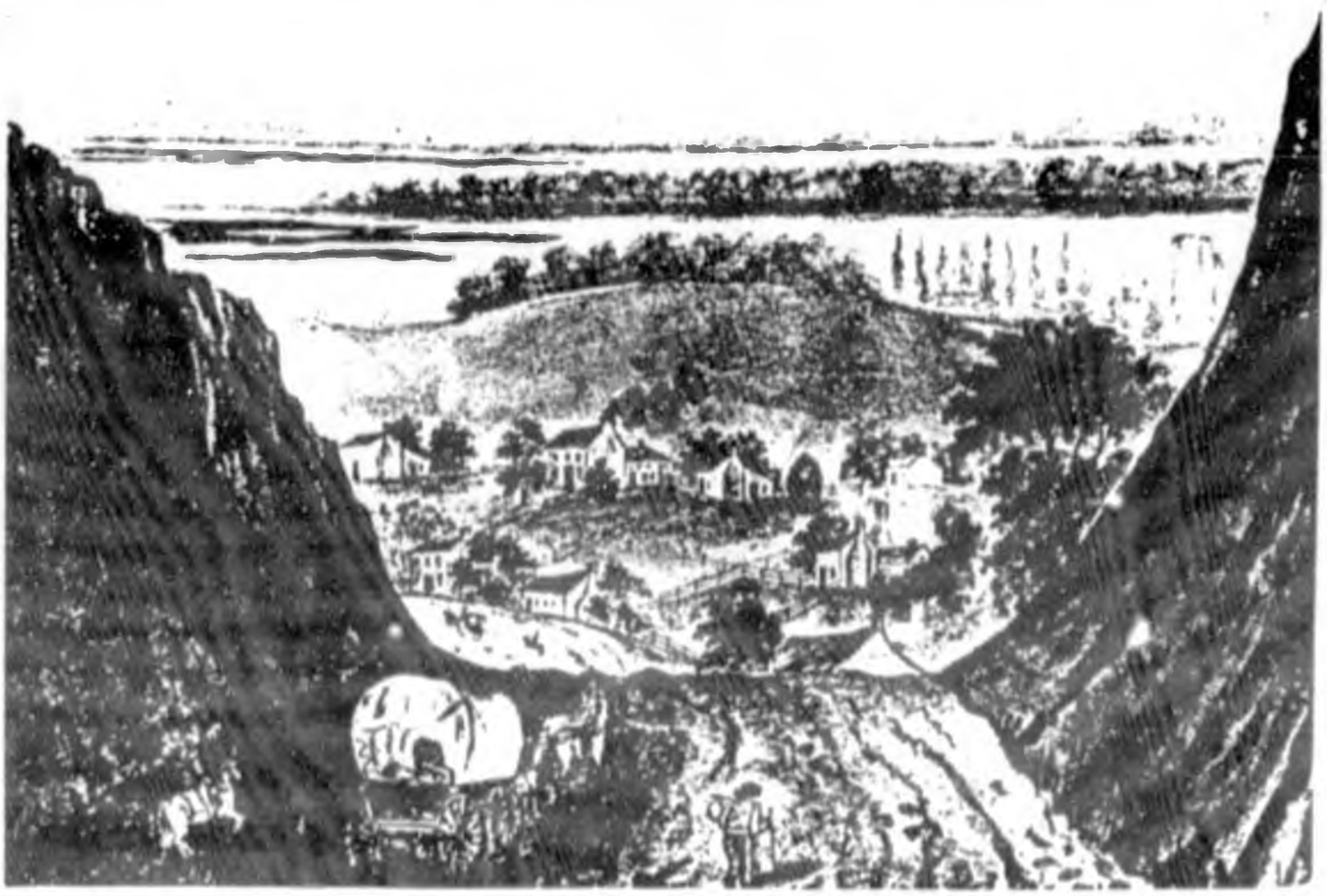
THE DISTRICT OF COLUMBIA IN 1791

A SPARSELY POPULATED WILDERNESS

(less than 10,000 people)



View of the Capitol (1884)



View of Wisconsin Avenue (c. 1790-1814)

United States Senate

WASHINGTON, D.C. 20510

March 2, 1978

Dear Colleague:

This morning, by an impressive two-thirds vote, the House of Representatives approved a constitutional amendment (H. J. Res. 554) to provide full voting representation for the District of Columbia in both the House and the Senate. As supporters or cosponsors of the companion Senate measure, we are writing to urge your support for the amendment and for an end to the long-standing and unjust second class status of District citizens in our government.

One of the most honored principles of our democracy is the concept of "one person, one vote." In the District of Columbia, however, that principle has no application. Instead, for District citizens, the rule is "700,000 persons, no votes." For too long, the District of Columbia has been called "America's Last Colony."

Now, for the first time in many years, we have the chance to change all that. The House of Representatives has voted to end the injustice by which citizens of the District are denied their proper representation in Congress, and we believe the Senate should act as well.

During extensive hearings by the House Judiciary Subcommittee on Civil and Constitutional Rights, leading Constitutional scholars strongly endorsed full voting representation for the District, including representation in the Senate as well as in the House. Among those testifying in support of H.J. Res. 554, for example, was Professor Charles Alan Wright of the University of Texas School of law, who testified:

> It seems to me that the clear purpose of /the "Equal Suffrage Clause" of the Constitution; Article V*/7 was to insure that the Great Compromise would not be undone and that representation in the Senate would not be put on the basis of population. That purpose is not compromised by allowing the District to have two Senators any more than it is when a new state is admitted.

*/ "... no State, without its Consent, shall be deprived of its equal Suffrage in the Senate."

For your interest, we are attaching a staff briefing paper prepared in the House in support of H.J. Res. 554. It deals with all of the major issues and makes a solid case for approval of the Resolution.

We urge your support for this fundamental principle of justice for the citizens of the nation's capital, and we look forward to favorable Senate action on this Resolution.

Sincerely,

Birch Bayh (D-Ind.)

Edward M. Kennedy (D-Mass.)

Paul S. Sarbanes (D-Md.)

Patrick J. Leahy (D-Vt.)

Alan Cranston (D-Calif.)

Thomas F. Eagleton (D-Mo.)

Henry M. Jackson (D-Wash.)

Daniel K. Inouye (D-Haw.)

Abe Ribicoff (D-Conn.)

Ernest F. Hollings (D-S.C.)

Daniel Patrick Moynihan (D-N.Y.)

Charles McC. Mathias (R-Md.)

Edward W. Brooke (R-Mass.)

Lowell P. Weicker (Jr.) (R-Conn.)

Jacob K. Javits (R-N.Y.)

Robert T. Stafford (R-Vt.)

John C. Danforth (R-Mo.)

H. John Heinz, III (R-Penna.)

Barry Goldwater (R-Ariz.)

Clifford P. Case (R-N.J.)

May 23, 1978

Dear Senator:

Full voting representation in Congress for the District of Columbia as embodied in House Joint Resolution 554 is a legislative matter which is a top priority for all of us. We urge you to support the measure when it comes to a vote in the Senate.

As you know, the House of Representatives on March 2nd, passed H.J. Res. 534 by a two-thirds vote, 289-127. This historic vote marked the first truly significant step forward in an effort which began in December, 1908. Since that beginning there have been more than 150 joint resolutions introduced to provide some form of voting representation to the citizens of Washington, D.C. Hearings totaling about 25 have been held in Senate and House Committees throughout the years. The Senate now, however, has a chance to bring this issue to final resolution.

A two-thirds vote in the Senate will send this measure on to the states for a final decision. We believe the state legislatures should have the opportunity to vote on H.J. Res. 554. The arguments in favor of this fundamental principle need not be repeated here. We ask only that you voice your support now and vote for H.J. Res. 554 when it comes to the Senate floor. Thank you.

Sincerely,

Walter E. Washington, Mayor
District of Columbia

Sterling Tucker, Chairman
District of Columbia City Council

William E. Brock, Chairman
Republican National Committee

John White, Chairman
Democratic National Committee

Paul Hays, Chairman
D.C. Republican Committee

Robert Washington, Chairman
D.C. Democratic State Committee

John Hechinger
D.C. Democratic National Committeeman

Jerry A. Moore
Republican Member
District of Columbia Council

Robert Linowes, President
Metropolitan Washington Board of Trade

Sol M. Linowitz, President
Federal City Council

Ellyn Swanson, President
D.C. League of Women Voters

Larry C. Williams, Sr., President
D.C. Chamber of Commerce

John P. Arness, President
Bar Association of the District of Columbia

Melvin J. Washington, President
Washington Bar Association

Samuel Jackson, Member
D.C. Republican Party

Sharon Dixon
D.C. Democratic National Committeewoman

Everett Scott, President
D.C. Federation of Civic Association

Chuck Clinton, Chairman
WACC (Wisconsin Avenue Corridor Committee)

GROWTH OF AMERICAN DEMOCRACY

THROUGH AMENDMENTS TO THE CONSTITUTION

SIX OF THE PAST TWELVE AMENDMENTS TO
THE UNITED STATES CONSTITUTION HAVE
INVOLVED THE RIGHT TO VOTE:

AMENDMENT XV (RATIFIED FEBRUARY 3, 1870):

"The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude...."

AMENDMENT XVII (RATIFIED APRIL 8, 1913):

"The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof ...."

AMENDMENT XIX (RATIFIED APRIL 18, 1920):

"The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex ...."

AMENDMENT XXIII (RATIFIED MARCH 29, 1961):

"The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct:

"A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State ...."

AMENDMENT XXIV (RATIFIED JANUARY 23, 1964):

"The right of citizens of the United States to vote in any /Federal election/ shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax."

AMENDMENT XXVI (RATIFIED JULY 1, 1971):

"The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States, or by any State on account of age ...."

H.J. RES. 554 (NOW BEFORE THE SENATE):

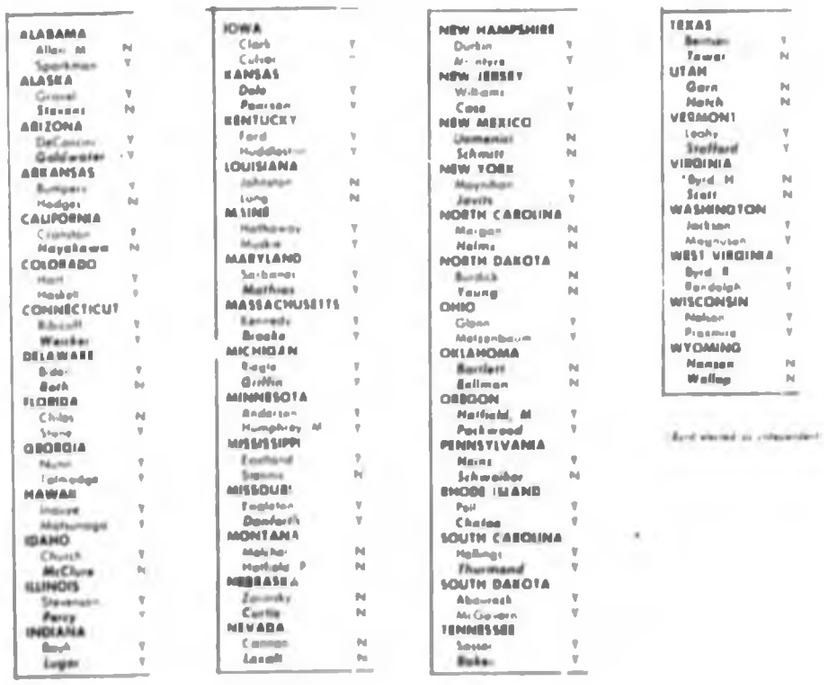
"For purposes of representation in the Congress, election of the President and Vice President, and Article V of this Constitution, the District constituting the seat of government of the United States shall be treated as though it were a State ...."

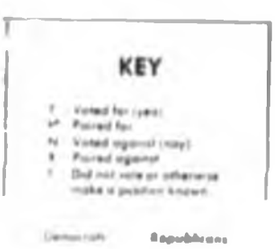
VOTE IN THE UNITED STATES SENATE

D.C. VOTING RIGHTS AMENDMENT

APPROVED, 67-32

AUGUST 22, 1978





VOTE IN THE UNITED STATES HOUSE OF REPRESENTATIVES

D.C. VOTING RIGHTS AMENDMENT

APPROVED, 289-127

MARCH 2, 1978

ALABAMA
1 Edwards Y
2 Dickinson N
3 Nichols N
4 Bevill Y
5 Flippo N
6 Buchanan Y
7 Flowers Y

ALASKA
At Young N

ARIZONA
1 Rhodes N
2 Udall Y
3 Stump N
4 Rudd N

ARKANSAS
1 Alexander N
2 Tucker N
3 Hammerschmidt Y
4 Thornton Y

CALIFORNIA
1 Johnson Y
2 Clausen Y
3 Moss Y
4 Leggett Y
5 Burton J Y
6 Burton P Y
7 Miller Y
8 Dellums Y
9 Stark Y
10 Edwards Y
11 Ryan N
12 McCloskey Y
13 Mineta Y
14 McFall N
15 Sisk N
16 Panetta Y
17 Krebs Y
18 Ketchum N
19 Lagomarsino N
20 Goldwater N
21 Corman Y
22 Moorhead N
23 Rees Y
24 Wiseman Y
25 Roybal Y
26 Rousselot N
27 Dornan Y
28 Burke Y
29 Hawkins Y
30 Danielson Y
31 Wilson C H Y
32 Anderson N
33 Clawson N
34 Hannaford Y
35 Lloyd Y
36 Brown Y
37 Pettis N
38 Patterson Y
39 Wiggins N
40 Badham N
41 Wilson A Y
42 Van Deerlin Y
43 Burgener N

COLORADO
1 Schroeder Y
2 Wirth Y
3 Evans Y
4 Johnson N

3 Armstrong N

CONNECTICUT
1 Cotter Y
2 Dodd Y
3 Giaimo Y
4 McKinney Y
5 Sarasin Y
6 Moffett Y

DELAWARE
At Evans Y

FLORIDA
1 Sikes N
2 Fuqua Y
3 Bennett Y
4 Chappell Y
5 Kelly N
6 Young N
7 Gibbons N
8 Ireland Y
9 Frey N
10 Bafalis N
11 Rogers Y
12 Burke N
13 Lehman Y
14 Pepper Y
15 Fascell Y

GEORGIA
1 Ginn Y
2 Mathis Y
3 Brinkley Y
4 Levitas Y
5 Fowler Y
6 Flynt Y
7 McDonald N
8 Evans Y
9 Jenkins N
10 Barnard Y

HAWAII
1 Heftel Y
2 Akaka Y

IDAHO
1 Symms N
2 Hansen G N

ILLINOIS
1 Metcalfe Y
2 Murphy Y
3 Russo N
4 Derwinski N
5 Yates Y
6 Hyde N
7 Collins Y
8 Rostenkowski Y
9 Yates Y
10 Mikva Y
11 Annunzio Y
12 Crane N
13 McClory Y
14 Erlenborn Y
15 Corcoran Y
16 Anderson Y
17 O Brien Y
18 Michel N
19 Railsback Y
20 Findley Y
21 Madigan Y
22 Shipley N
23 Price Y
24 Simon Y

INDIANA
1 Benjamin Y
2 Fithian Y
3 Brademas Y
4 Quayle Y
5 Hillis Y
6 Evans Y
7 Myers J Y
8 Cornwell Y
9 Hamilton Y
10 Sharp Y
11 Jacobs Y

IOWA
1 Leach Y
2 Blouin Y
3 Grassley N
4 Smith Y
5 Harkin Y
6 Bedell Y

KANSAS
1 Sebelius N
2 Keys Y
3 Winn Y
4 Glickman Y
5 Skubitz N

KENTUCKY
1 Hubbard Y
2 Natcher Y
3 Mazzoli Y
4 Snyder N
5 Carter Y
6 Breckinridge Y
7 Perkins Y

LOUISIANA
1 Livingston N
2 Boggs Y
3 Treen N
4 Waggonner N
5 Huckaby Y
6 Moore N
7 Breaux N
8 Long Y

MAINE
1 Emery Y
2 Cohen Y

MARYLAND
1 Bauman N
2 Long N
3 Mitchell Y
4 Holt N
5 Spellman Y
6 Byron Y
7 Mitchell Y
8 Sarbanes Y

MASSACHUSETTS
1 Conte Y
2 Boland Y
3 Early Y
4 Drinan Y
5 Tsongas Y
6 Harrington Y
7 Markey Y
8 O'Neill Y
9 Moakley Y
10 Herlihy Y
11 Burke Y
12 Studds Y

MICHIGAN
1 Conyers Y
2 Pursell Y
3 Brown N
4 Stockman Y
5 Sawyer Y
6 Carr Y
7 Riegle Y
8 Traxler Y
9 Vander Jagt N
10 Cederberg N
11 Bonior N
12 Esch Y
13 Diggs Y
14 Nedzi Y
15 Ford N
16 Dingell N
17 Broomfield Y
18 Blanchard Y

MINNESOTA
1 Quie Y
2 Hagedorn N
3 Frenzel Y
4 Vento Y
5 Fraser Y
6 Nolan Y
7 Stangeland N
8 Oberstar Y

MISSISSIPPI
1 Whitten N
2 Bowen N
3 Montgomery N
4 Cochran N
5 Lott N

MISSOURI
1 Clay Y
2 Young N
3 Gephardt Y
4 Shelton Y
5 Bolling Y
6 Coleman Y
7 Taylor N
8 Ichord N
9 Volkmer Y
10 Burlison Y

MONTANA
1 Baucus Y
2 Marlenee Y

NEBRASKA
1 Thone Y
2 Cavanaugh Y
3 Smith N

NEVADA
At Santini N

NEW HAMPSHIRE
1 D Amours Y
2 Cleveland N

NEW JERSEY
1 Florio Y
2 Hughes Y
3 Howard Y
4 Thompson Y
5 Fenwick N
6 Forsythe Y
7 Maguire Y
8 Roe Y
9 Hollenbeck Y
10 Rodino Y
11 Minish Y
12 Rinaldo Y
13 Meyner Y
14 Lafalce Y
15 Patten Y

NEW MEXICO
1 Lujan N
2 Runnels N

NEW YORK
1 Pike N
2 Downey Y
3 Ambro N
4 Lent Y
5 Wydler N
6 Wolff Y
7 Addabbo Y
8 Rosenthal Y
9 Delaney Y
10 Biaggi Y
11 Scheuer Y
12 Chisholm Y
13 Solarz Y
14 Richmond Y
15 Zeferetti Y
16 Holtzman Y
17 Murphy Y
18 Green Y
19 Rangel Y
20 Weiss Y
21 Garcia Y
22 Bingham Y
23 Caputo Y
24 Ottinger Y
25 Fish Y
26 Gilman Y
27 McHugh Y
28 Stratton N
29 Pattison Y
30 McEwen Y
31 Mitchell Y
32 Hanley Y
33 Walsh Y
34 Horton Y
35 Conable Y
36 LaFalce Y
37 Nowak Y
38 Kemp Y
39 Lundine Y

NORTH CAROLINA
1 Jones Y
2 Fountain Y
3 Whitley Y
4 Andrews Y
5 Neal Y
6 Preyer Y
7 Rose Y
8 Hefner Y
9 Martin N
10 Broyhill Y
11 Gudger Y

NORTH DAKOTA
At Andrews N

OHIO
1 Gradison Y
2 Luken Y
3 Whalen Y
4 Guyer Y
5 Latta N
6 Harsha N
7 Brown Y
8 Kindness N
9 Ashley N
10 Miller N
11 Stanton Y
12 Devine N
13 Pease Y
14 Seiberling Y
15 Wylie Y
16 Regula Y
17 Ashbrook N
18 Applegate Y
19 Carney Y
20 Oakar Y
21 Stokes Y
22 Vacancy Y
23 Mahl Y

OKLAHOMA
1 Jones Y
2 Risenhoover Y
3 Watkins N
4 Steed N
5 Edwards N
6 English N

OREGON
1 AuCoin Y
2 Ullman Y
3 Duncan Y
4 Weaver Y

PENNSYLVANIA
1 Myers M Y
2 Nix Y
3 Lederer Y
4 Eilberg Y
5 Schulze N
6 Yatron Y
7 Edgar Y
8 Borthwick Y
9 Shuster N
10 McDade Y
11 Flood Y
12 Murtha Y
13 Coughlin Y
14 Moorhead Y
15 Rooney Y
16 Walker N
17 Ertel Y
18 Walgren Y
19 Gaydos Y
20 Goodling W Y
21 Coyne Y
22 Murphy Y
23 Ammerman Y
24 Marks Y
25 Myers G N

RHODE ISLAND
1 St Germain Y
2 Beard Y

SOUTH CAROLINA
1 Davis Y
2 Spence N
3 Derrick Y
4 Mann Y
5 Holland Y
6 Jenrette Y

SOUTH DAKOTA
1 Pressler N
2 Abdnor N

TENNESSEE
1 Quillen N
2 Duncan N
3 Lloyd Y
4 Cooper Y
5 Allen Y
6 Beard N
7 Jones Y
8 Ford Y

TEXAS
1 Hall Y
2 Wilson C N
3 Collins N
4 Roberts N
5 Mattox Y
6 Teague N
7 Archer N
8 Fithian Y
9 Brooks N
10 Pickle Y
11 Poage N
12 Wright Y
13 Hightower N
14 Young N
15 de la Garza N
16 White N
17 Burleson N
18 Jordan Y
19 Mahon Y
20 Gonzalez Y
21 Krueger Y
22 Gammage Y
23 Kazen N
24 Milford N

UTAH
1 McKay N
2 Marriott N

VERMONT
At Jeffords N

VIRGINIA
1 Trible Y
2 Whitehurst N
3 Satterfield N
4 Daniel N
5 Daniel N
6 Butler N
7 Robinson N
8 Harris Y
9 Wampler N
10 Fisher Y

WASHINGTON
1 Pritchard Y
2 Meeds Y
3 Bonker Y
4 McCormack N
5 Foley Y
6 Dicks Y
7 Cunningham N

WEST VIRGINIA
1 Mollohan N
2 Staggers Y
3 Slack Y
4 Rahall Y

WISCONSIN
1 Aspin Y
2 Kastenmeier Y
3 Baldus Y
4 Zablocki Y
5 Reuss Y
6 Steiger Y
7 Obey Y
8 Cornell Y
9 Kasten Y

WYOMING
At Roncalio Y

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM December 4, 1978

SUBJECT: Work Order #5890: Requesting a House Joint Resolution Ratifying the Amendment to the U.S. Constitution Granting District of Columbia Residents Congressional Representatation and Voting Rights.

TO: Representative Mike Miller

FROM: John B. Chenoweth
Legislative Counsel

This is to advise you that another member of the House of Representatives had earlier requested an identical resolution and has already approved its prefile.

JBC:jdm

Congressional Digest

October, 1978

Controversy Over Giving The District Of Columbia House & Senate Seats In The U.S. Congress

Pro & Con

Washington, D.C.

The Congressional Digest

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Volume 57 Number 10

Contents

Recent Major Action in the Congress:

Note: This section will be resumed in next month's issue

This Month's Feature:

Controversy Over Giving The District Of Columbia House & Senate Seats In The U.S. Congress

The Foreword 225
Political Evolution of the Seat of Federal Government 226
Constitutional Provisions Involved in the Debate 229
Action in the 95th Congress on the Proposed Amendment 230
The States and Ratification Action 231

Pros & Cons

Should the U.S. Constitution Be Amended to Provide House & Senate Seats for the District of Columbia?

PROS—

U.S. Senator Strom Thurmond 232
U.S. Senator Edward M. Kennedy 236
U.S. Senator Edward W. Brooke 244
U.S. Rep. John Buchanan 250
U.S. Rep. Parren J. Mitchell 252

CONS—

U.S. Senator Dewey F. Bartlett 233
U.S. Senator Jesse Helms 241
U.S. Senator Orrin G. Hatch 245
U.S. Rep. Charles E. Wiggins 251
U.S. Rep. Carlos J. Moorhead 255

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Controversy Over House & Senate Seats For The District of Columbia

He Who Decides a Case Without Hearing the Other Side . . . Tho' He Decide Justly, Cannot Be Considered Just—SENECA

FOREWORD=

ON AUGUST 22, 1978, the Senate approved a joint resolution earlier adopted by the House, and sent to the States for consideration by their legislatures a proposed Constitutional amendment that would grant voting representation in Congress for the first time to the District of Columbia. The proposal would provide that the District could elect two U.S. Senators and the number of Representatives that its population would warrant if it were a State. It would provide also that the District be treated as a State for purposes of ratifying future Constitutional amendments and in the Electoral College.

To date, the amendment has been taken up by the California legislature, which declined to bypass its normal procedures to consider it on a priority basis; by the Delaware legislature, where a similar position was taken; and by the legislature of New Jersey which, following accelerated procedures in a special session, passed the proposed amendment on September 11 by substantial margins, thus becoming the first State to ratify. Efforts are expected in the near future in the legislatures of Michigan and Pennsylvania, and before the end of 1978 in several other States.

The main thrust of efforts to secure ratification, however, is expected to be mounted by the amendment's backers during 1979, in which year every State legislature but one will meet (see page 231). Approval by 38 States is required within seven years if the proposal is to become a part of the Constitution.

Present accelerated efforts to secure early ratification by a few States before the end of 1978 are seen likely to give way to a slower pace as the amendment is considered in legislative committee in a number of the 49 States whose legislatures will be in session in 1979. It is expected that State legislators will bring to the debate in their respective houses many of the arguments which have characterized debate over the question in recent years at the Federal level.

Essentially, proponents argue that the approximately 700,000 residents of the District suffer "taxation without representation," that they are subject to many Federal laws and actions affecting their lives without having a voice in the making of such laws, and that they are denied other prerogatives of the franchise which are accorded the residents of the 50 States.

Opposition to the amendment, ranging over a wide variety of arguments, points out that the existence of House and Senate committee and subcommittee structure concerned solely with District of Columbia affairs provides the District with what is, if anything, overrepresentation. Most severely criticized is the proposed amendment's treatment of the District "as if it were a State," and the unclear and contradictory political status which it is claimed would result from such language. Opponents point out that residents of U. S. territories do not possess the franchise, although possessing more of the attributes of statehood than the District, and that, accordingly, the District is not unique in that respect.

Still further opposition argues that the District, with a population consisting largely of Federal employees, with private employment in the main largely tied economically to the Federal Government, and with a racial balance and urban character greatly atypical of the Nation as a whole or of any State, lacks any of the varied economic or social characteristics which would warrant treatment "as if it were a State." Such arguments stress that the reasons originally underlying the creation of a neutral Federal district remain valid today and should not be changed.

As these, and other relevant arguments both for and against the amendment, receive consideration in the States, the complexity of the subject and its implications for the republican forms and Constitutional traditions of almost two centuries are expected to receive major public attention as the proposal works its way through the process which will lead either to ultimate ratification or rejection by the States.

Political Evolution Of The Seat Of Federal Government

Political evolution of the District of Columbia from the Constitutional Convention in 1787 to its present "home rule" status under authority of an Act of Congress signed in December 1973, is described in part as follows in an April 1975 study prepared by the Congressional Research Service of the U.S. Library of Congress: "The Political Evolution of the District of Columbia: Current Status and Proposed Alternatives."

"THERE IS EVIDENCE that the Founding Fathers, during the Constitutional Convention of 1787, moved to create a site in which to locate the national capital, completely removed from the control of any State, because of an incident which occurred in 1783. James Madison and other delegates to the Convention were apparently convinced that a capital city under the exclusive jurisdiction of Congress was necessary and desirable because of certain humiliations and potential physical danger endured by the Continental Congress on June 21, 1783. Madison and numerous other Convention delegates were members of the Continental Congress and present on that day in 1783 when 80 to 250 (accounts vary on the number) mutinous Revolutionary Army troops not yet deactivated, marched on and surrounded Independence Hall in Philadelphia where the Continental Congress was in session. These troops, disobeying orders of their officers, had come to Philadelphia to petition the Congress for many months of pay due them. The troops were armed, intoxicated, leaderless, and threatening to the assembled members of Congress who had barred the doors and shutters of the legislative chamber. Congress requested police or militia protection from the Pennsylvania authorities, but such protection was denied. The troops dispersed by evening and the Congress voted to move immediately to Princeton, New Jersey where local authorities promised protection.

"While the Constitutional Convention of 1787 provided for the establishment of a separate, federally controlled seat for the national government, the perceived or presumed political rights of the residents of this to-be-established city are not mentioned in the recorded debates of the Convention of 1787 or the recorded debates of the conventions called by the States to ratify the Constitution.

[The text of the Constitutional provision involved, Article I, section 8, clause 17, is given in the article beginning on page 229.]

Evolution of Local Government to 1871

"At the time the Constitution was drafted in 1787, the location of the District had not been determined. Within the next two years, however, the States of Maryland and Virginia, in 1788 and 1789 respectively, ceded sections of their own lands on either side of the Potomac River at the head of navigation.

"By an act of July 16, 1790, Congress accepted the newly acquired territory 'for the permanent seat of the government of the United States . . .' This law further authorized commissioners appointed by the President to survey and define precisely the boundaries of the District and to provide suitable building for the housing of the National Government by the year 1800.

"In June of 1800 President John Adams took up residence in Georgetown (The White House, under construction, was not ready for occupancy until later in the year). At about the same time, Government personnel and records were moved from Philadelphia to the District, and in November Congress met for the first time in the Capitol, the north wing being the only part then completed.

"The first legislation dealing with the governing of the District of Columbia was enacted on February 27, 1801. This law and another passed a few days later designated the District territory on the Virginia side of the Potomac as the County of Alexandria and that on the Maryland side as the County of Washington.

"These laws did not provide for anything even approaching a complete form of local government, but they did establish a circuit court and call for the appointment of judicial and law enforcement officers and certain other public officials. The February act provided that the State laws already in effect in the ceded areas should continue to prevail.

"The first real government for the new city was

created by the act of May 3, 1802. This government applied only to the city of Washington, and it should be made clear that other units of government were functioning in the District of Columbia at this time. For example, Georgetown and Alexandria continued to operate as independent cities with their own charters; and there were also Counties of Washington and Alexandria.

"Under the terms of incorporation as set forth in the 1802 statute, Washington was governed by a City Council and a Mayor. The Council consisted of twelve members elected by the eligible voters. The twelve councilmen then chose from their own ranks five persons to serve in the second chamber while the remaining seven made up the first chamber. The Mayor was appointed on an annual basis by the President.

"Fundamental changes were effected in the city government by an act of May 4, 1812. An eight-member Board of Aldermen, elected for two years, and a Board of Common Council, consisting of twelve members elected for one year, replaced the original two-chamber council. The President no longer appointed the Mayor, who was, instead, elected annually by a majority vote of the Aldermen and Council Members.

"The next significant change in the governing of Washington was made by the law of May 15, 1820. Under its terms the Mayor was elected directly for a two-year term by the vote of the people, who continued to elect the Board of Aldermen and members of the Common Council.

"This basic form of government remained in effect without important change for more than half a century, until the great shake-up in the 1870's. The intervening years, however, were not wholly uneventful in the political history of the District of Columbia. For example, when the Whigs elected a Mayor in 1840, it touched off a political quarrel with the Democratic Congress that placed the city charter in jeopardy. The corporate privileges of District banks actually were suspended.

"There were sounds of dissension, too, in the 1840's in Georgetown and in the Virginia areas of the District. These jurisdictions were annoyed by their inability to get funds from Congress for improvements and by the suspension of the bank charters. Georgetown sought to be re-ceded to Maryland, but the State legislature was not interested in taking on further financial burdens.

"In Virginia the outcome was different. The Federal Government had never used any of the land across the Potomac which Virginia had ceded to the District. The people in this area felt that Congress had never modernized the laws governing them and that they were at a political disadvantage in being disfranchised except for local elections.

"In 1846 they sought retrocession of this area to Virginia. Petitions to this effect were sent to Congress and to the State Legislature. Approval was given in Richmond even before Congress acted. On July 9 Congress agreed to retrocession subject to a vote of approval by citizens in the affected area. This vote was strongly in favor of the contemplated action, and the retrocession was made effective on September 7 by Presidential proclamation.

"With this action the geographical area of the District was reduced from its original one hundred square miles to the sixty-nine square miles (approximately) which it today occupies.

Congress & the District in the 1870's

"The 1870's witnessed the abolition by Congress of locally elected government (home rule) in the District of Columbia. Congress would not again charter an elected government in the District of Columbia until 1973. The question is often asked: Why did Congress revoke home rule in the 1870's? The answer to this query involves several factors, according to historians of the period, such as the rapid population growth of the city after the Civil War, the desire to transform Washington into a city of the beauty and attractiveness befitting the Nation's Capital, a serious, genuine, and immediate need for greatly improved and expanded public works and services, racial problems, political differences, and personality conflicts and disagreements.

"When the charter of the City of Washington was up for renewal by Congress in 1868, it was extended for two one-year periods. The charter had been extended for twenty-year periods by Congress prior to the 1860's. And, beginning in 1866, bills were introduced providing for the complete abolition of elected municipal government in the District of Columbia. In 1870, Senator Hannibal Hamlin, Republican of Maine and then chairman of the District Committee, introduced a bill providing for the abolition of the locally elected governments in Washington and Georgetown and the establishment of a "Territorial Government" comprised of a two-chamber legislative body, one elected and one appointed, and an appointed governor. The bill became law on February 21, 1871. The act also provided for a nonvoting delegate to the House of Representatives from the District of Columbia.

"In 1870 there were three congressionally chartered governments in the District of Columbia—the cities of Washington and Georgetown and the County of Washington. Congress, however, had some years before initiating a legislative process of ending the autonomy of these local governments. This process, essentially one

of municipal service consolidation, began in 1861 with the creation of the Metropolitan Police Department for the entire District of Columbia.

"This new government also contained a five-member, appointed Board of Public Works for the purpose of expediting the call of President U.S. Grant 'to lift the Nation's Capital out of the mud.' The Board, under the direction of Alexander Shepherd, launched ambitious water, sewer, street paving, and park improvement programs. The heavy costs of these improvements resulted in substantially increasing the indebtedness of the local government. Steeply higher property assessments and real estate taxes resulted. Many taxpayers and Members of Congress began to question the authority and wisdom of the Board of Public Works.

"In January, 1872, the Committee on the District of Columbia of the House of Representatives, in response to various petitions from residents of the District of Columbia charging the Board of Public Works and municipal officials with malfeasance, began extensive hearings and investigations into the operations of the recently established government of the District of Columbia. The Committee issued a report to both the House and Senate on May 13, 1872.

"District taxpayers continued to petition Congress in protest of the higher property assessments and taxes being raised in the District of Columbia to finance the projects of the Board of Public Works and attendant municipal indebtedness. Responding to these petitions, Congress in February, 1874, created the Joint Select Committee to Inquire into the Affairs of the Government of the District of Columbia. The Committee was composed of two Senators and five House Members, none of whom were members of the Senate or House District of Columbia Committees. The Committee on June 16, 1874, issued a report and a journal of investigative proceedings running to over three thousand printed pages.

"Congress acted with dispatch in implementing the recommendations of its Joint Select Committee. First, Congress abolished, by an act of June 20, 1874, the partly elected territorial District of Columbia Government established in 1871 and created in its place an interim government of three presidentially appointed commissioners with final approval of the District budget being specifically reserved to Congress.

"Secondly, on August 14, 1876, by resolution, Congress created the Joint Select Committee to Frame a Government for the District of Columbia. It was the 45th Congress in 1878 that established a permanent form of government for the District of Columbia. Congress modified and made permanent the temporary commission form of government established in 1874. This action marked the beginning of a 100-year period of presidentially appointed local government in the District of Columbia. In many cases these appointees were not residents of the District of Columbia but rather political operatives of the President.

Commission Government: 1878—1967

"In the 45th Congress the District of Columbia Committee in the House reported a bill providing for a permanent government for the District of Columbia. As passed by the House on May 7, 1878, this bill provided for a municipal government of three commissioners, one to be appointed by the President, and one each elected by the Senate and House, and a twenty-four member city council to be elected by the eligible voters of the District. There was no provision for the election of a nonvoting delegate to the House from the District.

"On May 8, 1878, H.R. 3259 was referred to the Senate District of Columbia Committee. As reported in the Senate, H.R. 3259 provided for a municipal government of three presidentially appointed commissioners, but no city council. The Committee did amend the bill, however, to provide for the election of a nonvoting delegate to the House of Representatives. The bill passed the Senate on May 27, 1878 in essentially the form reported by its Committee on the District of Columbia. The House would not concur with this version of the bill and, at the request of the Senate, the impasse was taken up in conference. The conference report was a compromise of the Senate and House passed bills and provided for a government of three presidentially appointed commissioners, but no elected city council as provided in the House passed bill, and no nonvoting delegate to the House as provided in the Senate passed bill. After House concurrence with the conference report, the Senate concurred on June 10, 1878 and the passed legislation became law on June 11, 1878.

Reorganized Commission Government

"The act of June 11, 1878 remained the basic organic act of the government of the District of Columbia until 1967 when that act was modified by Reorganization Plan No. 3 of 1967. This Reorganization Plan replaced the three-commissioner form of government with one presidentially appointed commissioner, popularly called 'the mayor,' and a nine-member presidentially appointed city council. All appointments were subject to the advice and consent of the Senate. A maximum of six council members could be appointed from any single political party, thus assuring minority party representation. Probably, for the first time, all appointees were bona fide long-time residents of the District of Columbia.

(Continued on page 256)

Constitutional Provisions Involved In The Debate

IN THE CONGRESSIONAL DEBATE over the question of approving a proposed Constitutional amendment to give voting representation in Congress to the District of Columbia, several provisions of the U.S. Constitution have received particular attention. These include the following:

Provision for a Federal District

That provision which vests authority over the affairs of the District of Columbia in the Congress and conveys to Congress exclusive legislative jurisdiction appears in Article I, section 8, clause 17, as follows:

"The Congress shall have Power To . . . exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square), as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States . . ."

Representation in Congress

Article I of the Constitution treats with the composition and powers of the House and Senate. Section 2 states:

"The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature."

Clause 3 of the same section, in language added by section 2 of the 14th Amendment, states that "Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers . . ."

Section 3 of Article I provides that "The Senate of the United States shall be composed of two Senators from each State, [chosen by the Legislature thereof,] for six Years; and each Senator shall have one Vote." (Clause in brackets was added by section 1 of the 17th Amendment.)

Vote in Presidential Elections

On March 29, 1961, the 23rd Amendment to the Constitution, approved by the Congress and sent to the States in June 1960, was declared ratified by the requisite number of States. Providing the vote for residents of the District of Columbia in elections for President and Vice President, the amendment states:

"The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct: A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment."

Amendment of the Constitution

Provision for the amendment of the U.S. Constitution is made in Article V, as follows:

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress."

A further provision of Article V frequently cited in the current debate states that, in connection with the Constitutional amendatory process, "no State, without its Consent, shall be deprived of its equal Suffrage in the Senate."

Action In The 95th Congress On The Proposed Amendment

OVER THE YEARS a number of unsuccessful attempts have been made to extend statehood to the District of Columbia, to retrocede its territory to the State of Maryland, or to extend voting representation in one or both houses of the Congress to its residents. In the present decade, such efforts have been reflected in hearings held in July 1971 before a subcommittee of the House Judiciary Committee and in hearings before a Senate Judiciary subcommittee in June 1970 and July 1973.

More recently, in the 94th Congress, the House voted on H.J. Res. 280, a joint resolution which would amend the Constitution by granting voting representation in Congress to the District of Columbia. The vote—229 in favor, 181 opposed—was 45 votes short of the two-thirds majority required for approval.

House Action in 95th Congress

In the first session of the current 95th Congress, several joint resolutions were introduced in the House calling for similar Constitutional amendatory action. Among these was H.J. Res. 554, introduced by Rep. Don Edwards, Calif., D., Chairman of the Judiciary Committee's Subcommittee on Civil and Constitutional Rights.

Five days of Subcommittee hearings opened on August 3, 1977, on H.J. Res. 554 and related proposals. On October 30 the Subcommittee unanimously approved H.J. Res. 554, clearing the measure for full Committee consideration.

Meanwhile, President Carter, who had earlier announced his support of full voting representation in the Congress for the District, reaffirmed his position in his State of the Union Message delivered to the Congress on January 19, 1978. Twelve days later, on January 31, the House Judiciary Committee approved H.J. Res. 554, as amended, by a vote of 27-6. The resolution was favorably reported to the House of Representatives on February 16.

Having cleared the House Rules Committee on February 24, the resolution reached the House floor for debate on March 1, 1978. After two days of debate, H.J. Res. 554 was approved on March 2 by a vote of 289-127, eleven votes more than the required two-thirds majority. (For the text of the resolution, see page 231.)

Action in the Senate

Four days after House passage of the D.C. voting representation resolution, an attempt was made in the Senate to secure unanimous consent for placing the resolution directly on the Senate calendar, bypassing Senate committee action. Objection was raised to the request, however, and on April 17, 1978, the Senate Judiciary Committee's Subcommittee on the Constitution, chaired by Sen. Birch Bayh, Ind., D., began three days of hearings on S.J. Res. 65, a counterpart to H.J. Res. 554.

With the Senate calendar jammed with "must" legislation, including Carter Administration energy proposals, tax and labor reform bills, and other high-priority proposals which had been delayed by the protracted Panama Canal Treaty debate earlier in the year, it was not until August 16 that the proposed D.C. voting representation resolution reached the Senate floor for consideration.

Following four days of debate, H.J. Res. 554 was approved by the Senate on August 22, 1978, by a vote of 67 to 32, one vote more than the required two-thirds majority. Efforts to amend the resolution in various respects had been defeated in the course of the floor debate, and the version approved was identical to that earlier passed by the House of Representatives.

Since a proposed Constitutional amendment does not require signature or other action by the President, Senate passage cleared the way for transmittal of the resolution to the 50 States for consideration by their legislatures. If 38 States—a three-fourths majority—vote to ratify within seven years of the date of submission, H.J. Res. 554 will become a part of the Constitution.

Meanwhile, opponents of the proposed amendment in late August introduced measures to provide for retrocession of the populous parts of the District of Columbia to Maryland, to make the District a State, and to treat the District as a State for purposes of representation in the House but as part of the State of Maryland for purposes of representation in the Senate. Since the proposed amendment has already cleared both bodies of Congress, however, and has already been taken up by the legislatures of several States, it is not considered likely that further Congressional action will ensue on the subject of D.C. voting representation in the near future.

The States & Ratification Action

APPROVAL BY THE SENATE on August 22, 1978, of H.J. Res. 554, the proposed District of Columbia Congressional voting representation amendment, cleared the proposal for submission to the States and the beginning of the process which will lead to its ultimate ratification or rejection. The House had acted earlier, on March 2, 1978, to approve the resolution.

Text of the Amendment

As submitted to the States, the resolution approved by the 95th Congress reads as follows:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"Section 1. For purposes of representation in the Congress, election of the President and Vice President, and article V of this Constitution, the District constituting the seat of government of the United States shall be treated as though it were a State.

"Sec. 2. The exercise of the rights and powers conferred under this article shall be by the people of the District constituting the seat of government, and as shall be provided by the Congress.

"Sec. 3. The twenty-third article of amendment to the Constitution of the United States is hereby repealed.

"Sec. 4. This article shall be inoperative, unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission."

State Legislative Procedures

Although limited activity is anticipated in a few State legislatures during the remainder of 1978, the main effort by supporters of the proposed amendment is expected to take place in 1979. In that year, every State legislature but one—Kentucky—is scheduled to meet in regular session, all but a few convening in January. The exceptions are California, which will continue throughout 1979 the session convened in December 1978; Alabama, which convenes in February; and Florida and Louisiana, both convening in April.

Different voting procedures will obtain from State to State. In six States, passage of a resolution of ratification must be accomplished by extraordinary (more than simple) majorities of both legislative houses. Five of these States—Arkansas, Colorado, Georgia, Idaho, and Kansas require approval to be by two-thirds vote, while Illinois requires a three-fifths vote. Additionally, Alabama's House of Representatives requires a three-fifths vote for approval, although that State's Senate requires only a simple majority of those present and voting.

In 22 States, a majority of the entire membership (sometimes referred to as a "constitutional majority") is required in one or both houses. Twenty of these States (Arizona, California, Delaware, Indiana, Iowa, Louisiana, Maryland, Missouri, Montana, Nevada, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Tennessee, Utah, and Washington) have such a requirement applicable to both legislative houses. Nebraska, with a one-house legislature, also requires a majority of the total membership. In Virginia, such a majority is required in the Senate, but only a simple majority (of a quorum) is required in the House.

In 23 States, a simple majority (a majority of those present and voting—i.e., a majority of a quorum) is required in one or both houses for approval of a Constitutional amendment. Such a majority is required in both houses in Alaska, Connecticut, Florida, Hawaii, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Mississippi, New Hampshire, New Mexico, North Carolina, Pennsylvania, Rhode Island, South Carolina, Texas, Vermont, West Virginia, Wisconsin, and Wyoming. Additionally, as noted above, Virginia's House requires only a simple majority for adoption, as does Alabama's Senate.

Further variations occur in some States by the adoption of special quorum requirements (two-fifths in Kentucky, for instance, and two-thirds in Oregon) rather than the more commonly used simple-majority quorum.

PRO

Should The Constitution House & Senate Seats For

by Hon. Strom Thurmond
United States Senator, South Carolina, Republican

From the debate of August 16, 1978, on the floor of the U.S. Senate during consideration of H.J. Res. 554, a proposed Constitutional amendment to grant voting representation in the U.S. Congress to the District of Columbia.

". . . more than 700,000 American citizens do not have the right to elect representatives to Congress."

IT IS JUST NOT FAIR, that in the year 1978, more than 700,000 American citizens do not have the right to elect representatives to Congress. No one in 1790, when the District was created, could have imagined the rapid growth and changes that were to take place in the District of Columbia.

We should not allow this transformation of the District to be ignored any longer. Because of the fact there were only 14,000 people in the District when it was created, it has now resulted in the denial to more than 700,000 citizens of the right that all Americans cherish—the right to vote for their Representatives to Congress.

History tells us that the failure to provide the District of Columbia with representation was an oversight and not because of any specific intent by the Founding Fathers. As early as 1783, the Continental Congress was meeting in various places throughout the East. This so-called gypsy Congress was outraged with its situation and thus, in 1787, resolved that:

"The Congress shall have power . . . to exercise exclusive legislation in all cases whatsoever over such District (not exceeding ten miles square as may by the cession of particular states, and the acceptance of Congress, become the seat of government of the United States) . . ."

Finally, in 1790, the Congress approved legislation establishing a permanent seat of government.

"History tells us that the failure to provide the District of Columbia with representation was an oversight . . ."

Unfortunately, there were many problems that overshadowed the creation of the District of Columbia. There was an intense public debate over where exactly this seat of Government should be located. In addition, there were other pressing problems that needed attention by the youthful Government, and thus the matter of representation for a yet-to-be identified group of citizens fell by the way, even though there were occasional expressions of concern over who would look after the interests of the citizens of the District.

James Madison, in the Federalist No. 43, recognized the future needs of the inhabitants of the District and that they should have a voice in the election of the Government which was to exercise authority over them. Once again, however, the expressions of concern about the residents of the District never became reality. When the Congress accepted the cession of the District of Columbia by Maryland and Virginia in 1790, the voting rights of its residents were governed by the respective laws of Virginia and Maryland. Thus, until 1800, District residents voted in either Virginia or Maryland.

Soon after, in December 1800, Congress passed legislation to freeze the laws of the two States which effectively disenfranchised the residents of the District of Columbia.

(Continued on page 234)

Be Amended To Provide The District of Columbia?

CON

by Hon. Dewey F. Bartlett
United States Senator, Oklahoma, Republican

From the debate of August 16, 1978, on the floor of the U.S. Senate during consideration of H.J. Res. 554, a proposed Constitutional amendment to grant voting representation in the U.S. Congress to the District of Columbia.

THE MATTER OF REPRESENTATION for the District of Columbia is very important. There are some people who say that the District presently is not represented. I daresay others will say and do say that it is over-represented. But certainly it is represented by the entire Congress.

The District has the distinction of having special committees in both the Senate and the House of Representatives, that is, the District Committees, to represent its interests and to bring those interests directly to the floor of the Senate and the floor of the House of Representatives for the enlightenment and the consideration of all Members.

"The District has the distinction of having special committees in both the Senate and the House of Representatives . . ."

In addition, the national media serve perhaps a more meaningful purpose as far as local issues are concerned with the District of Columbia than is the case with most States and with most communities within those States.

In the main, the members of the national media, the newspapers, TV and radio from around the country, live in or near the District, and most of them work here. So they are very familiar personally and intimately with what they feel to be the needs of the District.

It also gets its fair share, and I think rightfully so, of attention from the local media, newspapers, TV, and radio, and I believe that the media is as rightfully parochial in advancing the needs of the District, as the media sees it, as is the media of the States and of other communities and cities of a similar size to the District. But one of the differences is that the output of the media comes directly to the ears, eyes, and attention of the Representatives in Congress who have the responsibility of the District itself.

This proposal which would provide two Senators to represent the District is completely contrary to the intention of the framers of the Constitution, which was to have a neutral district in which the Capital City would be located.

"This proposal . . . is completely contrary to the intention of the framers of the Constitution . . ."

I do not believe it can be very well demonstrated that the rights of the citizens who live in the District are not being protected and that their interests are not being considered or represented. Because of the special relationship to Congress as the seat of government and the Nation's Capital, the District of Columbia is of great concern and responsibility to both Houses of Congress.

Granting full representation to the District, as I said, would be contrary to the intent of the framers of the Constitution. They wanted to set aside, and did set aside, an area unique in character and free from any kind of entangling interests. They did not want to put the Federal Government in the position of being influenced by a State and become involved in that State's matters because of its location in that State.

The framers gave Congress exclusive control over the District, with full re-

(Continued on page 235)

When Congress finally moved to the District of Columbia, there were only 14,000 residents in the city. This was far less than the 50,000 residents required for statehood, and less than the 30,000 required for the establishment of a congressional district. Clearly, the small population of the District was instrumental in the lack of attention paid to it by the Congress. Moreover, the growth of the District was unforeseen by Congress. Certainly Congress did not envision the eventual disenfranchisement of nearly 750,000 persons—15 times the minimum number of persons originally required for statehood.

"It was not fair in 1776 to tax and not allow representation, and it is not fair today."

The residents of the District of Columbia deserve the right to representation in Congress if for no other reason than simple fairness. According to a 1975 Congressional Research Service report, it was estimated that the citizens of the District of Columbia paid more than $1 billion in Federal income taxes. Yet they have no representation.

Taxation without representation. That was an axiom that was rejected early in American history. It was not fair in 1776 to tax and not allow representation, and it is not fair today.

District of Columbia residents pay their fair share of the support of the Federal Government. District residents paid $.64 per capita in Federal taxes in 1976. This amount was $77 above the national average. There are only seven States with a higher per capita of Federal taxes paid. The residents of the District of Columbia are not getting a free ride. They are paying a substantial share of Federal taxes, but receive no opportunity to have a say in how those tax dollars should be spent. As a matter of fairness, they should.

Recently much has been made of the issue of human rights. The President has predicated a portion of his foreign policy on this issue. So has the Congress on various occasions. I say we cannot talk about human rights to others in the world until we here at home can show we are recognizing basic human rights. One of America's fundamental rights is the right to participate in a democracy. Residents of the District are being denied that right.

Throughout the world community, only two other Federal districts deny their residents full voting representation in their national legislatures—Brazil and Nigeria. Citizens of London, Paris, and Bonn are represented in their national legislatures. Are we to be considered less democratic than England, France, or West Germany? I would hope not.

"Human rights begin at home, here in the Nation's Capital. . . . We need to practice what we preach."

Human rights begin at home, here in the Nation's Capital. The fact that more than 700,000 people do not have a voice in the election of those who write the Nation's laws is not a very good position from which to preach human rights. We need to practice what we preach. That means, at the least, giving the residents of the District of Columbia the right to elect their own Representatives and Senators to Congress.

Finally, there are many arguments being made that the Constitution prohibits the District from having voting representation by adoption of House Joint Resolution 554. I have studied all of the arguments in this regard and have concluded that nothing in the Constitution prevents House Joint Resolution 554, or any similar measure, if adopted, from giving the District full voting representation. It can be done if Congress, by two-thirds vote of both bodies, votes for it, and if three-fourths of the States ratify it within 7 years. I believe this procedure is

(Continued on page 236)

sponsibility for local concerns. So failure to give the District two Senators was not an oversight, it was not an accident, it was a recognition that this District was different. It was given representation, but in a different way. We must remember that representation by two Senators was a privilege exclusively reserved to the States.

The District certainly has fared well with the present arrangement. I do not think it is possible to say that it has been mistreated by the Congress. The District ranks as one of the highest cities in terms of per capita income in the United States. It also has cultural and educational advantages that many parts of the country do not have, and much of this not provided at the expense of the taxpayers of the District.

". . . failure to give the District two Senators was not an oversight, it was not an accident . . ."

It would be unfair to the States to provide two Senators to the District of Columbia because the States are sovereign and still have some of the sovereignty they had at the time they bestowed limited sovereignty on the U.S. Government. They did this to form a more perfect union. They provided sovereignty for the Federal Government, not the reverse. And they retain their individual sovereignty to a greater extent than the Federal Government and the courts wish to recognize.

The point is that the States created the Federal Government and they also created the District. They did not confer sovereignty on the District. If this proposal is accepted we are saying that the Federal Government can bestow or confer sovereignty on an area.

If this proposal were submitted to the States and passed by the States, becoming part of our Constitution, we would be creating a new hybrid State, different from all the rest. Some might call it a superstate. It would have the benefits of statehood but not all of the responsibilities of statehood. It would have the appearance of sovereignty, yet would be totally dependent upon the Federal Government. It would still have, in addition to its representation of two Senators, representation by the entire Senate and from the Senate Committee on the District of Columbia.

The States agreed to a more perfect union, and in the process created the District. They did so with the understanding that all of the States would be treated equally.

It is unlikely that they would have agreed to this union if they knew a nonsovereign entity would enjoy an equal or actually more than equal status than they were to enjoy.

Granting the District representation as if it were a State would violate historical as well as constitutional mandates, and work a qualitative change upon our federal system of government.

"For purposes of Federal representation, the District cannot be considered as a State since it lacks powers common to the States."

Article I of the 17th amendment uses the word "state" with reference to membership in the Senate and the House.

For purposes of Federal representation, the District cannot be considered as a State since it lacks powers common to the States.

Congress possesses the power of exclusive legislation over the affairs of the District. Congress has all police and regulatory powers over the District. Congress has final authority over the District budget and appropriations. Congress can veto the decisions of the City Council of Washington, D.C. The defeat, re-

(Continued on page 237)

consistent with broad constitutional principles, and gives the District of Columbia the opportunity it so well deserves—to be treated as a State with respect to the right to have voting representation in Congress.

"There is more to Washington D.C. than just tourist attractions. Three quarters of a million people live and work in the District."

There is more to Washington, D.C., than just tourist attractions. Three-quarters of a million people live and work in the District. These are people who are affected by high taxes, inflation, foreign policy, farm prices, educational issues—issues that affect each and every American. Yet, no one represents their views with a vote in Congress. This is unfair, and I strongly urge my colleagues in the Senate to join me in taking steps to end this injustice. The people of each State will have the opportunity to express their views on this matter before any change is made to our Constitution.

The procedure to amend the Constitution is long and tedious to make sure that careful consideration is given by the Congress and the States to each proposed amendment thereto. This insures that whatever decision is reached will truly represent the wishes of the people of the Nation.

by Hon. Edward M. Kennedy

United States Senator, Massachusetts, Democrat

From the debate of August 16, 1978, on the floor of the U.S. Senate during consideration of H.J. Res. 554, a proposed Constitutional amendment to grant voting representation in the U.S. Congress to the District of Columbia.

IN MATTERS OF fundamental justice and human rights involving the citizens of our Nation, there is no left or right, liberal or conservative. Yet, under the Constitution and laws of the United States, there is an anachronism that defies justice and denies one of the basic and most cherished rights of representative government for the people of the Nation's capital—the right to have a voice in the decisions of the Senate and the House of Representatives.

". . . it is a travesty of history that the District of Columbia has no voice in Congress."

The issue is one of simple justice for the 690,000 citizens of the Nation's capital. For decades, going back to the beginning of the 19th century, ordinary District citizens, concerned local leaders, and many Members of Congress have sought this basic goal. Indeed, the goal is remarkable and unusual only in the sense that it has been so flagrantly denied for so long to so many citizens. In a nation that was founded on the principle of representative government and that has prided itself for two centuries on the strength and vitality of its democracy, it is a travesty of history that the District of Columbia has no voice in Congress.

In the view of legal scholars, there is no constitutional impediment to enactment of this measure. Enfranchisement of the District was not an issue the Founding Fathers faced. They could hardly foresee that the sparsely settled marshy area along the Potomac River—the "District (not exceeding 10 miles square)" about which they wrote in 1787—would one day be not only the seat of government of the United States, but the capital of the free world, a celebrated city of several hundred thousand residents.

The population of the District is now larger than seven States. Residents of

(Continued on page 238)

cently, of the commuter tax is just such an example. And Congress could abolish the city government altogether if it wished.

Article 5 of the Constitution provides, "No State, without its consent, shall be deprived of its equal suffrage in the Senate."

This was a compromise to insure that large States would not, in the future, change the method of representation in the Senate. States have two Senators because they are sovereign. Federal representation is a measure of that sovereignty. To accord two Senators to an entity other than a State—a District purposely set apart from the States—would diminish and deprive States of their equal suffrage.

"To accord two Senators to an entity other than a State . . . would diminish and deprive States of their equal suffrage."

The District, as a hybrid State, would have its own special kind of representation through the entire Congress and the congressional committees and would have special considerations that are not given to the other States. As long as every State is treated the same way as every other State, the equality of suffrage is not destroyed by admitting a new State to the Union. But this statement that the equality of suffrage would not be destroyed by admitting a new State to the Union would not hold true if a hybrid State, such as is proposed by this amendment, were created.

Inasmuch as the District enjoys particular advantages—that is, financial—that are not accorded to the other States, to extend Federal representation to the District would dilute and diminish sovereignty and would dilute the equal suffrage of the States. In my opinion, the States would never have agreed to such an agreement at the time they gathered to form this more perfect Union.

Some might say that if we did give the District full voting representation and include two Senators to represent them in addition to the present representation, we could no longer call ourselves the United States of America, but rather would be referred to as the "United States and Other Assorted Things of America."

The District is no more than a city. The framers did not intend that cities per se should be given representation directly in Congress. Again, States with sovereignty were to have the voice to represent the States in the Federal Government.

The fact that other cities already have elected Federal representation is irrelevant. They share their Senators with the entire State. But this would not be so if the District received two Senators. It would be patently unfair to enfranchise District residents to a greater extent than the people of other cities, cities much larger than Washington, D.C.—cities like New York, Philadelphia, and Chicago.

"The District is no more than a city. The framers did not intend that cities per se should be given representation directly in Congress."

The District is not subject to taxation without representation. The Federal benefits exceed what the city contributes by way of Federal taxes. In 1976, the District paid into the Federal Treasury $645 million. It received, however, an annual direct payment, in 1977, of $276 million and Federal grants of $340 million. In Federal loans from the U.S. Treasury the District received $101 million in fiscal year 1979. This does not even include outlays for the hospitals, universities, the Smithsonian, the National Zoo, the Kennedy Center, police protection, upkeep of Federal monuments, the C & O. Canal, and the national parks within the District. Also, the Federal Government, just recently, helped pay off the bonds for construction of RFK Stadium.

(Continued on page 239)

the District pay large amounts of taxes to the Federal Government. District residents fought and died in Vietnam and in all the Nation's other wars. And yet they continue to endure both taxation without representation and conscription without representation.

One of the most honored principles of our democracy is the concept of "one person, one vote." In the District of Columbia, however, that principle has no application. Instead, for District citizens, the rule is "690,000 persons no votes." Nowhere in America should the principles of democracy be more firmly established than in the Nation's capital. The time has come to remove the cloud of America's "Last Colony" from the District of Columbia.

"The time has come to remove the cloud of America's 'Last Colony' from the District of Columbia."

Opposition so far has seemed to arise from four "toos"—the fear that Senators elected from the District of Columbia may be too liberal, too urban, too black or too Democratic. There is also the mystique of the Senate club, the reluctance to expand the membership beyond the current 100 Senators. But such arguments cannot bear the light of day. They deny basic justice. They are unworthy and provide no justification for denying representation in Congress to the people of the District of Columbia.

We should all agree that in this age of big government, no Americans are truly free unless they have a voice in the election of those who write the Nation's laws. Two hundred years and 95 Congresses after the Nation was founded, it is time to welcome Senators and Representatives from the District of Columbia into our congressional deliberations and decisions—and our cloakrooms.

Wherever I travel, I find people surprised to learn that the citizens of Washington cannot vote for Members of Congress. This mood, and the precedent of swift approval for the 23d amendment, give confidence that the generous and decent instincts of the American people will produce prompt ratification of an amendment to give the District the vote in Congress.

One of the strongest arguments in favor of House Joint Resolution 554 is the simple fact that the District of Columbia is not just a museum collection of Federal monuments and Government buildings. It is also the home of hundreds of thousands of men, women, and children—690,000 people in all.

Under one of the most basic principles of our democracy, the citizens of each of the States are represented in the Senate and the House. Yet, the 690,000 citizens of the District are denied this fundamental right.

"Residents of the District paid out $1.4 billion in taxes to the Federal Government in fiscal year 1977."

Residents of the District paid out $1.4 billion in taxes to the Federal Government in fiscal year 1977. That amount is greater than the taxes paid by 11 States.

Each of these States is represented in Congress by two Senators and by either one or two Members of the House of Representatives, depending on the population of the State. The citizens of these States, therefore, have a voice in the way they are taxed by the Federal Government. But the citizens of the District of Columbia have no such voice.

If the Federal tax burden is calculated on a per capita basis, the comparison becomes even more stark. For District of Columbia residents, the per capita tax burden is $2,116, or $491 above the national average of $1,625. Only one other State—Alaska—has a higher per capita tax burden; in 49 of the 50 States, the Federal tax burden is smaller than in the District of Columbia.

These figures provide a compelling argument for granting representation in

(Continued on page 240)

The District reports on loss of revenue because of the Federal presence do not include revenues from the tourist business, convention business, construction of Federal buildings, and jobs created by such construction. Moreover the District Committee of the Senate recently saw fit to agree on a loan program for a convention center to be built in the District.

Granting the District Federal representation would create a situation in which the Federal interest would be promoted to the Federal Government for a Federal city. The District really is a company town and totally dependent, or nearly so, on the Federal Government for its livelihood, indeed, for its existence.

". . . I do not think it is in the best interests of this Nation to create a hybrid State that would have rights and privileges that the other 50 States would not have."

In 1976, the Federal Government directly employed almost 40 per cent of those working in the District. Those business and industries servicing the Government employed another 25.5 per cent.

There is hardly any manufacturing and no agriculture. Senators from the District thus would be under no compulsion to consider the needs of any competing interests other than the Federal Government because no other interests would rival that of the Federal Government. Such representation could inevitably lead to the kind of pressures that Madison spoke against and wanted to avoid when they created this unique Federal District.

I think we should, at the very least, if we saw fit to grant the District Federal representation, cut the District's umbilical cord to the Federal Treasury and to the entire Congress.

District representation is ultimately a constitutional issue. It is not, in my opinion, a race issue, as was alleged in the local press recently. I do not think it necessarily bespeaks of racism to disagree with this particular legislation that would submit this important question to the people of this country. And it is interesting to note that as far as racism is concerned, the population trends suggest that by 1983 the whites will constitute a majority of the people in the District.

This is also not a liberal-conservative issue. No one knows what future course American politics will take.

Further, I do not think it is a matter of simple democracy, because we are a Republic, not a democracy. We have a unique setup as far as the District and as far as the country as a whole is concerned and I do not think it is in the best interests of this Nation to create a hybrid State that would have rights and privileges that the other 50 States would not have.

"What we really do by this amendment is create a hybrid State, with rights that go beyond the other States."

It should be noted that opposition to this proposal stems not from a callous disregard for human rights, but rather from genuine concerns about the mandates of the Constitution, about this union of States, indeed about the entire notion of federalism. Our scheme of Government would be altered dramatically and fundamentally if this particular proposal was passed by three-fourths of the States and became a part of our Constitution.

The proposal says that the District should be treated as if it were a State, but I do not believe it can, constitutionally. What we really do by this amendment is create a hybrid State, with rights that go beyond the other States.

I do not think this would be in the best interests of the entire country. Therefore, I am in opposition to submitting this question to the people of the various States for their consideration.

(Continued on page 241)

Congress to the District of Columbia so that at last we can end a serious blight on our contemporary democracy, the burden of taxation without representation that has existed so long and so unfairly for the citizens of the Nation's Capital.

One of the most important arguments in favor of House Joint Resolution 554 is contained in the statistics of the Department of Defense on casualties in the Vietnam war. The figures reveal that 237 citizens of the District lost their lives in Vietnam. The casualty level for the District was higher than the levels for 10 States—Alaska, Delaware, Idaho, Nevada, New Hampshire, North Dakota, Rhode Island, South Dakota, Vermont and Wyoming.

". . . statehood is a goal not readily available to the District of Columbia, because of the unique character of the District as the Nation's Capital within our federal system.

The people of those 10 States, and of every other State, were represented in the House and Senate throughout the period of the Vietnam war. These people—and the people in every other State—had a voice in the decisions of Congress on the war, decisions that affected the lives of so many thousands of their citizens who were asked and compelled to serve their country in that war. But the citizens of the District of Columbia had no such representation and no such voice.

We cannot remedy that injustice for the past. But we can do so for the future.

Opponents of representation in Congress for the District of Columbia cannot hide behind the Federal analogy. Theoretical arguments for denying representation, based on the view that the District of Columbia is not a State, are easily outweighed by the demand of the citizens of the Capital City to participate in the basic rights of democracy. With the exception of Brazil, other federal nations modeled on our own Federal Government have resolved this issue against discrimination and in favor of representation for the capital. In this respect, the onrushing tide of world democracy and human rights has left the United States sadly in its wake.

The effort to end discrimination against D.C. residents is hardly a novel chapter in American history. One of the continuing currents in the Nation's 200-year history has been the struggle of peoples in the various territories of the Union to achieve the full rights of citizenship. The pages of our history contain numerous examples of the frustrations, failures, and eventual successes of the citizens of various regions of the Nation in becoming full partners in the Union.

"The people of the District of Columbia have already waited far longer than the citizens of any territory to obtain the basic right of representation in Congress."

In these cases, of course, the goal was statehood. But statehood is a goal not readily available to the District of Columbia, because of the unique character of the District as the Nation's Capital within our federal system. In a larger sense, however, the aspiration is the same and is independent of the statehood issue. That aspiration is the desire of American citizens to enjoy as nearly as possible the full benefits of American democracy.

Partisan and discriminatory factors have no place in the decision to admit citizens anywhere in the Nation to the blessings of full participation in our system of government. The people of the District of Columbia have already waited far longer than the citizens of any territory to obtain the basic right of representation in Congress.

Some opponents argue that if the District of Columbia is to receive the status of a State with respect to representation in Congress, then the District must give up the so-called "Federal payment" by which, it is claimed, the District receives special financial treatment from Congress not available to the States.

(Continued on page 242)

BARTLETT, cont. from page 239

I believe that the Founding Fathers, when they created this more perfect Union and the opportunity for other areas to become States, created the District as a special entity with special representation. They knew what they were doing and reached a decision that was beneficial then to the welfare of this Nation and that is still beneficial today.

by Hon. Jesse Helms

United States Senator, North Carolina, Republican

From the debate of August 21, 1978, on the floor of the U.S. Senate during consideration of H.J. Res. 554, a proposed Constitutional amendment to grant voting representation in the U.S. Congress to the District of Columbia.

THERE IS NOT A Senator in or out of this Chamber who really believes that this constitutional amendment will be ratified by the requisite number of States. So what are we doing? The Senate is conducting a charade. There is no way any Senator can cast a completely intellectually honest vote on this proposition. If he votes for it, he is voting for something that is not wise. If he votes against it, he risks falling prey to the false predicate that if we do not support this proposition we are against blacks, we are against liberals, we are against Democrats, and probably against apple pie.

"There is not a Senator . . . who really believes that this constitutional amendment will be ratified by the requisite number of States."

Let me say again, this is a charade. If it were not a charade, this proposal would have gone through the normal processes of the Senate. But instead of going through the committees, it was virtually bludgeoned onto the Calendar. This maneuver ought to be regarded for what it is. The black citizens of the District of Columbia and the black citizens across America should not be deluded by this bit of gamesmanship. Everyone knows that this amendment is not going to be ratified by the requisite number of States.

Of course whether I will be proved right or whether I will be proved wrong will occur far in the distant future—seven years from now. But I say again, I do not believe that one Member of the U.S. Senate today, deep in his heart, feels that this proposed amendment will, indeed, be ratified by the requisite number of States.

If we examine House Joint Resolution 554, we can see that it is deeply—deeply—flawed in both concept and execution. House Joint Resolution 554, as it stands, distorts the meaning and purpose of Senate representation. In fact, it dilutes the guarantee of article V to the Constitution, which is supposed to protect the equal suffrage of each State in the Senate.

"House Joint Resolution 554, as it stands, distorts the meaning and purpose of Senate representation."

It is obvious that if the 50 States have equal representation, the adding of two more Senators who do not represent a State cheapens the representation and dignity of the States themselves. We all know the inflation that results for the dollar when we expend the money supply to pay the Federal deficit. This proposal is inflation of the vote in the Senate.

Indeed, article V says specifically that "no State without its consent shall be deprived of its equal suffrage in the Senate" as a result of the amendment process.

(Continued on page 249)

But the argument misconstrues the nature of the Federal payment, which is an annual appropriation intended to offset the overall negative fiscal impact of the Federal Government on the District. In effect, the appropriation—$276 million in fiscal year 1978—represents an effort by Congress to account for the difference between the special burdens imposed on the city (such as tax-exempt Federal land and buildings) and the special benefits (such as revenues from tourism and Federal construction projects) accruing to the city as a result of the Federal presence.

"In other ways, Congress has been willing to treat the District of Columbia as a State."

Opposition to the proposed amendment has usually crystallized around a series of fallacious arguments that are easily rebutted.

Some opponents of full representation claim that the District is a city, not a State, and that only States are entitled to representation in the House and Senate. They argue that there is no greater reason for this city to be represented in Congress than there is for other large cities which are also denied this right.

But this argument ignores the obvious fact that other American cities are political subdivisions of States. They already have representation in both the Senate and the House, while the citizens of the District have no representation at all.

In other ways, Congress has been willing to treat the District of Columbia as a State. For example, the District has long been treated as a State in virtually every major Federal grant legislation. In program after program, in statute after statute, all of us in Congress are familiar with the well-known clause in legislation, "For the purpose of this legislation, the term 'State' shall include the District of Columbia."

Another occasional objection to representation in Congress for the District of Columbia rests on the proviso in article V of the Constitution, which declares that "no State, without its Consent, shall be deprived of its equal Suffrage in the Senate."

To state the obvious, however, what House Joint Resolution 554 proposes is a constitutional amendment. Since, by definition, a constitutional amendment cannot be unconstitutional, the suggestion that House Joint Resolution 554 is unconstitutional is a contradiction in terms and a fatal flaw in the logic of those who raise their curious objection.

"Since, by definition, a constitutional amendment cannot be unconstitutional, the suggestion that H.J. Res. 554 is unconstitutional is a contradiction in terms . . ."

In any event, it is far too late in our history to argue that granting representation in Congress to the District of Columbia would deprive any State of its "equal suffrage in the Senate." Since the ratification of the Constitution by the Original Thirteen States, 37 additional States have been admitted to the Union. As a result, the suffrage of the original 13 States in the Senate has been "diluted" nearly fourfold, from 2 to 26 to 2 to 100. Yet, no one seriously argues that any of the older States has been deprived of its equal suffrage in the Senate by the admission of new States.

The principle is clear. So long as the District of Columbia is represented in the Senate equally with every other State, representation for the District of Columbia will not offend the provisions of article V. Each State will still have two votes in the Senate, and each State will still have the same proportionate vote as every other State.

In sum, the arguments against full voting representation in Congress for the

(Continued on page 244)

Now, this being the case, the prospects of this proposed amendment, as it stands, of ever being approved by ratification by the requisite 38 States is remote, to say the least.

In the first place, I reiterate that three-fourths of the States will never approve the dilution of their constitutional rights. We could well end up with another ERA situation. As a matter of fact, if anybody thinks that the battleground across this country today in connection with the equal rights amendment has been heated, just wait until this amendment comes up in the State legislatures around the country. The ERA battle will have been a cakewalk compared to this one, and I think every Senator knows that.

"I am hearing from people all over this country who resent this proposition's having been converted into a racial issue. It is not a racial issue."

We ought to level with the citizens of the District of Columbia and those citizens across the country who view this as a vote against or for their race. We ought to be intellectually honest enough to tell them, "This is not going to do it because this proposed amendment will not be ratified by the requisite number of States."

I am hearing from people all over this country who resent this proposition's having been converted into a racial issue. It is not a racial issue.

I have heard enough of the pious pretense that proponents are doing something to protect the "human rights" of the residents of the District of Columbia. It is time to identify this political charade for what it is.

I mentioned the ERA a moment ago. There is an issue looming in the Senate to extend the period of ratification for the equal rights amendment.

At the end of the seven-year period designated for this amendment, House Joint Resolution 554, we can bet our boots there will be an effort to extend that period for ratification, also, because nobody believes that this constitutional amendment will be ratified by the States

The proponents of the amendment will be back here in six or seven years, asking for an extension; and this process is going to drag on, in agony. It is going to deny the hope to the black citizens who have been assured that, yes, we are going to do this for you.

This resolution has so many defects of a constitutional nature that its enactment and ratification will invite unending litigation because of the serious omissions in this legislation—omissions that show clearly that it was drafted without thought as to all the constitutional implications.

". . . I do not recall that anybody has been able to identify the untold thousands of residents of the District who maintain their legal residences and vote in various States."

Then, too, the proponents of this measure talk about the 700,000 population of the District of Columbia. But I do not recall that anybody has been able to identify the untold thousands of residents of the District who maintain their legal residences and vote in various States. Are we really talking about two Senators from 700,000 population, or are we talking about two Senators for 600,000 population, or are we talking about two Senators for 500,000 population? What are we really talking about? The answer to that is that nobody seems to know or care what we are talking about. There is just a mad scramble for political advantage. That is what it boils down to.

If this amendment were approved, any State could challenge—and I jolly well expect that many will challenge—the constitutionality of the process in the Supreme Court of the United States. Article V says that no State, without its consent, shall be deprived of equal suffrage. If one State withhold[s] [its]

(Continued on page 253)

District of Columbia are shallow at best and pernicious at worst. It is a sad commentary on American democracy that such flimsy arguments have consistently been used to deny representation in Congress for the citizens of our Nation's Capital. At a time when the role of Congress has an increasingly profound influence on the lives of each American, it is also time to honor the promise of America for every citizen, without exception.

". . . it is time to honor the promise of America for every citizen, without exception."

by Hon. Edward W. Brooke

United States Senator, Massachusetts, Republican

From the debate of August 16, 1978, on the floor of the U.S. Senate during consideration of H.J. Res. 554, a proposed Constitutional amendment to grant voting representation in the U.S. Congress to the District of Columbia.

I AM DEEPLY PLEASED to reaffirm my deep commitment to the achievement of full voting representation in the Congress for the citizens of our Nation's Capital, the District of Columbia.

My enthusiastic endorsement of House Joint Resolution 554 is based primarily on fundamental concepts of liberty and justice. But my support and interest are also intensely personal. For my roots are in Washington, D.C. I was born and raised here. I attended and graduated from Dunbar High School and Howard University. And for as long as I can remember I have fought, along with family, friends, and colleagues, to attain the goal of providing for the citizens of the District of Columbia the same rights and privileges that other citizens throughout the Nation have enjoyed.

The proposal would enable D.C. voters to elect two Senators and the number of Representatives in the House (probably two), to which the District would be entitled on the basis of population. Each Senator or Representative would be an inhabitant of the District, and would possess the same qualifications as to age and citizenship and have the same rights, privileges, and obligations as other Members of Congress. The amendment would provide for the full participation of the District of Columbia in the constitutional amendment process and in the Electoral College. And finally, the Congress would have the power to implement this amendment by appropriate legislation.

". . . proposals for granting D.C. voting representation in Congress have been very thoroughly discussed and researched over the years."

Nearly 200 years after its adoption, the U.S. Constitution has been amended but 26 times. Clearly, any proposal for amending the Constitution deserves careful and serious study and debate. However, proposals for granting D.C. voting representation in the Congress have been very thoroughly discussed and researched over the years. It seems useful to review briefly at this point the long history of efforts to achieve full voting representation in the Congress for the District. Thus we can rebut the contention, all too frequently raised as an excuse for inaction by opponents, that somehow we need time "for further study of legal ramifications" or whatever, of granting D.C. voting representation in the Congress.

From the beginning of the 19th century there were advocates of national representation in Congress for D.C. residents. One of the first was Augustus B.

(Continued on page 246)

that State will have grounds to challenge the adoption of the amendment in the court. And we might as well count on it.

So the constitutional ramifications of this amendment are so complicated and so unjust and so improper that surely we have to realize the fact that this amendment has little chance of ratification by the required 38 States.

I do not like to be in the position of having to come here to say these things. I would much have preferred to stay out of it. But I have read and I have listened to specious arguments to the point that I have had my fill. Somebody needs to speak out. This amendment is not going to be ratified by the requisite number of States, and the proponents of this amendment know it.

". . . I have read and I have listened to specious arguments to the point that I have had my fill."

by Hon. Orrin G. Hatch

United States Senator, Utah, Republican

From the debate of August 21, 1978, on the floor of the U.S. Senate during consideration of H.J. Res. 554, a proposed Constitutional amendment to grant voting representation in the U.S. Congress to the District of Columbia.

MANY OF THE PROPONENTS of what is, in my view, a poorly drafted amendment, employ the phrase "taxation without representation" to illustrate the injustice which residents of the District supposedly endure. This phrase is obviously intended to cause Americans today to draw a parallel between the conditions in the Colonies at the time of the Revolutionary War and the present situation in Washington. Although a noble battle cry in the struggle for our national independence, for the purpose of this debate it serves to lay yet another blanket of rhetoric upon an issue already obfuscated by emotional slogans.

To compare the status of the American colonies in British Parliament in the 18th century to the status of the District of Columbia today is to sidestep the constitutional problems created by the proposed amendment, the problems which stem from the fact that the District of Columbia simply does not possess the attributes of statehood required by our federal system. Moreover, such an analogy ignores the special provisions which have been made to attend the needs of the people of the District of Columbia. The District is the only city in the United States with a committee of the House of Representatives and a subcommittee of the Senate wholly devoted to its needs. Far from a neglected and oppressed distant land, it is rather the seat of an ever expanding and prospering National Government.

". . . the phrase 'taxation without representation' . . . serves to lay yet another blanket of rhetoric upon an issue already obfuscated by emotional slogans."

I do not know whether "prospering" is the correct word because we certainly have a Government that is tremendously in debt right now. By September of 1979, we will be in debt $869 billion. The interest against that debt is more than the whole Federal budget was back around 1945, just the interest against that debt which today is about $56 billion a year. People think we owe that interest only to ourselves, but of course we owe it to banking institutions and to other lenders all over the world, including many American citizens.

Far from a neglected and oppressed distant land, the District of Columbia is rather the seat of an ever-expanding and, if not prospering, at least money-

(Continued on page 247)

Woodward, who wrote a series of articles, published in the National Intelligencer between 1801 and 1803, in which he decried the pitiable state of those citizens residing in the District of Columbia who were subject to taxation without representation. Another ardent supporter of D.C. representation over the years was Theodore W. Noyes, a native Washingtonian long associated with the Washington Star, serving as its editor from 1908 to 1946. In the fourth of a series of articles, appearing early in 1888 and focusing on "some of Washington's grievances," Noyes outlined the political plight of the citizens of the District and proposed that a constitutional amendment be adopted to grant them voting representation in the Congress. On May 15, 1888, Senator Henry W. Blair introduced a joint resolution incorporating Noyes' vision, and this has been generally designated as the first amendment proposal introduced to provide D.C. voting representation. Literally hundreds of joint resolutions have been introduced in the subsequent years since the 50th Congress back in 1888.

". . . there have been dozens of hearings on the issue of D.C. representation in Congress."

And there have been dozens of hearings on the issue of D.C. representation in Congress. The first such hearings date back to 1916. The prophetic testimony of Theodore Noyes at that time still rings true. At one point Noyes was arguing that election of local officials in Washington, or of a nonvoting delegate to Congress, would not be sufficient. Rather, according to Noyes, full representation in the National Government constituted the "genuine American political birthright."

And there have been many more hearings since 1916. The Senate held hearings in April, the sixth such endeavor just since 1970. The House Judiciary Committee of course held hearings this year and in 1975, the Senate Judiciary Subcommittee in 1974, the House again in 1971, and the Senate in 1970.

While we are all familiar with the successful effort in the House this year, we may be less familiar with the episode in the Senate during the 86th Congress when D.C. representation was debated and endorsed. During floor debate on another constitutional amendment proposal, Senator Kenneth Keating offered a floor amendment, establishing a framework for ultimate D.C. voting representation in the Congress and also providing for Presidential electors from the District of Columbia; the Keating amendment was approved by vote of 63 to 25. The vote on the tripartite resolution (which included segments authorizing Governors to fill temporary vacancies in the House and another abolishing tax and property requirements for voting as well) was 70 to 18, more than the necessary two-thirds. However, the House Judiciary Committee reported a much amended version of the resolution, containing the language ultimately incorporated into the 23rd amendment. The sections relating to abolition of the poll tax and the filling of House vacancies were entirely deleted, and the remaining section addressing D.C. suffrage was watered down by elimination of any provision regarding congressional representation.

". . . what we need is not more study and talk, but speedy congressional action."

Without a doubt, there has been a very lengthy history of efforts to grant D.C. voting representation in the Congress. I would submit that what we need is not more study and talk, but speedy congressional action.

A fundamental concept of democratic political thought is that of consent. Thus the obligations of citizenship can be imposed legitimately only via "the consent of the governed." In the American context this exercise of consent often

(Continued on page 248)

manufacturing National Government and reaps millions upon millions of dollars in benefits as a result. Many of our Senators and Representatives reside here as well and are thus as acutely aware of the problems of the District as they are of the areas they were elected in.

In terms of per capita spending by the Federal Government, the District received nearly four times that of any other State except Alaska. New York City is the only city to receive more in Federal aid. Clearly, this is a city whose residents have not been ignored by the Government which resides within its boundaries. Thus, the situation which gave rise to the phrase "Taxation without representation" is in no way comparable to the one we are now discussing.

"Those who favor H.J. Res. 554 have accused opponents of being motivated by fear of the 'four toos' that the Senators in the District might be 'too liberal, too urban, too black, and too Democratic'."

I might also add that, when the early colonists complained about taxation without representation, they were governed by a distant land, governed by people who did not really care for them, governed by an imperialist parliament which literally did not take into consideration their needs and taxed without any representation in that parliament.

In fact, this city is one of the best kept and most well financed cities in the world today as a result of the taxes from people all over this country, certainly not here, because only about 29 cents of the taxes here on every dollar pay for the needs of the District of Columbia.

Those who favor House Joint Resolution 554 have accused opponents of being motivated by fear of the "four toos" that the Senators in the District might be "too liberal, too urban, too black, and too Democratic." Such rhetoric completely ignores the serious constitutional flaws which this amendment contains.

There is no question that this is a Federal enclave and a large percentage of residents within the District of Columbia do receive their income and support either directly or indirectly from the Federal Government and indirectly from taxpayers throughout this country.

I am in favor of giving every American citizen the right to vote. There has been no sentiment expressed on my part or on those of my distinguished colleagues who have risen in opposition to this amendment to the effect that those Americans who live within the Federal enclave should not be allowed to participate in our electoral process. As you know, they do except in the area of electing Senators and a Congressman who can vote. The problem, however, lies in the nature of the amendment that is before us, rather than in the intent. My objections stem entirely from the poorly-drafted provisions of House Joint Resolution 554 and the new problems these poorly drafted provisions would create.

". . . this amendment attacks the very basic foundation of our Federal Republic."

In addition, I have lots of problems with the fact that this amendment attacks the very basic foundation of our Federal Republic.

When our Founding Fathers established this country, they were concerned about the strength of a central form of government. They were concerned about putting too much power in a monarch or too much power in a select few people who might govern us, and so they wanted to diffuse this power by establishing various States, 13 at the beginning of this country, and these various geographical entities would determine, through representatives sent to Washington, the limits of that power in Washington. And if the representatives did not determine and circumscribe the limits of the central form of government, then two other ways we have provided for doing it.

(Continued on page 249)

occurs through elected representatives in the Congress. The American Revolution was fought so that basic rights would be accorded the citizens of the American colonies. Participation in and control of the political process of the country by its citizens is a fundamental precept of democracy.

"The plight of the citizens in the District, sadly, is more akin to that of a subjugated, colonial people."

It seems almost inconceivable that in 1978, with memories of our Nation's Bicentennial fresh in mind, we find democracy flaunted with respect to the citizens of Washington, D.C. The plight of the citizens in the District, sadly, is more akin to that of a subjugated, colonial people. The situation with respect to voting representation for the District, instead of serving as an example of democracy for the rest of the country and indeed of the world provides an outrage of inequity.

The U.S. citizens residing in the District of Columbia have all the obligations of American citizenship. They must pay taxes, defend the country in time of war, and obey the law. However, this sizable group of citizens, exceeding the population of seven States, do not have representatives in the House or Senate who can meaningfully express the consent or dissent of the D.C. residents by vote on the floor of Congress. This condition has applied to residents of the District since 1800, when Federal jurisdiction over the seat of the National Government was officially effected. Prior to that time, the eligible male residents of the Virginia and Maryland portions of the District of Columbia voted for U.S. Senators and Representatives in their respective States. But in 1978, the District of Columbia has no one exclusively advocating its interest in the Senate. Although several of my colleagues and I are concerned with the District, our primary interests and responsibilities, necessarily, lie elsewhere. Likewise, the District is relatively powerless in the House as well since its interests can not be directly defended in critical floor votes.

". . . in 1978, the District of Columbia has no one exclusively advocating its interest in the Senate."

It is my conclusion that lack of provision in the Constitution for D.C. representation is something of an historical accident. In the larger context of setting up a whole new Government for the Union, the status of the District of Columbia was not one of the major problems facing the delegates to the Constitutional Convention. Hence it is not surprising that the issue of D.C. representation is nowhere mentioned in the records of those debates. Moreover, the area ceded by Maryland and Virginia to become the Nation's Capital had few residents, and from 1789 when the Constitution was adopted, to December of 1800, when the "exclusive legislation" authority of the Congress took effect, those who lived within the portions of Maryland and Virginia that were to become the District of Columbia retained their political rights as citizens of those two States. It was only after 1800 that the disenfranchisement of citizens living in the District became a reality, and the efforts to reverse the situation began.

In recent years we have made substantial progress in broadening the base of representative government and extending the franchise in the United States. But this glaring piece of unfinished business remains. Fundamental concerns of justice and equity demand that the residents of the District of Columbia at last be granted the right to elect their own voting representatives in the Congress.

(Pros, continued on page 250)

CON HATCH, cont. from page 247

No. 1, the Executive, who himself could circumscribe the central form of government, and a number of Presidents of the United States have done just that by not allowing the Federal Government to expand to such unprecedented dimensions as we have today. A number of them have done just the opposite, and we have had, in essence, 42 of the last 46 years of one-philosophy rule, and that is building bigger and bigger and greater and greater government in Washington, D.C.

". . . the District, unlike the States, has no legislature . . ."

That was contrary to the ideals of the early Founding Fathers who were afraid of too central a government, and were reacting against too much monarchial control, and so in addition to the President and Congress, they established the Supreme Court of the United States which itself has been continually expanding the power of the Federal Government but on occasion curtailing that power as it should.

The proposed amendment treats three different kinds of voting procedures—electing Members of Congress, electing the President and Vice President of the United States, and ratifying amendments—as one and the same allowing residents of the District to participate in direct election of the latter two items, privileges which no Americans now possess, including the residents of the District of Columbia. In other words, the District, unlike the States, has no legislature, and the resolution now before us would seem to give District residents the right to ratify or reject constitutional amendments by direct election or direct ratification.

No other citizen in this country has that right. Although section 2 of this amendment vaguely speaks of "The exercise of the rights and powers by the people of the District and as shall be provided by the Congress," it is not at all clear which political body would exercise those powers.

If ratification is determined "by the Congress" the Congress suddenly has new power to ratify the amendments it proposes in direct contradiction to the explicit language of article IV of the Constitution.

Similar problems arise with the question of electoral votes which are always cast in the form of electors chosen by State legislatures. Again the District has no State legislature. Congress does not possess the authority to appoint electors, so we must assume that this proposed amendment would endow District voters with the right to choose the President and Vice President by direct popular vote, which no other State can now do.

". . . problems arise with the question of electoral votes which are always cast in the form of electors chosen by State legislatures. Again, the District has no State legislature."

There are those in Congress today and in the Senate today who would like to have direct election of the President, in spite of the fact that our electoral college system, our system of electing the President, has worked well ever since the beginning of this country, and there are arguments that can be made for direct election of the President.

But the fact of the matter is that as of right now we do not have that, and I think there are very good reasons why we do not have it. I, for one, hope we never have it, because I do believe that our Founding Fathers, in their infinite wisdom, and I believe they were inspired in formulating the Constitution, but in their infinite wisdom, decided to have the electoral college.

All I can say is that as the Federal Government is the single largest interest group in the District, the Senators representing this city would be little more

(Continued on page 251)

PRO

Continued from page 248

by Hon. John Buchanan

United States Representative, Alabama, Republican

From the debate of March 2, 1978, on the floor of the U.S. House of Representatives during consideration of H.J. Res. 554, proposing a Constitutional amendment to grant Congressional voting representation for the District of Columbia.

". . . at various times since 1888, the Houses of Congress have had before them resolutions similar to the ones being considered now."

THE RESOLUTION UNDER consideration would give substance to a doctrine long advocated by Members dating back to the formal establishment of the District of Columbia. Speaking of the District, in 1803, Representative Huger of South Carolina said the following:

"I look forward to the period when the inhabitants, from their numbers and riches, will be entitled to a representative on this floor."

It was not until the 1880's, however, that resolutions to give District citizens voting representation were introduced with any passion or frequency. On April 4, 1888, there was introduced in the U.S. Senate a resolution proposing an amendment to the Constitution providing for voting representation in Congress for the District of Columbia. The Senate Judiciary Committee allowed the resolution to die with the adjournment of Congress. Subsequent Congresses saw similar resolutions introduced.

In 1922, 1925, and 1949, the Senate Judiciary Committee approved such resolutions only to have them fail in either the full House or Senate. In 1940, the House Judiciary Committee reported out legislation providing for District of Columbia representation, but the measure was not voted on the floor of the House before the adjournment of Congress. So, at various times since 1888, the Houses of Congress have had before them resolutions similar to the ones being considered now.

Since the 1880's the population of the District of Columbia has increased from about 225,000 to 750,000 and the District of Columbia now has a population larger than that of 10 of the States. Nevertheless, the District remains without voting representation in Congress. District citizens are subject to taxation and the entire body of Federal law without the privilege, through elected representatives, of influencing the enactment or alteration of those laws.

"The District of Columbia is indeed a 'colony' within the Continental United States . . ."

The United States, the paramount leader of the Western democracies, finds it is the exception and not the rule regarding the representation status of the citizens living in its Capital City. Various countries of Latin America have Federal districts similar to the District of Columbia, but all provide for some voting representation in the national legislature. The District of Columbia is indeed a "colony" within the Continental United States almost 200 years after our people dissolved its ties with Great Britain over the cry of "taxation without representation."

While the Congress moved in the right direction in 1970 in providing for a nonvoting District delegate to the House, this act was only a down payment toward correcting a grave inequity to the citizens of the Nation's Capital. We took a second step in 1974 by granting home rule to the District of Columbia. The home rule grant is a recognition of the right of the people of the District of

(Continued on page 252)

than spokesmen for that interest. They would not face the competing interests which are found in the States themselves, which must be balanced against the national interest.

My objection simply focuses on the fact that this amendment ignores the intent and, I think, the intent was a wise one, of the framers to have the seat of the National Government in a neutral enclave, and it would obviously lead to further overrepresentation of an expanding Federal bureaucracy.

When the Founding Fathers decided we would have a representative form of government rather than a monarchical form of government or a super strong central form of government, which, it seems to me, we are now evolving into, and to which this proposal would give even more impetus, they did so because they realized that the States themselves are geographical entities with diverse populations, many cities with differing intents and viewpoints, residing in counties with diverse interests such as agricultural, mining, manufacturing, and so forth, and that there would be a diversity of representation from each State rather than a solidarity of representation.

". . . this amendment ignores the intent . . . of the framers to have the seat of the National Government in a neutral enclave . . ."

The District lacks the necessary indicia of sovereignty which would make it a "State" within the meaning of the Constitution. To give it full representation in the Congress and treat it "as though it were a State" would not make it so. The proposed amendment would merely introduce a new political entity within the federal system, a unique creature having rights heretofore accorded only to a State, and, in fact, rights in addition to those that citizens of States have.

To allow the District to elect a U.S. Representative and two Senators without also elevating its status to that of a State is to treat as a State an area which lacks the essential elements of a sovereign State. To create a "pseudo-State" or "quasi-State" and grant it full representation would do violence to the Constitution and undermine the nature of the federal system in our Republic.

by Hon. Charles E. Wiggins

United States Representative, California, Republican

From the debate of March 1, 1978, on the floor of the U.S. House of Representatives during consideration of H.J. Res. 554, a proposed Constitutional amendment to grant voting representation in the U.S. Congress to the District of Columbia.

WITHOUT QUESTION THE amendment before us works a fundamental change in the structure of the legislative branch. As originally conceived, representation in the Congress was confined to States, and the people residing in States. Although the mode of electing Senators has been changed by amendment, there is and can be no doubt that Senators represent States of the Union. Similarly, the language of article I, section 2 leaves no room for doubt that only the people of States are now represented in this body. The amendment creates a new category of persons entitled to representation: The inhabitants of the Federal City, indubitably a non-State and an area lacking the essentials of a State, namely, the independent ability to discharge essential governmental functions.

"The proposed amendment would merely introduce a new political entity within the federal system . . ."

(Continued on page 253)

Columbia to govern their own affairs and exercise the same rights as the people of the 50 States. The principle of universal franchise is so fundamental to our democratic government that it amazes and frustrates me that so many of my colleagues still do not recognize the injustice imposed upon the residents of the District of Columbia.

"The basic justice to the citizens of the District of Columbia is almost 200 years late in coming."

In my position as a member of the Committee on International Relations, I have actively pursued human rights for all people throughout the world. I would consider it a grave oversight on my part if I did not speak out about the denial of rights to the people of the District of Columbia.

Taxation without representation is as wrong in the 1970's as it was in the 1770's. The basic justice to the citizens of the District of Columbia is almost 200 years late in coming. It should surely come now.

There is nothing wrong with the great American dream—the challenge of our time is to fulfill that dream for all this Nation's people. There is nothing wrong with the American system of government. It is the responsibility, however, of the Congress to make certain that the system furnishes equity for the good of all the people of this Republic.

Two years ago, during the Bicentennial Year, many of our colleagues spoke eloquently of the virtues of the Founding Fathers and the principles they espoused. Yet many of these same Members voted to deny 750,000 citizens voting representation in the legislative branch of our Federal Government. This continued denial is nothing less than a scandal.

History and justice cry out together that this inequity must be corrected now. Such action will mean basic justice for the American citizens who live in this city, and will be at least one step toward creation in Washington, D.C., of an alabaster city, undimmed by human tears.

"History and justice cry out together that this inequity must be corrected now."

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by Hon. Parren J. Mitchell

United States Representative, Maryland, Democrat

From the debate of March 1, 1978, on the floor of the U.S. House of Representatives during consideration of H.J. Res. 554, proposing a Constitutional amendment to grant Congressional voting representation for the District of Columbia.

I HAVE HAD THE PLEASURE of serving in this House during one of the most dramatic periods in American history. I recall standing in this well alongside of other Members of the House calling for the impeachment of a President. I remember a dramatic moment when we learned that a former Vice President was out in the corridor because he was in difficulty. I remember being on the steps of the Capitol when there were literally hundreds of thousands of people out there protesting the war in Vietnam. And through that remarkable and dramatic period where crisis after crisis confronted this Nation, where from time to time we thought we would be almost pulled apart, the remarkable capacity of the American people and the American system to endure demonstrated itself—above and

(Continued on page 254)

CON

WIGGINS, cont. from page 251

Our present system is bottomed upon our faith in federalism—independent States joining together as a union. That system, which has served us well, should only be altered for the most persuasive of reasons.

Proponents of the amendment argue that inequality is such a reason. I most certainly agree that the people of the District do not possess those political rights enjoyed by others. But the amendment does not solve the problem of inequality; it perpetuates it in another form.

If the amendment is ratified, millions of citizens, not residents of any State nor of the District of Columbia, will remain unrepresented in this body. Inequality continues as to them. Moreover, a new inequality will be imposed upon the citizens of States. No city of theirs will enjoy the privileged status of two Senators serving their exclusive interests in the Nation's Capital.

". . . the amendment does not solve the problem of inequality; it perpetuates it in another form."

If the object of the amendment is political equality, it falls woefully short of the mark.

I am sensitive to the political inequality which exists in the District. I want to solve that problem. I am satisfied that a solution is possible without doing violence to our existing governmental structure.

I prefer retrocession to the State of Maryland of the populated areas of the District which are not essential to the discharge of Federal governmental functions. It would accord to the inhabitants of the District perfect equality with the inhabitants of the States of the Union.

Although such a proposal is, in my view, far superior to the pending amendment, I will not offer such a substitute today. Even if such a substitute were germane, which I doubt, I do not believe constitutional amendments should be written on the floor.

A retrocession proposal would require that the Constitution be amended. The adoption of the 23d article of amendment, relating to Presidential Electors for the District of Columbia, precludes a legislative remedy. I would hope that if the pending amendment is defeated, the House Judiciary Committee would undertake hearings on this constructive alternative promptly.

The problems which command our attention today exist because there is a District of Columbia. As we ponder solutions, we should not reject out of hand a reconsideration of the modern necessity for the District at all. Surely the Philadelphia "incident" of 1783 is no longer an adequate justification, especially in light of the political burden imposed upon the inhabitants of the Federal City. We now know that extensive Federal facilities, subject to Federal jurisdiction, can exist within the territory of States. Important Federal activities are routinely conducted within States without disruption different in kind than we experience here in the District of Columbia.

"I prefer retrocession to the State of Maryland of the populated areas of the District which are not essential to the discharge of Federal governmental functions."

The continued existence of a District of Columbia requires a better justification than national pride in a national capital, especially in view of the unique problems it creates. My pride in our Capital would in no way be diminished if retrocession were to occur. It is not where it is that counts. I am proud of what is done here.

We have the opportunity to do something important: Reject an ill conceived proposal to amend our Constitution.

(Cons, continued on page 255)

beyond enduring, the remarkable capacity of this system to adapt itself to change demonstrated itself.

And that is what is at test today—whether that system which performed so very nobly in the last 10 years in the face of constant crises can survive and then make a necessary and positive change; whether that system is willing to make the next positive change.

I speak not only for myself but I speak for the 16 men and women who serve in this Congress and who make up the Congressional Black Caucus. We are acutely aware of what it means to have been treated as less than a full citizen.

". . . every slogan that stands for patriotism, right, and justice, is at test in this vote . . ."

So, in the name of the caucus we want your support.

It is curious, but every slogan that stands for patriotism, right, and justice, is at test in this vote: Taxation without representation, all of them. They are all being tested under the actions this House will take.

Above and beyond that, something else is being tested: Whether you like it or not, America has now taken the quantum step of placing itself out in front of the entire world as being a moral leader for the world. Whether you like it or not, it does not matter, it is being done and, having taken that step, the world will watch for internal manifestations of that morality that we demand of others. It will watch. The world will watch the vote on representation for the District of Columbia.

As my colleagues have indicated, there will be all kinds of specious arguments raised, diminution of political power, the matter of whether the District of Columbia is a State or a district.

It does not matter whether the District of Columbia is a State or whether it is a district. It does not matter. A State is people. That is all that a State is. If we took all of the people out of the State of Arizona, or the State of Virginia, is it still a State? The artificial boundaries, the natural resources, do not make a State. The people who reside in it make the State. So that is a specious argument in my book, also.

I have touched on the human rights issue. I have touched on the specious, phony issues that will be raised. Let me conclude by commenting on the one thing that I think this House has an obligation to do—take it to the people. That is all that they have an obligation to do. If they do not trust the American people, then go ahead and vote against this. But we are saying—I am saying—that time after time after time I have seen the American people demonstrate that they have the sagacity and the wisdom and the will to do that which is right. I think they will, if we would have the sagacity, the wisdom, and the will to take it to them and let them demonstrate those abilities.

"It does not matter whether the District of Columbia is a State or whether it is a district. It does not matter. A State is people."

Passing—passing this becomes the acid test for this House. It becomes an acid test for the will and the decency of the American people, and it becomes an acid test, a crucible, if you will, in which the morality of America will be tested in terms of international relationships.

CON

Continued from page 253

by Hon. Carlos J. Moorhead

United States Representative, California, Republican

From the debate of March 1, 1978, on the floor of the U.S. House of Representatives during consideration of H.J. Res. 554, proposing a Constitutional amendment to grant Congressional voting representation for the District of Columbia.

ESSENTIALLY, THIS amendment would grant the District of Columbia the status of a State in both the Senate and the House of Representatives. Article IV, section 3 of the Constitution clearly sets forth the procedures for the admission of new States. Admission can be effected by a simple majority vote of the Congress through legislation. But this straightforward approach is not utilized here. Instead we are asked to elevate a city to the status of a pseudo-State, in the name of achieving full voting rights for the residents of the District. An admirable aim, perhaps, but this is an ill-advised manner in which to accomplish this aim.

"This proposal works a change upon our federal system and fashions a 'back-door' State. This is not fair to the residents of the District, nor to any citizen of this country."

To give the District Senators and Representatives without elevating its status to that of a State is to treat as a State a locality which lacks the essential elements of a sovereign State. The Constitution speaks of Senators "from each State" and Representatives chosen by the people of the several "States." Inventively, House Joint Resolution 554 introduces a new political entity into our federal system. Not a new "State," but a unique being with all the representative rights and privileges heretofore belonging only to States. This proposal works a change upon our federal system and fashions a "back door" State. This is not fair to the residents of the District, nor to any citizen of this country.

This proposal also runs fully counter to the perception of the Federal City held by the framers of our Constitution. The District of Columbia was not created to be a State. Rather, it was established as a Federal enclave, fully under the control of the Congress. Article I, section 8, clause 17. The intent was to create a politically neutral Federal city. Washington is that Federal city today and its unique character reflects the special relationship this locality has to the Federal Government. What does House Joint Resolution 554 do to the relationship between the District of Columbia and the Federal Government? That, no one can answer. If we are to change the basic character of the District of Columbia, a more thoughtful and comprehensive approach should be studied.

"If we are to change the basic character of the District of Columbia, a more thoughtful and comprehensive approach should be studied."

Also, what of the impact of House Joint Resolution 554 on the 23d amendment? Under its provisions the District is limited to three electoral votes. Are we, in essence, repealing that amendment if the terms of House Joint Resolution 554 are eventually adopted?

Finally, a practical comment. We all know that it is unlikely that the requisite number of States would approve this constitutional amendment in its present form. Why, then, are we required to make a decision on this ill-considered approach to a complicated constitutional question? Is the House of Representatives being asked to strike a pose simply for the sake of it?

We should reject House Joint Resolution 554 on the grounds of both policy and law.

Political Evolution

From page 228

"Many observers contended that this new government had the form, but not the substance, of a locally elected government with broad legislative powers. All of the basic District-Federal relationships remained the same—congressional authorization was necessary for the raising of local revenue and the entire budget of the District of Columbia had to go through the congressional appropriations process. Both procedures had been in legal force since 1874.

The Present Government

"On December 24, 1973, President Nixon signed S. 1435 into law (P.L. 93-138). S. 1435 had been substantially amended in the House by provisions of H.R. 9682. Two months of House-Senate conferee meetings resulted in the legislation presented for the President's signature—legislation formally designated as the District of Columbia Self-Government and Governmental Reorganization Act of 1973.

"Essentially, the charter contained in P.L. 93-198 provides for the election of a mayor and 13-member legislative council. The chairman of the council is elected in a District-wide balloting for a four-year term concurrent with that of the mayor. Four of the council members are elected 'at large' and only two of these four members can be of the same political party, assuring minority party representation on the council. The other eight members of the council are elected from the eight ward election districts in the District of Columbia. All terms are four years, with half of the council required to stand for election every two years.

"The mayor has broad reorganization and appointive authority under the charter. In addition, the charter specifically provides for the appointment by the mayor of an 'administrator' to assist the mayor in operating the government.

"The legislative council is given broad authority to legislatively establish and set the rates of all local taxes and fees. All corporate laws are under the jurisdiction of the council as well as local ordinance-making authority. The council can make changes in the budget, as well as reorganize, establish, or abolish any executive agency of the government of the District of Columbia. All of these legislative actions are subject to approval or veto by the mayor. The council can override a veto by a vote of two-thirds of the members present.

"The new, elected District of Columbia government provided by the charter became operational on January 2, 1975 following elections on November 5, 1974, the first such elections since 1870."

Powers Reserved to Federal Government

The Library of Congress study enumerates the major areas in which the Federal Government either must or may exercise continued authority over the affairs of the District of Columbia. The 1973 home rule legislation provided for a veto by Congress of any legislative act of the District of Columbia Council through the approval within thirty days of a resolution of disapproval by both houses of Congress. Additionally, the President has the authority to sustain the veto of the locally elected mayor, should the President determine that the overriding of the mayor's veto by the council was detrimental to the Federal interest on a particular issue.

In addition to lacking authority to legislate on judicial organization and jurisdiction matters, the local council under its charter is not authorized to legislate in regard to the Office of the U.S. Attorney for the District.

Under the 1973 charter legislation, the locally elected council in the District cannot enact legislation authorizing (1) a tax on the incomes of non-residents working in the District of Columbia (a commuter tax), (2) any change in the building height limitations in the District, (3) any change in the organization or authority of the National Capital Planning Commission, (4) any change in the organization or jurisdiction of the courts of the District of Columbia, and (5) a tax on any property of the United States or the States.

Continuing the statutory requirement and practice in force since 1874, the present home rule charter reserves to Congress the final approval of the District of Columbia budget and the determination of the Federal payment to the District in the form of an appropriations act. Additionally, Congress retains the prerogative of enacting legislation for the District on any subject, whether within or without the scope of legislative power delegated to the local council by the home rule charter act, and Congress can enact legislation to amend, repeal, or alter any law in force in the District. Likewise, Congress can legislatively amend, alter, or revoke the Charter Act at any time. Any amendment to the home rule charter initiated by the local council must be approved in a local referendum and to become effective must be approved by House and Senate resolutions.

Among authority of the President either continued or newly conveyed by the home rule legislation is that of appointing all local judges (53) in the District, with the advice and consent of the Senate; the prerogative of recommending legislation for the District on any subject concerning organization and operation of the local government; and authority to take command of the Metropolitan Police during an emergency.

Organization of the Current 95th Congress

Duration: January 3, 1977—January 3, 1979
First Session convened Jan. 4, 1977; adjourned Dec. 15, 1977.
Second Session convened Jan. 19, 1978.

The U. S. Senate

Total Membership, 100: 62 Dem., 38 Rep.

Presiding Officer: The Vice President of the U. S.

President Pro Tempore: James O. Eastland, Miss., D.

Floor Leaders: Majority Leader—Robert C. Byrd, W. Va., D.; Minority Leader—Howard H. Baker, Jr., Tenn., R.

Party Whips: Majority Whip—Alan Cranston, Calif., D.; Minority Whip—Theodore F. Stevens, Alaska, R.

The U. S. House of Representatives

Total Membership, 435: 287 Dem., 146 Rep., 2 Vacancies

Presiding Officer: The Speaker of the House

Speaker of the House: Thomas P. O'Neill, Mass., D.

Floor Leaders: Majority Leader—Jim Wright, Texas, D.; Minority Leader—John J. Rhodes, Ariz., R.

Party Whips: Majority Whip—John Brademas, Ind., D.; Minority Whip—Robert H. Michel, Illinois, R.

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Coming

Controversy Over A Proposed Separate Cabinet-Level U.S. Department Of Education

Pro & Con

The Congressional Digest

Congressional Digest Building, 3231 P Street, N.W., Washington, D.C. 20007
Founded 1921—Published by The Congressional Digest Corporation—$18.00 per year, $2.00 per copy.

When the framers of the Constitution set the District aside as a federal enclave, didn't they specifically intend that its residents not be allowed representation in Congress?

No. The purpose of Article 1, Section 8, Clause 17 of the Constitution, which gave Congress the authority for "exclusive legislation" over the federal district, was not to disenfranchise DC residents but to avoid the necessity of the national government's relying on a state government for protection. James Madison, in *The Federalist Papers* #43 described their intent this way:

The inhabitants of the District will find sufficient inducements of interest to becoming willing parties to the cession; as they will have had their voice in the election of the government which is to exercise authority over them; as a municipal legislature for local purposes, derived from their suffrages, will, of course, be allowed them . . . every imaginable objection seems to be obviated.

The framers obviously assumed that the residents of the national capital would enjoy full political rights.

The Constitution says "The Senate of the United States shall be composed of two Senators from each state." So how can an area that is not a state be represented in the Senate?

The framers did not use the word "state" in Article 1, Section 3, Clause 1 of the Constitution for the specific purpose of excluding representation from areas that were not states. Rather, it was just the simplest way to explain the basis of representation in the upper house.

Since the District did not exist at the time the Constitution was written, it is not surprising that delegates to the Constitutional Convention did not foresee the possibility that DC would eventually be the home of 600,000 Americans, many thousands of whom would be barred from full exercise of their political rights.

Congress and the courts treat DC as a state in many other matters. For example:

- A Supreme Court decision in 1820 (*Loughborough v. Blake*) gave the federal government the right to collect taxes from DC residents, even though the Constitution (Article 1, Section 2) says direct taxes may be apportioned among the *states*.
- In 1889, the Supreme Court ruled that Congress could regulate business that crossed District boundaries despite constitutional language that permitted Congress to regulate "Commerce . . . among the several states." (*Stoutenburgh v. Hennick.*)
- In another decision the Supreme Court affirmed DC residents' civil rights by guaranteeing them the right to a jury trial, although the Sixth Amendment speaks only of "An impartial jury of the State and [judicial] district wherein the crime shall have been committed." (*Callan v. Wilson*, 1887.)
- Although the Constitution specifies that electors for the President and Vice-President are to be appointed by the *states*, the 23rd Amendment gave these privileges to DC.
- DC is treated as a state in almost every federal statute, most of which include the phrase, "For the purpose of this legislation, the term 'state' shall include the District of Columbia."

The proposed amendment is consistent with the idea of a living, growing Constitution. Article I grants the *people* the right to elect representatives. The Seventeenth Amendment, ratified in 1913, gave the *people* of each state (rather than the state legislatures) the right to elect senators. The proposed amendment, would give the *people* of DC a full voice in Congress.

Article V of the Constitution prohibits amendments that would deprive states of their equal votes in the Senate. If the DC amendment is adopted, will states no longer be equal in the Senate?

Since the Constitution was adopted, 37 states have been added to the original 13, yet no one seriously argues that the older states

113 out of 115 [illegible] representation to [illegible]

[only AK pays higher per cap taxes]

have been deprived of their equality because of the admission of the new states. The framers used this language to ensure that the Great Compromise between large and small states would not be annulled through an amendment basing representation in the Senate on population. The DC amendment would in no way upset this compromise. As explained above, DC can be considered equal to a state for representation in Congress. It will not receive more or less representation than a state. If DC is allowed two senators, no state becomes more powerful than any other state.

Does giving full voting rights to the District set a dangerous precedent? Won't other U.S. cities and Puerto Rico, the Virgin Islands and Guam start clamoring for separate and full representation?

No precedent is set for either cities or territories. Residents of other U.S. cities already have full voting rights; they are constituents of congressional districts and they vote for senators. The territories already have a constitutional route for getting full voting representation: like other territories—most recently Alaska and Hawaii—they may petition Congress to be admitted to the Union as states. Unlike cities and territories, it is only the people of DC who are forced to seek a constitutional amendment in order to get full representation in Congress.

How will full voting representation for DC work, since there is no state legislature or governor to fill senatorial vacancies, draw congressional district lines or approve constitutional amendments?

Section 2 of the proposed amendment gives Congress the authority to determine how the rights and powers conferred by the amendment will be exercised. For example, Congress can decide to call a special convention in the District to draw congressional district lines and approve constitutional amendments. Congress could also direct DC's elected mayor to name a replacement in the case of a senatorial vacancy.

What are the alternatives?

Q If there is some question about letting a nonstate be represented in the Senate, wouldn't an amendment giving DC voting representation only in the House of Representatives be preferable?

A No. Such an amendment would not fully enfranchise DC voters. It would only perpetuate second-class citizenship for residents of the District. Certain rights, privileges and responsibilities are unique to each house. Furthermore, since both houses review legislation enacted by the DC city council and have the final say on the DC city budget, DC citizens have an even greater interest than do citizens of the 50 states in being represented in both houses.

Q Why not retrocede DC entirely to Maryland? The return of the city of Alexandria to Virginia in 1846 set a precedent for such a retrocession.

A This alternative is a less equitable and realistic alternative than the full voting rights amendment for several reasons.

- According to Article IV of the Constitution, DC could not be retroceded without the consent of the Maryland state legislature. It is highly unlikely that Maryland would be willing to accept the retrocession.
- Full retrocession defeats the idea of a separate federal enclave.
- DC has been politically separate from Maryland for over 175 years. It is a distinct entity whose residents have their own identity and need for representation.

Q What about partial retrocession? Couldn't DC residents be treated as citizens of Maryland for the purpose of voting in congressional elections?

A It is an alternative that creates more tangled problems than it solves. Even if the obstacles of congressional approval and Maryland acceptance could be overcome, these questions remain:

- If Maryland congressional districts are redrawn to include DC, how will the absence of

DC representatives in the Maryland legislature affect other considerations of fair representation?

• Would it be constitutional to treat DC citizens as people of a state in which they do not reside?

• Would Maryland's members of Congress reflect the separate interests of DC residents?

Why not just admit DC to the Union as the 51st state?

Although Congress has the power to make all or part of DC a state, the proposed amendment does not seek to do so. It recognizes the unique history of the District and its special status as the seat of the national government. Because the amendment will not upset the relationship between Congress and the DC government, the national government will not have to be reliant on a state for services and protection.

Why don't DC residents vote in their home states or in other states of their choosing?

This would avoid the need to amend the Constitution.

There were 249,524 registered voters in DC on November 7, 1978. The DC Board of Elections and Ethics estimates that another 100,000 to 150,000 persons of voting age consider DC their permanent residence. Whether these people can be treated as citizens of states in which they do not reside in order to vote is a constitutional question. Also, a majority of these residents were either born in DC or have been residents long enough to have more of a community of interest with other DC residents than with residents of states from which they or their parents emigrated. Further, the separate interests of DC cannot be voiced by a representative or a senator from another state.

Senators and representatives from states represent a range of interests, but wouldn't members of Congress elected from DC merely represent the interests of federal workers?

There is a buried assumption in this question. It implies that federal government employees should not be allowed full representation in Congress. But the most reliable figures available (April 1970) show that only about 4 percent (109,615 of 2,875,000) of all federal civilian employees were DC residents. The other 96 percent of federal employees are fully represented in Congress.

DC residents who do not work for the federal government have a wide diversity of interests and work at all sorts of jobs. To deny DC residents their full civil rights because some work for the federal government is abhorrent to American political traditions.

Why should DC be given the privileges of a state when it does not pay all its own bills?

Some people argue that DC does not pull its own weight because it receives a federal payment from Congress. This argument ignores the nature of the payment: it is intended to cover the difference between the costs and benefits of being the site of the nation's capital. Congress, in making the appropriation, takes into account three facts:

• 38 percent of DC's land is tax exempt because it is owned by the federal government and by foreign embassies;

• DC incurs the costs of providing services required by the federal government (policing demonstrations is one example);

• Congress limits many options that could produce municipal revenue. For example, Congress has banned the enactment of a commuter tax and it has limited building height.

Balanced against these costs are the benefits DC gains from tourism and federal construction. The payment is the net difference and it accounted for only 16 percent of DC's budget in fiscal year 1979.

DC residents assume their share of the federal tax burden. The 1977 federal tax for each DC resident was $2,116—$491 above the national average of $1,625. Only one state—Alaska—had a higher per-capita tax burden. That same year

D.C. Voting Amendment Assaul

Ohio House of Representatives to Reconsider Approval

By Diane Brockett
Washington Star Staff Writer

The D.C. Voting Rights Amendment took a big half-step backwards Friday night when the Ohio House of Representatives voted to reconsider its earlier action approving ratification.

Ohio had become the second state to ratify the proposed constitutional amendment when its House voted 51-37 for ratification Thursday — only one vote more than was needed for passage in the 99-member body. The Ohio Senate had favorably acted on the measure the week before last.

Now New Jersey, which voted to ratify in September, is once again the only state to have approved the amendment, which would give D.C. residents full Congressional voting representation. The proposed amendment, given final approval by Congress in August, must be ratified by 38 states within seven years to go into effect.

The earlier Ohio victory had been especially important to supporters of the measure since the legislatures in three states — California, Delaware and Pennsylvania — had failed to ratify the amendment since the New Jersey success.

The Ohio House will reconsider the ratification resolution when it meets again Dec. 21.

The motion to reconsider, which was made by Rep. Michael G. Oxley, one of two Republicans to vote for ratification on Thursday, will give opponents an opportunity to attempt to change the close margin.

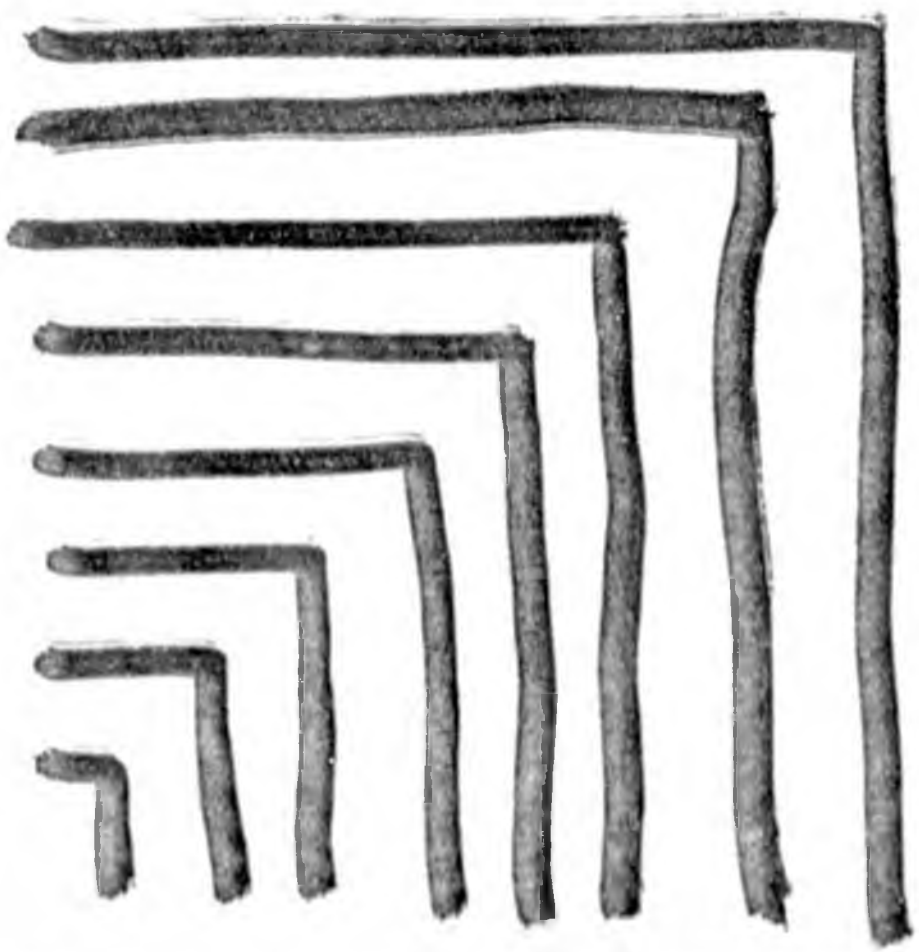
The outcome of another vote does not appear certain because of the two-vote margin of Thursday and the opportunity that now exists for more lobbying. There is no guarantee that all the legislators will return for the Dec. 21 session. The date is close to Christmas and currently the House is meeting in once-a-week "skeleton day sessions" which are not always well attended.

Ohio supporters of the ratification measure had at one time planned to have the approval vote on Friday, but it had been moved up to Thursday because many of their yea votes would be absent.

The Ohio reconsideration move came as a surprise to supporters here who had not learned of it until yesterday when Ohio State Senator Buz Lukens announced it at a conference. The conference was held on the amendment and took place in Crystal City by the American Legislative Exchange Council.

Lukens said the move was made late Friday night after a number of Ohio House members who had voted for ratification had left early and the yea votes no longer had a majority present. Under Ohio legislative rules, a motion to reconsider can only be made by a member who voted in the majority and the motion must be made within three days of the original action.

See OHIO, C-3



Ohio

From C-1

Lukens said that there are two possible motives behind Oxley's reconsideration move. Either the Republican House member deliberately had voted for ratification when he saw his vote wouldn't make any difference — giving himself the right to ask for the reconsideration manuever. The second possibility was that heavy Republican pressure had been put on him since the Thursday vote. He said that the first possibility is a frequent tactic in the Ohio legislature.

The other Republican yea vote was cast by Rep. Charles R. Saxbe, son of former Attorney General William Saxbe. Saxbe had been active on behalf of the amendment during the floor debate.

The Ohio House has 62 Democratic and 37 Republican members.

Another delegate to the ALEC conference, Rep. Edward Fredricks of Michigan, reported to the meeting that the Michigan Senate is expected to approve ratification of the amendment this year. The state House approved it last Wednesday.

D.C. VOTE AMEND

Conservatives Deal With Racial Issue

By Diane Brockett
Washington Star Staff Writer DEC. 2, 1978

The D.C. Voting Rights Amendment is a measure "for carpetbaggers to get a seat in the U.S. Senate," former Nixon speech writer Patrick J. Buchanan told a group of conservative state legislators.

"Julian Bond has been saying the joke among blacks when they meet each other is to ask if they have moved to Washington yet," Buchanan told the 98 legislators attending an American Legislative Exchange Council meeting here yesterday.

"Why do you have to bring carpetbaggers into this?" an Arkansas legislator asked.

Buchanan responded that it has been the amendment's supporters — not the opponents — who have made the race issue prominent because they have described it as the major "civil rights" measure of 1978.

The exchange demonstrated a major theme that persisted throughout the day-long conference and the group's concern over how to deal with the race issue in the amendment fight.

Many proponents of the amendment have charged that, while it is usually unspoken, the major opposition to the measure is based on racial prejudice.

Sen. Edward M. Kennedy, D.-Mass., leader of the fight for ratification in the Senate, said opposition to the amendment has been based on the "four too's: the District is too urban, too liberal, too Democratic and too black."

The council, a non-profit organization which serves as an educational clearing house for conservatives among the nation's 7,400 state legislators, is quickly becoming the national leader of opposition to the D.C. amendment. This was the first major national meeting of

See CONSERVATIVES, C-3

Conservatives

From C-1

opponents to ratification and was attended by members of 40 state legislatures as well as a number of conservative organizations.

Hugh C. Newton, publicist for the council, said the organization was taking the unusual step of paying many of the expenses of the legislators who attended the conference.

"The reason why the amendment passed Congress was that it was being called the Civil Rights Act of 1978," James Hinish, counsel to the Senate Republican Policy Committee, told them. "If you were against this, you were against blacks. It passed because this was used very effectively by the proponents."

Hinish said there was a "lack of effective opposition" on Capitol Hill while "a number of black organizations contacted their state representatives, who were black . . . and they called their senators on the phone and pleaded with them."

"This is not a civil rights issue. It's a constitutional issue," Hinish continued, advising the legislators to turn their aguments toward the legal soundness of the measure.

The Republican counsel termed Republican National Chairman Bill Brock's support of the amendment as a way to "open up the Republican party "hogwash. . . . There is very little likelihood the Republican party will benefit from this."

The legislative council had one black speaker listed on its agenda, Clay Smothers, a member of the Texas House of Representatives, but he did not appear because of a death in his family. Smothers, a member of the council, is well-known among conservative groups and has said most elected black leaders do not speak for the majority of blacks, according to a council staff member.

The audience yesterday was all white, but staff members said there are other black members in the group besides Smothers.

D.C. Delegate Walter E. Fauntroy, learning about the conference from reporters late last week, asked to be added to the agenda. He also wanted a booth outside the meeting hall to present the other side of the issue. Both requests were denied.

All of the speakers, except columnist Tom Braden who debated Buchanan on the issue as part of the program, were opponents of ratification.

A couple of legislators attending said they would have liked a more balanced presentation, but most of those questioned said they had come to learn how to fight the ratification.

One of the speakers, Professor Jules B. Gerard of the Washington University School of Law in Missouri, told them he will have a book out in January on the issue and suggested that, if possible, they should prevent serious consideration of the issue in their own legislatures until they are armed with his work. Forty state legislatures open their 1979 sessions in January and most are expected to take up the amendment.

Fauntroy, asked about the charge that it actually has been the proponents who have interjected race into the battle, said the opposition has "conveniently inferred civil rights, basic human rights for all people, to mean black rights."

The other major theme of the speakers was that the opponents should force a full airing of the issues surrounding the amendment. They said attempts to obtain quick votes for ratification this year in six states has been prompted by its supporters fears that the measure would lose if the issues are thoroughly examined.

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
WASHINGTON, D.C.

February 5, 1979

Self-Determination For D. C.
Room 300
2030 M Street, N. W.
Washington, D. C. 20036

Mr. Christine Harter
State Affairs Committee
Alaska State Legislature
Juneau, Alaska 99811

Dear Ms. Harter:

You will note from the attached correspondence that I have contacted proponents of both views on the D. C. amendment and have asked them to appear here on Friday, February 9, 1979 at 4:00 P.M. for the teleconference with the Committee on the subject.

This matter was delayed until today because Mr. Callahan of the National Conference of State Legislatures had suggested Steve Saltzberg of the University of Virginia Law School to participate. However, he was in California, not returning until today. When I talked with him, he indicated that he was unable to travel for such a purpose without being reimbursed, and suggested that I contact Delegate Fauntroy's office. I did so, but, as of this writing, I have not heard from Mr. Barnes.

I hope to pass along this information via the teleconference network later today, but I also wanted to put it in written form for your ready reference.

Sincerely,

Peggy Hackett

Peggy Hackett

February 5, 1979

Hon. Walter E. Fauntroy
2441 Rayburn House Office Building
Washington, D. C.

Attn.: Mr. Barnes:

Dear Mr. Fauntroy:

The House State Affairs Committee of the Alaska Legislature has been considering the D. C. amendment in its Joint Resolution 4.

This office has been asked to set up a teleconference meeting with the Committee for Friday, February 9, 1979 at 4:00 P.M., lasting about an hour, with each side presenting its views for about 15 minutes, and about 20 minutes for questions and answers. Through this hook-up, the State Affairs Committee will be able to talk directly with representatives of both viewpoints.

Please contact me at 624-5858 regarding this matter.

Sincerely,

Peggy Hackett

February 5, 1979

Mr. Tom Ascik
Heritage Foundation
513 C Street, N.E.
Washington, D. C.

Dear Mr. Ascik:

You were contacted last week by John Callahan, Director, National Conference of State Legislatures, regarding a planned teleconference hookup from our office to our state capitol on Friday, February 9, 1979, at 4:00 P.M. At that time, it is hoped that you could present your views on the D. C. amendment for approximately 15 minutes, with 15 minutes being devoted to the opposite view, and approximately 20 minutes being set aside for questions and answers from our House State Affairs Committee, which has been considering House Joint Resolution 4 (the D. C. amendment).

You will note our address and telephone number on this letterhead. Please contact the undersigned if you have any questions about these arrangements.

I look forward to meeting you this Friday.

Sincerely,

Peggy Hackett

cc: Ms. Christine Harter

HJR

71

(7)

COMMITTEE REPORT

HOUSE

2/18/80

FURTHER:

Date: 3-6-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had HJR 71

"Relating to the Begich Boggs Visitor Center."

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

[X] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

Client: United States Department of Agriculture - Forest Service

Project: Begich, Boggs Visitor Center at Portage Glacier

Location: Portage Lake, Alaska

Description:

The Begich, Boggs Visitor Center at Portage Glacier in Alaska is expected to serve 300,000 visitors annually and will contain a theater and approximately 5,000 square feet of display area. Kramer, Chin & Mayo, Inc. (KCM) has done the conceptual design, preliminary engineering, and preliminary design for the center. KCM also evaluated the existing wastewater facilities at the visitor center site to determine their capability to handle additional waste loads. Final design and construction documents will also be prepared.

The building will be situated on the lake shore on a terminal moraine (the mound of earth and stones deposited by a glacier as it begins to recede). From an observation platform constructed in the lake and reached by pedestrian bridges, visitors will have an exceptional view of icebergs and of the glacier.

During the preliminary design, KCM considered architecture, landscape, mechanical and electrical systems, and site utilities. KCM's design includes a large exhibit area, a 200-person-capacity theater, and an orientation area with a refrigerated display space to contain a piece of Portage Glacier ice for visitors to see and touch. Because the visitor center will be on a very prominent site, careful consideration was given to the relationship between the physical structure and its surrounding environment. The terminal moraine left by the glacier will be extended and sculptured to surround the building and parking areas and to help them blend into the physical site. Earth mounds will soften the transition from nature to manmade objects. The building's architectural design continues this harmonious feeling. Walls will be rough-textured concrete, colored to be compatible with the surrounding landscape. Rounded corners will further soften the building forms.

KCM recommended that landscape plantings be of seedlings grown from cones gathered at the site and of root cuttings from indigenous plants so as to blend with the stark natural landscape and to adapt to the site's poor soil and severe wind and temperature conditions. In addition, nursery-grown Sitka spruce will be planted for immediate effect in the area of the building and parking median.

KCM found that, in order to treat the visitor center wastewater, a new pump station, force main, aeration system, and subsurface drainfield will have to be built. A polishing pond/seepage pit also will have to be built to handle maximum monthly summertime flow.

Exhibit-related design work for this project will be done by Gideon Kramer, a subconsultant to KCM.

Preliminary Design Completed: January 1979

The Juneau Marine Park is the first glimpse tourists arriving by tour ship have of the city. The park is seen locally as an important project that sets the pace for diversification of Juneau's economic base. The marine park, designed by Kramer, Chin & Mayo, Inc. (KCM) to attract tourists and serve local community groups, has become the focal point of Juneau's waterfront business district.

KCM, which provided design development, schematic designs, and construction cost estimates, began with a complete study of the topography, existing utilities, drainage, and environmental and visual considerations. Zoning, building codes, and ordinances affecting the project were researched. Planning also included gathering information on community and tourist needs.

Central to the park design is an outdoor amphitheater which supports and stimulates the activities of the diverse Juneau community groups. The partly covered facility is the scene of art fairs, concerts, and dramatic productions. The surrounding two-thirds-acre park site is extensively filled and elevated to allow a better view of Gasteneau Channel. Much of the park consists of lawn area landscaped with natural building materials, such as heavy timbers. Four colorful banners suspended from timbers depict symbols of Alaskan heritage: an eagle, a native design, a Russian church, and an Alaskan crab.

Despite Juneau's location in the midst of the Alaskan wilderness, the city has few parks. This piece of city-owned property is adjacent to the city hall, the Sealaska native corporation building, and new tour-ship-docking facilities. The park has become a lunchtime attraction for central-business-district office workers who often enjoy noontime musical entertainment performed in the amphitheater.

The city of Juneau and the federal Historic Conservation and Recreation Service are jointly funding the project which was dedicated in the summer of 1979.

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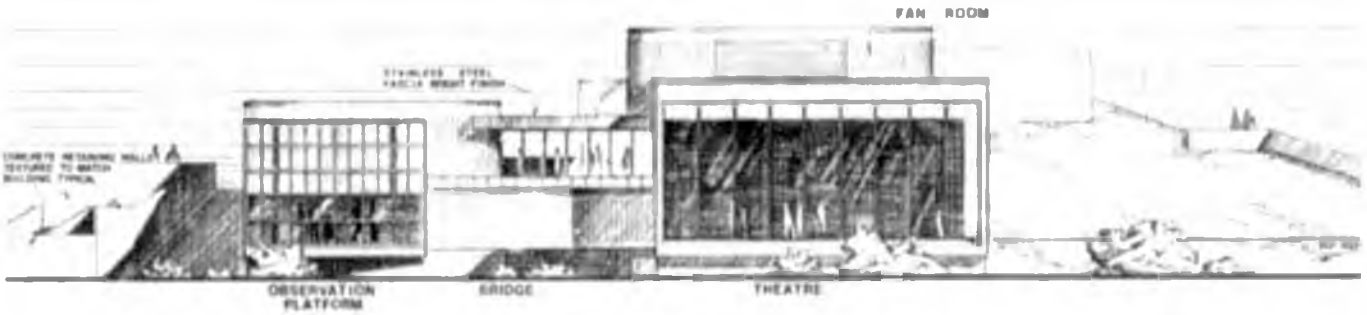
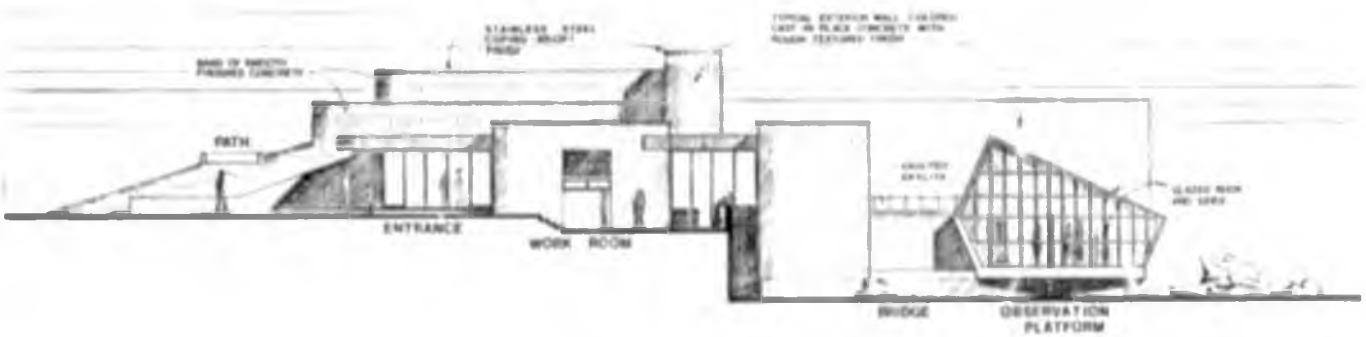


EAST ELEVATION



SOUTH ELEVATION

SB

2

(7)

COMMITTEE REPORT

HOUSE

FURTHER: JUDICIARY

March 22, 1979 Date: 3-25-79

Mr. Speaker:

The Committee on STATE AFFAIRS has had CSSB 2

"An Act relating to the comprehensive recycling and reduction of litter; eff. date."

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

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for CSSB2 [ ] same title [ ] new title

and recommends HCS SB2 DO PASS

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

V. Ft. Ct.
McKenzie
Jon Wolfe
Ray Hall
Kelly Davidson

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Terry Whitmire

V. Ft. Ct.
CHAIRMAN

H 60 (Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CSSB-2
Title Comprehensive Recycling - and Reduction of Litter
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Department of Environmental Conservation
Program Category Affected Solid Waste Management
BRU, Program, or Subprogram(s) Affected Environmental Quality Management
(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	-	349.5	384.0	423.0	465.0	-
200 TRAVEL		74.0	81.0	90.0	98.0	-
300 CONTRACTUAL	-	155.5	165.5	182.0	200.0	-
400 COMMODITIES	-	17.0	18.5	20.6	22.6	-
500 EQUIPMENT	-	47.0	49.0	52.0	54.4	-
600 LAND & STRUCTURES	-					-
700 GRANTS, CLAIMS, ETC.	-	450.0	450.0	450.0	450.0	-
TOTAL	-	1,093.0	1,148.0	1,217.6	1,290.0	

FUNDING (Thousands of Dollars)

GENERAL FUND	-	1,093.0	1,148.0	1.217.6	1,290.0	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Fund Source)	-	-	-	-	-	-

POSITIONS

FULL TIME	-	7	7	7	7	7
PART TIME	-	36	36	36	36	36
TEMPORARY						

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

ASSUMPTIONS: 1. Assumes full bill to be enacted, including litter reduction regulations established and enforced, public information campaigns, resource recovery and litter reduction programs implemented including grants to communities/ organizations, 3 litter patrol units activated each year for three months. 10% inflation assumed on personal services, travel and commodities, 5% inflation on all other figures.

IV. DATE _____ PREPARED BY _____
AGENCY _____
PHONE _____

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

33-001 (Rev. 12/79)

A. POSITIONS AND RESOURCES FOR ADEC

Personal Services: (position descriptions attached)		
1 resource recovery economist (R20)	43.3	
1 litter reduction program supervisor (R18)	37.7	
1 public information officer I (R14)	28.1	
1 administrative assistant (R17)	23.3	
3 field positions (R16)	98.1	
Total Personal Services		232.5
Travel		20.0
Contractual		104.5
To support positions	74.5	
For public information	30.0	
Commodites		2.0
Equipment		2.0
SUBTOTAL ADEC EXPENSES		361.0
B. GRANTS TO LOCAL GOVERNMENT FOR LITTER CONTROL		200.0
Will include supplemental funds to supplement/ encourage litter cleanup efforts		
C. RECYCLING, RESOURCE CONSERVATION GRANTS		250.0
Will include funds to initiate, and demonstration grants to show feasibility of, promising recycling and resource conservation projects.		
D. LITTER PATROL (36 part-time positions)		
Per Patrol:		
11 youths & supervisor @ $1,300/youth/patrol	39.0	
Travel	18.0	
Contracted	17.0	
Commodities	5.0	
Equipment	15.0	
	94.0	
Cost for 3 patrols:		282.0
TOTAL FISCAL FOR CSSB-2		1,093.0

POSITION DESCRIPTIONS FOR CSSB-2

3 ECOLOGIST II positions, Range 16, to be located in each of the department's 3 field offices in Fairbanks, Anchorage, and Juneua.

Job Description: Range 16; Assists communities and public organizations in conducting litter cleanup campaigns, investigates and assures compliance with litter and litter receptacle regulations; coordinates state grants to further litter reduction and resource recovery; collects and compiles data to identify litter reduction and resource recovery opportunitites within communities; answers compliants and provides public information concerning litter reduction and resource recovery requirements and opportunities.

LITTER REDUCTION PROGRAM SUPERVISOR Ecologist III Range 18, located in Juneau

Job Description: Under general supervision, develops and oversees the establishment and operation of the statewide litter reduction program; defines program goals and policies; coordinates effective public relations efforts with the Department's Public Information Officer, Advisory Council and regional field officers; develops litter reduction regulations and enforcement policies; establishes litter reduction program progress; develops annual work plans for accomplishing program objectives.

RESOURCE RECOVERY PROGRAM ANALYST Economist II Range 20, located in Juneau

Job Description: Under general supervision, develops and oversees the establishment of a statewide resource recovery program; defines program goals and policies; conducts detailed economic analyses to determine areas where resource recovery from litter-related materials can be accomplished; establishes demonstration projects and programs to show feasibility of resource recovery; evaluates statewide economic potential for resource recovery from litter-related materials; coordinates public relations efforts with the Department's Public Information Officer, Advisory Council and regional field officers on resource recovery matters; develops resource recovery grant policies and procedures; collects and analyzes data to determine resource recovery program effectiveness; writes summary reports on resource recovery; develops annual work-plans for accomplishing resource recovery objectives.

PUBLIC INFORMATION OFFICER Range 14, located in Juneau

Job Description: Under supervision, prepares public information releases, brochures and documents concerning litter reduction and resource recovery; works with communities in organizing public information campaigns for litter cleanup efforts.

Original Sponsors: Colletta, Kerttula, Sackett, et al

IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

HOUSE CS FOR CS SENATE BILL NO. 2

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to resource recovery and the reduction of litter; and providing for an effective date."

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

* Section 1. LEGISLATIVE INTENT. (a) It is the intent of the legislature to encourage the recovery of resources from litter and maintain the natural environment of the state as nearly litter free as possible so that our cities, boroughs, rural regions, highways, roads, and recreational areas can be viewed and enjoyed by both present and future citizens and visitors in their finest scenic state, unblemished by litter.

(b) It is the belief of the legislature that the official encouragement and stimulation of private and public resource recovery and conservation efforts, through recycling centers and other means, will result in the recovery and use of major quantities of basic materials with accompanying significant conservation and savings of energy.

(c) It is the belief of the legislature that a litter-free environment is possible through enactment of a strong and well-balanced program of litter prevention, a program of public awareness designed to make littering an unacceptable practice in the minds of all citizens and visitors; and a program of public education with emphasis on younger people who are the future of the state.

(d) It is the intent of the legislature that appropriations made to finance the programs created under AS 41.21 enacted in sec. 2 of this Act should be spent to encourage local solutions for the prevention of littering.

* Sec. 2. AS 41 is amended by adding a new chapter to read:

encourage all federal + state coordinat (3)

CHAPTER 21. RECYCLING AND REDUCTION OF LITTER.

Sec. 41.21.010. POWERS AND DUTIES OF THE DEPARTMENT. The department shall

(1) serve as the coordinating agency among the various government and private organizations in the state which are involved in litter control and reduction and the recovery of energy or materials from litter;

(2) assist local governments in the adoption and amendment of ordinances relating to litter control and reduction;

(3) encourage, organize and coordinate voluntary local information campaigns which seek to focus the attention of the public on the reduction of litter and the recovery of resources from litter;

(4) encourage, organize and coordinate ~~voluntary~~ local resource recovery programs;

(5) encourage all state and local agencies to aid resource recovery programs by providing publicity which encourages resource recovery programs and by allowing the use of publicly owned land, buildings, or equipment for resource recovery efforts whenever possible;

(6) investigate the availability of, apply for, receive, and expend grants, loans or other funds available from any source, and, if it is appropriate and feasible, accept nonmonetary assistance in the form of services or equipment for use in programs established under this chapter;

(7) determine the types of materials or energy which may be profitably recovered from litter through resource recovery processes, and adopt regulations under the Administrative Procedure Act (AS 44.62) which require the recovery of the materials or energy; and

(8) adopt other regulations under the Administrative Procedure Act (AS 44.62) necessary to implement this chapter.

Sec. 41.21.020. ANNUAL REPORT. Not later than six months after the end of each fiscal year, the department shall prepare a detailed report describing and evaluating the actions taken and programs established under this chapter for submission to the governor and the legislature. The report must include

(1) the status and results of all grants made under this chapter;

(2) an evaluation of the progress achieved by litter control and reduction programs; and

(3) an evaluation of the resources and energy recovered from litter in the state.

Sec. 41.21.030. ADVISORY COUNCIL. (a) There is created an advisory council to the department, which shall advise the department concerning the litter control and reduction, source separation and resource recovery programs under this chapter. The council may encourage the participation of industry, labor, municipalities, and the public in the programs administered by the department.

(b) The council consists of seven members appointed by the governor who are aware of and concerned with achieving the goals of this chapter. The members serve at the pleasure of the governor.

(c) The council shall meet annually, and may meet more frequently if necessary or desired. The members of the council serve without compensation but are entitled to per diem and travel expenses authorized by law for boards and commissions.

Sec. 41.21.040. PUBLIC AWARENESS; MOTIVATION. The department shall establish, provide advice concerning, and coordinate programs designed to

(1) encourage the public to recover valuable resources from litter;

(2) use existing, and develop new, techniques and programs to reduce litter and littering;

(3) encourage the public not to litter and to engage in clean-up efforts; and

(4) advise the public of the state's anti-litter laws and regulations and encourage enforcement of those laws and regulations.

Sec. 41.21.050. LITTER RECEPTACLES AND ANTI-LITTER SYMBOL. (a) The department shall designate one or more types and sizes of litter receptacles for use in the state. The department shall make available for distribution throughout the state an anti-litter symbol of a uniform color and design adopted by the department. This anti-litter symbol must bear a statement of the penalties for littering, and the department shall design the anti-litter symbol so that it may be attached to litter receptacles. To aid public recognition and use of litter receptacles, the department may adopt an anti-litter symbol used in another state. The anti-litter symbol designed by the department must be attached to litter receptacles located in the public places of the state by the person or agency responsible for the placement of those receptacles.

(b) Litter receptacles designated for use in the state by the department shall be placed at public places in the state unless the public place is specifically exempted by regulations adopted by the commissioner under the Administrative Procedure Act (AS 44.62). The number of receptacles required to be placed in each public place shall be determined by a formula related to the need for those receptacles. The requirements of this subsection are satisfied by the use of a litter receptacle which was in use before July 1, 1980, if the anti-litter symbol of the state is attached to the receptacle.

(c) A person owning or operating a privately owned public place at which litter receptacles are required under (b) of this section shall

place litter receptacles at the public place at his own expense.

(d) Compliance with this section requires proper upkeep, maintenance and repair of a litter receptacle sufficient to permit the receptacle to serve the function for which it was designed and to prevent the receptacle from becoming unsightly.

(e) Responsibility for the placement of litter receptacles at publicly owned public places and for the removal of litter from those litter receptacles remains with the municipality or other public agency performing litter removal. Removal of litter from litter receptacles placed at privately owned public places remains the responsibility of the owner or operator of the privately owned public place.

(f) A person may not damage, deface, abuse or misuse a litter receptacle not owned by him so as to interfere with its proper function or to detract from its appearance.

(g) A person may not deposit leaves, clippings, prunings, garden refuse or household waste materials in a litter receptacle unless he has the permission of the owner of that receptacle.

(h) Except as provided in (i) of this section, a person who violates the provisions of (b) - (g) of this section is guilty of a violation and in addition to the punishment imposed by AS 12.55.035(b)(5), the court may order a person who violates this section to gather and dispose of litter in an area and for a length of time determined by the court.

(i) If a municipality of the state adopts an ordinance which prohibits the same conduct prohibited by (b) - (g) of this section, a violation of (b) - (g) of this section which occurs in the municipality is punishable under the provisions of the municipal ordinance if the punishment imposed under the ordinance is equal to or greater than the punishment imposed by AS 12.55.035(b)(5).

Sec. 41.21.060. LITTER BAGS. The department shal design and have produced a biodegradable litter bag bearing the state anti-litter symbol and a statement of the penalties for littering in the state. The department shall make available to the division of motor vehicles in the Department of Public Safety a sufficient quantity of these litter bags. The division of motor vehicles shall distribute one litter bag to each person who applies for registration or reregistration of his motor vehicle and shall notify the person of his responsibilities under the law. The depa ment shall make litter bags available to all vessel owners and persons entering the state by automobile. The commissioner shall designate distribution points for the broadest possible distribution of litter bags to persons entering the state by automobile or vessel.

Sec. 41.21.070. LITTER PATROL. (a) The department shall establish a youth litter patrol program for the employment of young people on a seasonal basis. The department shall cooperate with federal, state or municipal programs that either employ young people or encourage their employment. The department may contract with other state agencies to provide administration and other support for the youth litter patrol established by this section.

(b) The department may adopt regulations under the Administrative Procedure Act (AS 44.62) which are necessary to implement this section.

Sec. 41.21.080. LITTERING PROHIBITED. (a) A person may not throw, drop, deposit, discard or otherwise dispose of litter from a vehicle or otherwise, on public or private property in the state or in waters in the state or under state jurisdiction unless

(1) the property is designated by a state agency or municipality as a site for the sanitary disposal of garbage or refuse, and the person is authorized to use the site for that purpose; or

(2) litter is placed in a litter receptacle so that the litter is prevented from being carried away or deposited by the elements upon public or private property or waters in the state or under state jurisdiction.

(b) A vehicle may not be driven or moved on a public highway or right-of-way unless it is constructed, loaded or covered to prevent its load from dropping, sifting, leaking or otherwise escaping from the vehicle. This subsection does not apply to a vehicle used (1) to deposit salt or sand to secure traction, (2) by a public agency to clean or maintain highways, or (3) to transport agricultural, mining or timber products. A person who operates a vehicle from which an object has fallen or escaped which obstructs or endangers travel upon a public highway or right-of-way shall immediately remove the object at his own expense or pay the cost of removal incurred by the state or by a person.

(c) A person who violates this section is guilty of a violation, and in addition to the punishment imposed by AS 12.55.035(b)(5), the court may order the person to gather and dispose of litter in an area and for a length of time determined by the court.

Industry wants 1½ years

Sec. 41.21.090. PROHIBITED BEVERAGE CONTAINERS. (a) Beginning July 1, 1981, a person may not sell or offer for sale a nonglass beverage container which is opened by detaching a part of the beverage container.

(b) Beginning July 1, 1981, a person may not sell or offer for sale beverage containers which are held together by plastic or by a nonbiodegradable substance.

(c) A person who violates this section is guilty of a violation. Each sale ~~of a prohibited~~ beverage container is a separate offense.

Sec. 41.21.100. NOTICE TO PUBLIC. The penalties imposed for littering shall be posted along the public highways of the state, at

visitor centers, at entrances to state parks and recreational areas, at public beaches, and other publicly owned public places the commissioner determines necessary to accomplish the purposes of this chapter. The state agency or municipality responsible for litter removal from the public place shall post the notice required by this section.

Sec. 41.21.110. ENFORCEMENT AUTHORITY. The following persons are authorized to enforce the provisions of this chapter:

(1) a state employee authorized by the commissioner; and

(2) a peace officer.

Sec. 41.21.120. GRANTS. The department may make grants to state agencies, to municipalities, and to private organizations for the establishment and operation of programs authorized under this chapter. A grant under this section shall be for one year only. A program qualifying for a grant under this section may include

(1) courses of instruction at, or the distribution of informative materials to, elementary and secondary schools;

(2) purchase and erection of roadside signs;

(3) organization and operation of litter removal activities conducted by municipalities, private organizations or service groups using volunteer help;

(4) a public information program to inform the public concerning the reduction of litter using the media including use of the electronic media;

(5) expansion of existing and planning, design and construction of facilities for the recovery of materials and energy from litter;

(6) research and evaluation of markets for the materials and energy recovered from litter;

(7) advice and assistance, including information and consultation on available technology, operating procedures, organizational

arrangements, markets for materials or energy obtained from litter, transportation alternatives, and publicity techniques;

(8) surveys by public agencies or recognized research organizations to assess the amount and composition of litter, and rates of littering;

(9) the purchase of litter receptacles; and

(10) the creation or ansion of litter law enforcement programs. (11)

Sec. 41.21.130. CONDITIONS FOR GRANTS. (a) The department shall adopt regulations under the Administrative Procedure Act (AS 44.62) which establish

(1) .igibility requirements for applicants for a grant under AS 41.21.120;

(2) standards for the evaluation of proposals submitted by applicants for grants under AS 41.21.120; and

(3) other conditions for the receipt of a grant under AS 41.-21.120 which are necessary to achieve the purposes of this chapter.

(b) The regulations adopted by the department under (a) of this section must meet the following criteria:

(1) if there is not enough money for grants to all eligible applicants, the following shall receive priority:

(A) a proposed program or project which may become ~~economically self-sufficient in the future~~, and

(B) the proposed program or project which creates the greatest number of new jobs;

(2) the maximum amount for a single grant shall be established so that available money is distributed to a variety of programs,

(3) a grant may be made only for new programs or for improvements to or additions to existing programs.

p 10 line 1 what??

Sec. 41.21.140. FEDERAL REQUIREMENTS. If a federal department or agency issues a formal ruling that a section of this chapter will prevent the state from receiving federal financial participation in a program or activity established under this chapter, the section does not apply to the extent that it causes the program or activity to lose federal funding.

Sec. 41.21.150. DEFINITIONS. In this chapter,

(1) "beverage container" means the individual, separate, sealed glass, metal or plastic bottle, can, jar or carton containing beer or other malt beverages and mineral waters, soda water and soft drinks in liquid form;

(2) "commissioner" means the commissioner of environmental conservation;

(3) "department" means the Department of Environmental Conservation;

(4) "litter" means all waste materials susceptible to being dropped, deposited, discarded or otherwise disposed of upon property in the state or in waters under state jurisdiction; "litter" does not include the waste of the primary processes of mining or other extraction process, logging, sawmilling, farming or manufacturing;

(5) "litter bag" means a bag, sack or other container made of any material which is large enough and suitable to serve as a receptacle for litter inside a vehicle or vessel;

(6) "public place" means public or private property that is used or held out for use by the public, including but not limited to highways or other roads upon which vehicles are moved, parks, campgrounds, trailer parks, drive-in and fast food restaurants, gasoline service stations, parking lots for taverns, shopping centers and grocery stores and other parking lots which have a capacity for more than 50

vehicles, marinas, boat launching areas, boat moorage and fueling stations, public and private piers, beaches, bathing areas, school grounds, sporting event sites with seating capacity for more than 200 spectators, and business district sidewalks;

(7) "resource recovery" means the recovery of materials or energy from litter;

(8) "vehicle" means a mechanically driven device of any kind which is used for the transportation of a person or property on a public highway, trail or path;

(9) "vessel" means all descriptions of watercraft used or capable of being used as a means of transportation on the water.

* Sec. 3. AS 11.46.488 and AS 19.17.010 are repealed.

* Sec. 4. REVIEW AND EVALUATION. The Legislative Budget and Audit Committee shall review and evaluate the extent to which the purposes of this Act have been and are being achieved and the need for the continuation of the programs and requirements established under this Act. That review and evaluation shall be completed at least six months before the date specified in sec. 5 of this Act.

* Sec. 5. TERMINATION. This Act terminates July 1, 1984.

* Sec. 6. This Act takes effect July 1, 1980.

EDITORIAL PAGE

The Anchorage Times

ROBERT B. ATWOOD
Editor and Publisher

WILLIAM J. TOBIN
Associate Editor
And General Manager

CLINTON T. ANDREWS JR.
Managing Editor

War On Litter

A REFERENDUM to give Alaska a law prohibiting use of non-returnable bottles and mandating a system of deposits and refunds was defeated in last November's general election, partly on the promise of opponents that a better piece of litter-control legislation would be enacted this year.

Those opponents were heavily financed by businessmen and those who sell and distribute bottled drinks in Alaska. Supporters of the bill said the industry campaign against passage of the referendum was based on self-interest and an evil effort to protect profits. They said industry claims that a better litter bill would be introduced were nothing more than empty promises.

The voters didn't buy that argument. A majority believed a better bill could be drafted and bottles were only a small part of the problem. By the vote last November, the people of Alaska asked for legislation that would tackle the whole problem of trash and litter, not just a fraction of it.

AS THINGS have turned out, the industry's word was good. It sponsored and has lobbied for that broader litter bill it talked about during last year's campaign.

The Alaska Senate, where the measure was introduced at the outset of the session, gave its approval to the new litter abatement proposal last month. It sent the measure on to the House by a resounding 18-1 vote.

There the bill has run into trouble. It was assigned to the State Affairs Committee, headed by Rep. Mike Miller of Juneau. He was the prime sponsor of the bottle bill and, according to industry sources, is no great supporter of the broader law. Some say his coolness is motivated by the fact he doesn't want the industry to look good. The fear is some House members are determined to enact a bill that won't work.

One way to accomplish that negative goal, say spokesmen for an industry-sponsored committee known as Alaskans for Litter Control and Recycling, would be to have the Department of Environmental Conservation administer the law. Its commissioner, Ernst W. Mueller, is reported to be a foe of the bill's approach and an advocate of mandated deposits on bottles. A fact sheet distributed by the committee working for passage of the litter law says Mr. Mueller, in a recent cabinet meeting, expressed the opinion that the litter law should be vetoed by Gov. Jay Hammond if it passes the Legislature.

The Senate version of the bill would have administration of the law under the Department of Community and Regional Affairs and those working for its passage agree.

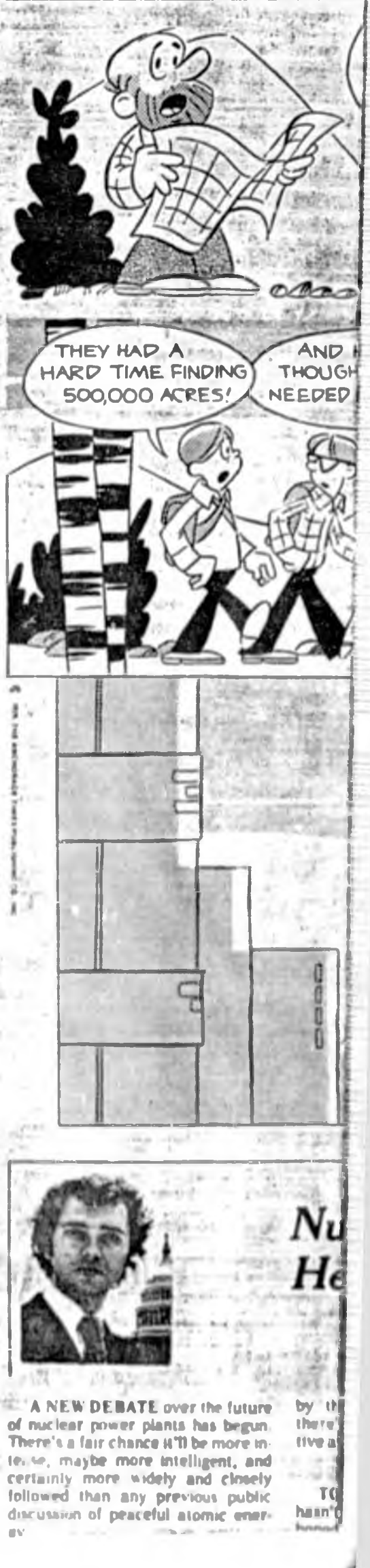
THE LAW would provide state direction and financial support for local efforts to make the state as free as possible of trash of all kinds — bottles as well as cans, paper, bed springs, rusty automobiles, splintered wood — anything and everything scattered by careless people.

Local governments, businesses, private organizations and community volunteers would be enlisted in the fight to eradicate litter and recycle what can be salvaged.

It is a program the people of Alaska favored when they turned down the bottle bill.

The House would do well to quit its own form of legislative littering, pass the Senate bill and get on with other things.

ALASKA FEVER



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A NEW DEBATE over the future of nuclear power plants has begun. There's a fair chance it'll be more intense, maybe more intelligent, and certainly more widely and closely followed than any previous public discussion of peaceful atomic energy

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STATE OF ALASKA
THE LEGISLATURE

POUCH Y, STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM February 27, 1980

SUBJECT: Litter reductions and resource recovery
HCSCSSB 2

TO: Representative Mike Miller, Chairman
House State Affairs Committee

FROM: James L. Baldwin
Legislative Counsel

James L. Baldwin

I have completed a working draft of HCS for CSSB 2 (litter control and resource recovery). According to your instructions, I have revised this bill to conform with the requirements of the Legislative Drafting Manual. I have also redrafted certain provisions which were redundant or inartfully drafted. I have attempted to retain the substance of those provisions while reorganizing the bill to aid the Department of Environmental Conservation in administering the law after enactment.

There is one provision in the draft which I am uncertain if I have correctly reflected your intent - that section appears on page 6, line 18 which permits the department to adopt regulations prohibiting the sale of certain dangerous beverage containers sold in the state. You originally wanted the department to have the authority to adopt regulations to ban pull-tabs and plastic six-pack holders The wording I drafted may be too broad for your purposes.

Additionally, there may be a constitutional problem with letting the department prohibit certain conduct by regulation since potential defendants may be unable to determine from the law whether their activity is punishable as a crime. I suggest that you consider an outright prohibition of pull-tabs and plastic six-pack holders in the law. This approach would avoid the lack of notice problem and would guarantee that your intent is accomplished.

Please let me know if I can assist you further.

JLB:ljb

Enclosure

SB
25

(1)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

March 22, 1979 Date: 3-30-79

Mr. Speaker:

The Committee on STATE AFFAIRS has had CSSB 25 am

"An Act relating to withdrawal from the federal Social Security System; eff. 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)

[X] replace with H-1 CS for CSSB 25 am [ ] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Terry Gardner

CHAIRMAN

H 60 (Rev. 12/78)

Lieutenant Governor Terry Miller
Pouch A
Capitol Building
Juneau, Alaska 99811

March 10, 1979

RE: Social Security Opt-Out Senate Bill 25.

Dear Honorable Sir:

This letter is written to verify my statements to you on the 16th, subjecting the above referenced.

Local 71 supports the passage of S.B. 25. We do not necessarily support the calling for establishment of an employee option on the Social Security Funds, but we do support the right to have the State employees vote on the issue of opting out of the social security system.

It is more practical for our members to be advised of all alternatives on opting out, the best way to accomplish this is to have an election, as called for in the legislation, on the issues of opting-out.

There have been some rumors circulating, saying Local 71 is attempting to "Kill" the legislation, however, as you are aware, and evident by this letter that is not true.

Terry, if you have any questions on this issue or letter, please feel free to contact the undersigned.

Sincerely,

Ken Spray
Vice President
Business Representative
Local 71
AFL-CIO

cc: Jim Duncan
Mike Miller
Bill Ray

Thomas Powers, Commissioner, Alaska Pipeline Commission

Jerome Tranmer, Board of Electrical Examiners

Hugh Macaulay, Board of Electrical Examiners

Dennis Milhouse, Board of Hairdressers & Beauty Culture

Roxana Kemp, Board of Public Accountancy

Gail Glad, Real Estate Commission

Kenneth Calhoon, Real Estate Commission

Gary Wilken, Real Estate Commission

Clifford Lobaugh, Board of Veterinary Examiners

Respectfully submitted,

Rep. Fred Brown
Chairman
House Commerce Committee

HCS CSSB 25 The following letter of intent was received on HOUSE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 25 (relating to withdrawal from the federal Social Security System, effective date):

HOUSE STATE AFFAIRS COMMITTEE

LETTER OF INTENT

For HCS For CS for Senate Bill 25

By amending this Bill to provide that employees of the division of marine transportation engaged in operating the State ferry system who are currently excluded from the Public Employees' Retirement System (PERS) by AS 39.35 680(21)(c)(v) may obtain PERS coverage if such coverage is agreed to in a collective bargaining agreement, it is not the intent of the House State Affairs Committee that either or both parties to the collective bargaining be obligated to include a provision for PERS

HCS CSSB 25

coverage in agreements negotiated hereafter. It is only the intent of this Committee that the limited issue of PERS coverage for these employees be a permissive subject for bargaining. The parties are not compelled to reach agreement on this subject, just as they are not compelled to agree on wages, vacations, work rules, etc.

Further, this Committee emphasizes that the provisions of the PERS itself are not subject to modification by collective bargaining. The Legislature reserves the sole right to amend the benefits and obligations provided by the PERS, except as expressly provided in this Bill.

Representative Mike Miller, Chairman
House State Affairs Committee

Representative John G. "Jack" Fullen
Vice Chairman
House State Affairs Committee

Representative Terry Gardiner, Member
House State Affairs Committee

Representative Bill Parker, Member
House State Affairs Committee

Representative Richard L. Ellason, Member
House State Affairs Committee

Representative Terry Martin, Member
House State Affairs Committee

Representative Ray W. Metcalfe, Member

A M E N D M E N T #2

Offered in the HOUSE By Miller

TO: HOUSE CS FOR CS FOR SENATE BILL NO. 25

Page 1, line 6:

After "relating to" insert: "retirement and benefits for public employees including"

Page 1, after line 8, insert:

"* Section 1. AS 39.35.160(a) is amended to read:

(a) While participating in the system each peace officer and each fireman shall contribute five per cent and every other employee shall contribute 4.53 [FOUR AND ONE-QUARTER] per cent of his compensation to the public employees' retirement system."

Page 1, line 9:

Delete: "Section 1." and insert in its place: "Sec. 2."

Page 1, line 13:

Delete: "Sec. 2." and insert in its place: "Sec. 3."

Page 1, between lines 23 and 24:

Insert:

"* Sec. 4. AS 39.35.680(25) is amended to read:

(25) "normal retirement" means retirement for a member who is at least 55 years old and has a minimum of five years credited service, or who is any age and has 25 [30] years or more of credited service, or a peace officer or fireman who is any age and has 20 years or more of credited service;"

Page 1, line 24:

Delete: "Sec. 3." and insert in its place: "Sec. 5."

Page 3, line 23:

Delete: "Sec. 4." and insert in its place: "Sec. 6."

Page 3, line 24:

Delete: "sec. 5." and insert in its place: "sec. 7."

Page 3, line 27:

Delete: "Sec. 5." and insert in its place: "Sec. 7."

Page 4, lines 10 - 13:

Delete all material and insert:

"* Sec. 8. Sections 2, 3, and 5 of this Act take effect on January 1, 1980, if approved by a majority of the votes cast by affected state employees under sec. 7 of this Act.

* Sec. 9. Sections 1 and 4 of this Act take effect on January 1, 1980, if approved by a majority of the votes cast in a special election conducted

before January 1, 1980, by the Department of Administration among the active members of the public employees' retirement system.

* Sec. 10. Sections 6, 7, 8, 9, and 10 of this Act take effect immediately in accordance with AS 01.10.070(c)."

A M E N D M E N T #1

Offered in the HOUSE By Miller

TO: HOUSE CS FOR CS FOR SENATE BILL NO. 25

Page 1, lines 10 - 12:

Delete:

"pay the appropriate social security contribution or the contributions required under AS 39.30.150 in p ce of the social security contribution"

and insert in its place:

"be considered to have agreed to have his wages reduced by an amount equal to one-half of the total contribution which the state is required to make on his behalf under AS 39.30.150 [PAY THE REQUIRED SOCIAL SECURITY CONTRIBUTION]

Page 1, line 28:

After "required" insert: "on behalf of an employee"

Page 1, line 29:

Del te: "and an employee of the state"

Page 2, line 1:

Delete "each"

Page 2, line 1:

Delete: "6.13" and insert in it. place: "12.26"

Page 2, lines 5 - 6:

Delete: "contributions made by the employee under this section and the"

Page 2, line 14:

Delete: "by them and"

Page 2, line 22:

Delete: "by or"

Page 3, line 7:

After "employee" insert: "on whose behalf the state is"

Page 3, line 11:

Delete: "both"

Page 3, line 12:

Delete: "and by the employee"

SOCIAL SECURITY WITHDRAWAL

ELECTION

The bill calls for an election among state employees to determine whether or not state employees desire to withdraw from the social security system effective January 1, 1980. In the event that employees elect to withdraw from the social security system, monies previously contributed to social security would be contributed to a supplemental benefit plan.

SUPPLEMENTAL BENEFITS PROGRAM

The supplemental benefit plan provides that each employee may elect to allocate monies previously contributed to social security on his behalf to the following:

1. supplemental health benefits
2. supplemental death benefits
3. supplemental disability benefits
4. supplemental survivor benefits
5. supplemental annuities

All of the supplemental benefit programs would be designed to compliment benefits provided in the retirement systems. (PERS and Judiciary) Each employee could therefore create a benefit package which would be addressed to his own individual needs.

MARINE EMPLOYEES ALLOWED TO PARTICIPATE IN PERS

The legislation also provides that employees of the division of marine transportation may be allowed to use their social security monies for inclusion in PERS rather than the supplemental benefit program. Such inclusion would be subject to the State formally agreeing to the inclusion through the collective bargaining process. Currently such employees are not participating in PERS.

NO COST TO THE STATE

Election Costs: APEA has entered into a contract with the State to pay for the Election

Administrative Costs: In the event that the result of the election is in favor of withdrawal from social security, Sec. 39.30.160(c) provides that the administrative costs of operating the supplemental benefit program be deducted from the social security monies prior to being credited to individual benefit accounts. Thus it will not cost the State any

additional mo to operate the program. In order to in. ally implement the program (from the election to January 1, 1980) it is necessary to have an appropriation from program receipts, however this appropriation would be returned to the general fund when social security monies start flowing into the supplemental benefit program in January 1980.

SAVES STATE MONEY

State will pay less than social security contributions:

Although the primary intent of the legislation is not to save the State money, the supplemental benefit program would result in a savings to the State. Currently, the employer and the employee both contribute equal amounts to the social security system. The contributions to the social security system are increased by increasing the percentage index and the taxable wage base. Now the employer and employee each contribute 6.13 percent of $22,000 the taxable wage base. In the near future both the percentage and the taxable wage base will increase. However under the proposed legislation, the percentage rate is frozen at 6.13 and only the taxable wage base will increase (in order to protect the benefits program from inflation). Thus in the future the amount contributed to the supplemental benefit program would be less than the state would be contributing to social security.

AMENDMENT MAKES ALL MONIES CONTRIBUTED TO THE SUPPLEMENTAL BENEFIT PROGRAM NON TAXABLE

Under the social security program the employee contributed 6.13 percent of the taxable wage base (currently $22,000) to social security and the employer contributed a like amount. Thus the total contribution is 12.26. The amendment provides that the employee's salary be reduced by the amount of his social security contribution and the State contribute that amount for him. Thus making the entire 12.26 percent an employer contribution, which makes the monies non-taxable. As his gross salary is reduced by the amount of the contribution, the employee is also in a lower tax bracket and should take home more money.

SIMPLE EXAMPLE OF PROPOSED AMENDMENT TO HCS FOR SCS FOR SB NO. 25

CURRENT BILL

$100.00 Gross Salary

- 20.00 Taxes
80.00

- 6.13 Employee's contribution to the supplemental benefit program (previously the social security contribution. The employer also contributes 6.13, thus the total contribution to the supplemental benefit program is 12.26.
73.87

$ 73.87 TOTAL NET INCOME

PROPOSED AMENDMENT

$100.00 Current Gross Salary

- 6.13 Reduce the gross salary by the amount required to be contributed to the supplemental benefit program (previously social security) and have the employer contribute an amount equal to the reduction in gross salary (6.13) on the employee's behalf in addition to the amount the employer is already required to contribute. Total employer contribution would be 12.26.
93.87

93.87 NEW GROSS SALARY
- 18.00 Taxes (Employee is in a lower tax bracket because of reduced
$ 75.87 gross salary).

$75.87 TOTAL NET INCOME (Employee takes home more)

STATE OF ALASKA

Inter-Department Route Slip

TO:
MAIL STATION NUMBER _____

DEPARTMENT _____

ATTENTION Representative Miller

☐ 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:
MAIL STATION NUMBER 0203

DEPARTMENT Retirement / Benefits

BY _____ DATE 4/23/74

02-002 (REV.10/73)

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF ADMINISTRATION

DIVISION OF RETIREMENT & BENEFITS

POUCH CR
JUNEAU, ALASKA 99811

April 23, 1979

The Honorable Bill Ray
Senator
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Ray:

Per our discussion of today, enclosed are proposed amendments to House CS for CS for Senate Bill 25. These amendments are intended to tax shelter all money going into the supplemental programs until paid out to the employees.

Sincerely,

Paul B. Arnoldt

Paul B. Arnoldt
Director

PBA/jb
Enclosure

cc: Sue Greene
Deputy Commissioner

Representative Duncan
Representative Miller
Representative Cotten

NOTE: Please Include Your Social Security Number In All Correspondence & Requests

Amendments to House CS for CS for SB 25

Page 1 (lines 10 through 12)

(b) In addition each employee shall pay the appropriate social security contribution or shall be deemed to hav. agreed to have his wages reduced by an amount equal to one-half of the state's contributions on behalf of such employee as required under AS 39.30.150.

Page 1 & 2 (lines 27 through 29 and 1 through 15)

Sec. 39.30.150. CONTRIBUTIONS. (a) In place of contributions to the federal Social Security System which would have been required had the state remained in the system, the state shall contribute 12.26 per cent of the wages of the employee up to the taxable wage base then in effect in the social security system. All costs of establishing and administering the benefit program established by AS 39.30.160 shall be paid from the contributions made by the state under this section. Such contributions made by the state shall be paid into special individual employee benefit accounts in the Department of Administration to be used to provide supplemental employee benefits provided in AS 39.30.160.

(b) Employees of the division of marine transportation included in the public employees' retirement system through the process of collective bargaining under AS 39.35.680(21) (D) may, under the terms of a collective bargaining agreement, utilize contributions made under (a) of this section on their behalf to offset the costs of inclusion in the public employees' retirement system, however,

Page 3 (lines 11 through 14).

Sec. 39.30.160 (c) The entire amounts paid by the state, after the deduction for administrative costs under AS 39.30.150, shall be used for supplemental benefits under this section.

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 946
Title Withdrawal From The Federal Social Security System
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Administration - Division of Retirement and Benefits
Program Category Affected Retirement and Benefits (PERS)
Budget Request Unit(s) Affected Public Employees' Retirement System

EXPENDITURES (Thousands of Dollars)

	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100 PERSONAL SERVICES		37.3	79.1	83.8	88.6	94.2
200 TRAVEL		1.0	1.0	1.0	1.0	1.0
300 CONTRACTUAL		6.7				
400 COMMODITIES		0.6	0.6	0.6	0.6	0.6
500 EQUIPMENT		1.5				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
		4,232.5	4,655.8	5,121.3	5,633.5	6,196.8
TOTAL	-0-	4,279.6	4,736.5	5,206.7	5,723.9	6,292.6

FUNDING (Thousands of Dollars) See Attachment 1

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		1.5	3	5	3	3
PART TIME						
TEMPORARY						

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

See Attachment 1

Paul B. Arnoldt

IV. DATE 5-31-78 PREPARED BY Paul B. Arnoldt, Director
AGENCY Division of Retirement & Benefits
PHONE 465-4460

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) Rules Committee
Office of the Governor (Keith Specking)

33-001 (Rev. 12/77)

ATTACHMENT 1
HB 946

I. First Year Cost to the State:

1.	Marine Transportation Employees	=	$1,330,000
2.	Police/Fire Employees	=	387,000
3.	Other (PERS) Employees	=	2,515,500
	Total	=	$4,232,500

II. Funding:

1. The cost of this bill is determined as a percent of covered payroll. It is estimated that future payrolls will grow by 10% annually (salary and membership). Therefore, second year cost to the State will be $4,655,750, and so forth for each year.

2.

		79	80	81	82	83
General Fund	82.0 %	$3,470.6	$3,817.9	$4,199.5	$4,619.5	$5,081.3
Federal	4.5 %	190.5	209.5	230.5	253.5	278.9
Veterans'	.2 %	8.5	9.3	10.2	11.3	12.4
Fish & Game Fund	.6 %	25.4	27.9	30.7	33.8	37.2
Highway Fund	1.3 %	55.0	60.5	66.6	73.2	80.6
Airport Fund	2.9 %	122.7	135.0	148.5	163.4	179.7
Capital Fund	8.5 %	359.8	395.7	435.3	478.8	526.7
PERS		47.1	80.7	85.4	90.4	95.8
Total		$4,279.6	$4,736.5	$5,206.7	$5,723.9	$6,292.6

III. Administrative Costs:

1. Establish and administer new Deferred Compensation Program: One Retirement and Benefit Specialist (Range 16) and one Retirement and Benefit Technician (Range 12).

2. Administer new survivor benefits, disability benefits and basic benefits for employees not previously covered: One Retirement and Benefit Specialist (Range 16).

3. Equipment ($1,500), travel ($1,000), and commodities ($600) for new employees.

IV. Special Election:

1. One-time Data Processing costs to generate employee lists and mailing addresses ($5,000).

2. Postage ($1,500) and printing of ballots ($200).

V. Additional Information:

Two letters from Robert F. Richardson to Paul B. Arnoldt dated May 25, 1978. (See Attachment 2 and Attachment 3)

WILLIAM M. MERCER INCORPORATED

ATTACHMENT 2

Benefit Services / Consulting Actuaries

May 25, 1978

Mr. Paul Arnoldt, Director
Division of Retirement & Benefits
State of Alaska
Department of Administration
Pouch CR
Juneau, Alaska 99811

Re: House Bill 946 Costs

Dear Paul:

We have calculated that passage of House Bill 946 will cost 1.36% of earnings for State employees covered under PERS. This cost can be broken down in the following manner:

(1)	An extra 1% on the benefit formula	8.45%
(2)	25-and-out provision for present and new State employees	.30%
(3)	25-and-out provision for employees who transfer to State employment from other political subdivisions	.10%
(4)	Improved disability benefits	.10%
(5)	Total Cost	8.95%
(6)	Less average contribution from special fund	7.59%
(7)	Additional cost to the State	1.36%

As you can see, this cost is higher than the cost calculated by Milliman & Robertson, Inc. There are several explanations for these differences. Of prime importance is the fact that different actuarial assumptions have been used in the two calculations. M&R based its calculations on the former actuarial assumptions whereas our calculations have been based upon new assumptions adopted by the PERS Board this Spring. Perhaps of greatest significance, especially as relates to this bill, is the fact that the new actuarial assumptions assume that salaries will increase at 6% per year until age 39 while the former actuarial assumption assumes that salaries will increase at 5% per year. As you can imagine, a benefit based upon final average pay

will be more costly if salaries go up at a faster rate. The present cost to the State for PERS is 12.06% of earnings. Passage of House Bill 946 will add 8.95% to this cost, arriving at a total cost of 21.01%. Adding 7.7% to the present 12.06% would arrive at a total cost of 19.76%. Thus, our total cost calculation is about 6% higher than M&R's estimated cost. Such a 6% difference in cost is easily explanable by the differences in actuarial assumptions.

Other differences bear mentioning. The present actuarial assumptions are more "liberal" than the former assumptions when it comes to determining cost for the 25-and-out provision. This is because we presently do not assume all employees will retire as soon as they meet the minimum eligibility for full retirement benefits. As pointed out in the Experience Analysis report presented this Spring, a large number of employees who are presently working are also eligible for unreduced full retirement benefits. I believe it is reasonable to assume that this phenomenon will continue in the future. In other words, even though an employee may be eligible to receive unreduced benefits after 25 years of service, he may elect to continue employment until age 55 or until he attains 30 years of service before actually retiring. In that event, the employee would not benefit at all from the 25 year and out provision of House Bill 946.

Only a small percentage of employees will actually "benefit" from this provision. At present only 11 employees, or less than .15% of State employees, are eligible to retire under the 25-year-and-out provision. However, it is reasonable to assume that a good percentage of those 11 employees will work until at least age 55 or until they have 30 years of service and, therefore, not ever utilize the 25-year-and-out provision. In fact, our records indicate that there are 22 employees who meet the present eligibility provisions for full retirement and yet who have not retired.

Finally, the advantage of the 25-year-and-out provision for those employees electing it is not as significant as you might expect. By retiring one year earlier, an employee would "pass up" an assumed 5% increase in salary and a 3% increase due to an extra year of credited service. Consequently, for each year earlier an employee retires, his benefit will be 8% less. Obviously, in highly inflationary times where salaries are going up faster than 5%, he will be reducing his total benefit by more than 8% per year. Almost exactly counterbalancing this "loss" in benefits is the value of receiving benefits for one more year.

The cost we have calculated for the 25-year-and-out provision is significantly less than the cost calculated by M&R. This difference can be attributed to the more "liberal" actuarial assumptions presently

adopted by the Board. I have reviewed this with M&R and they have indicated that their costs are based upon the assumption that employees will retire as soon as possible.

As you can see, line 3 above indicates a cost of .10% associated with the cost of providing unreduced benefits for employees who transfer to State employment after having accumulated several years of employment with a political subdivision. As we discussed, our interpretation of House Bill 946 allows an employee to work 24 years with a political subdivision and one year with the State and thus receive all 25 years of his benefits unreduced. In this example, the employee would get 24 years at 2% and one year at 3%. My cost calculation is based upon the assumption that 50% of the employees in other political subdivisions who are so inclined to take advantage of the 25-year-and-out provision will find employment with the State and be able to utilize that provision. It is my understanding that M&R did not take into consideration the effect of transfers from other political subdivisions on retirement under the 25-year-and-out provision.

As line 4 above indicates, I have determined that there is a cost of .10% to provide disability benefits which are the greater of 40% of pay or the accrued benefit under the Plan. Based upon a 2% formula, it would take 20 years to arrive at 40%. Under such a 2% formula, there would be very little cost for providing this provision. However, under the 3% formula, it would take slightly more than 13 years to accumulate 40%. It is much more likely under a 3% formula for the employee to have an accrued benefit which is greater than 40%. Our calculations indicate that the cost will be .10% of PERS earnings for State employees. It is my understanding that the M&R calculation of no cost for this benefit is based upon the 2% formula.

In summary, we have calculated that passage of House Bill 946 will increase the State's cost to PERS to a total of 21.01% of earnings, or an increase of 8.95% over the present contribution rate. While this total cost is approximately 6% higher than the total cost for the System implied in the March 15, 1978 report by Milliman & Robertson, Inc., it is our opinion that these differences are explainable as outlined above.

House Bill 946 also calls for the inclusion of Marine Transportation Employees. I have calculated that the cost of their future service benefits under PERS will be 14.71% of their earnings. Please note that this cost calculation includes the cost of medical benefits under PERS. The cost calculations also assume that Marine Transportation Employees will be allowed to retire after 25 years of service although only service after 1-1-80 will be counted for benefit purposes. In other words, a Marine Transportation Employee with 20

years of service on 1-1-80 will be allowed to retire on 1-1-85 with five years of credited service. If this is not the intent of HB946, then my costs will have been slightly overstated. It is my understanding that Milliman & Robertson, Inc. determined the cost for Marine Transportation Employees to be 13.4% of their earnings. This would indicate that my cost calculations are 1.31% higher than theirs. You will note that this is about the same as the 1.36% higher cost I have calculated for the present PERS employees. Please note that these cost calculations do not include any military service for Marine Transportation Employees prior to 1-1-80 although such military service is provided for under the bill.

The supplementary survivor benefits provided for under HB946 are anticipated to cost .86% of PERS earnings. We believe this .86% figure to be a very good estimate of the cost for these benefits. Of course, the exact cost would not be known until bids are received from interested insurance carriers.

Actual contributions required by Social Security will vary from year to year. However, an average annual contribution of 10.2% is a good estimate of average contributions. Based upon this average contribution, I believe that the attached table correctly summarizes the financial impact of House Bill 946.

I look forward to going over these cost calculations and other aspects of House Bill 946 when I am in Juneau on May 30.

Sincerely,

Bob

Robert F. Richardson, MAAA
Vice President

RFR:jn

cc: Mr. R. Winkenwerder

Financial Impact of HB946

	Average* S.S. Contrib.	Transferred From Special Account	Survivor** Benefits	Deferred Comp. Contrib.	Additional Cost For PERS	Net Additional Cost to State
Other Employees	10.2%	7.7%	.86%	1.64%	9.0%	1.3%
Police/Fire	10.2%	6.8%	.86%	2.54%	8.6%	1.8%
Marine Transportation	10.2%	7.7%	.86%	1.64%	14.7%	7.0%

* Will vary from year to year as S.S. rates and Wage Base change.

** Will vary from year to year based on experience.

WILLIAM M. MERCER INCORPORATED

ATTACHMENT 3

Benefit Services / Consulting Actuaries

May 25, 1978

Mr. Paul Arnoldt, Director
Division of Retirement & Benefits
State of Alaska
Department of Administration
Pouch CR
Juneau, Alaska 99811

Re: Comments on House Bill 946

Dear Paul:

Passage of House Bill 946 and subsequent opting out from Social Security will have monumental impact on the retirement system for State of Alaska employees. There are several aspects of this bill which should be understood completely by all affected parties.

(1) Cost

As indicated in a prior letter, the benefits provided by House Bill 946 will increase the State contribution to PERS to 21.01%, an increase of 8.95% over the present contribution rate. Contributions transferred from the "special account" to the State (presumably to pay for these increased benefits) will amount to an average of 7.59%. This 7.59% figure takes into consideration the relative weighting between police and fire employees who would contribute 6.8% of their earnings and other employees who would contribute 7.7%. Consequently, the total additional cost to the State will amount to 1.36% of earnings for State employees covered under PERS. Marine Transportation employees will cost 14.71% to include in PERS, or 7.01% more than the amount transferred from the special account for those employees.

(2) Equity

Benefits and contributions presently paid in PERS are equitable. By that, I mean that an employee contributes a given percentage on all his earnings and his benefit is related to a percentage of all earnings. Passage of HB946 would significantly alter this relationship. Both employees and the State would be contributing only on earnings up to the Social Security Wage Base whereas benefits would be based upon all earnings. Consequently, higher-paid employees would be getting a larger benefit relative to their contributions than lower-paid

employees. Such a change would be a significant departure from the present philosophy underlying PERS.

(3) Deferred Compensation Contributions

We assume that the amounts allocated to each employee's deferred compensation account will be based upon an average rate differing only by "Police/Fire" and "Other Employees". Although the actual Social Security contributions will vary from year to year, it is anticipated that Social Security contributions made by both the State and the employees will average 10.2%. If we assume that the additional survivor benefits will cost .86% as indicated in the bill, this implies that all Police and Fire Employees will have 2.54% of their total earnings contributed to their deferred compensation accounts while all Other Employees and Marine Transportation Employees will have 1.64% contributed to their deferred compensation accounts.

Employees who earn less than the Social Security Wage Base as well as employees who earn more than the Social Security Wage Base will have the same percentage of total earnings contributed to their deferred compensation accounts. However, Social Security contributions are only made on earnings up to the Wage Base. Consequently, all employees who are earning less than the Social Security Wage Base would be "subsidizing" employees who earn above the Wage Base. I believe that such a situation is not desirable for the State of Alaska. The regressive tax aspects of Social Security are tolerated only because benefits, as a percentage of earnings, are also heavily weighted to the lower incomes.

As we discussed, there is an alternative way to administer this bill whereby all employees earning under the Wage Base would have a fixed percentage contributed to their deferred compensation accounts while employees earning above the Wage Base would have a declining percentage contributed to their deferred compensation account. Ignoring the administrative problems associated with this approach, this method will ultimately break down for employees in the upper salary bracket. In other words, total Social Security contributions for people in the upper salary ranges will be less than 7.7% of all earnings. Although it would be possible to have no amounts contributed to the deferred compensation accounts for these employees, the State would still have to pay for the additional benefits granted under PERS. For example, total Social Security contributions for a higher-paid individual might amount to only 6% of his total salary. After subtracting the .86% for the survivor

benefits, this would leave only 5.14% to be transferred to the State in order to pay for the additional PERS benefits under HB946. Obviously, the State would have to pick up the additional cost between the 7.7% and the 5.14% in this example. As you can see, this approach would increase administrative problems associated with the deferred compensation contributions as well as lead to increases in the cost of this bill.

(4) Comparisons Between Police/Fire and Other Employees

In recent years changes to PERS have attempted to minimize the differences between Police/Fire and Other Employees. To simplify, Police and Fire Employees contribute an additional .75% but enjoy 20 and out normal retirement. HB946 will allow Police and Fire Employees to have an additional .9% of their earnings contributed to their deferred compensation accounts. If that is in fact what happens, Police and Firemen will not contribute .75% more toward their benefits but in fact will contribute .15% less for the benefits. I believe that having Police and Firemen contribute less for a better benefit (20 and out) will present problems.

(5) 25 and Out Provisions

Only a very small percentage of employees who ultimately retire under this System will be able to take advantage of the 25 years and out provision provided by HB946. Of those employees ultimately receiving retirement benefits from the System, we have estimated that approximately 3% will in fact be retiring under the 25 year and out provision as opposed to 97% who will be retiring based upon the provisions presently found in PERS. Taking into consideration those who terminate before they become vested, we would estimate that the 25-and-out provision would benefit only 1% of all employees. Although all employees will be "paying" for the 25-year-and-out provision, only a small percentage will actually enjoy this benefit. An additional problem arises when an employee transfers from a political subdivision to employment with the State. As we have interpreted the Bill an employee who has 25 or more years of credited service with a political subdivision need only work 1 day with the State in order to be entitled to retire under the 25-year-and-out provision. Although such a situation will not increase the State's cost significantly (only .10% of earnings), it will perhaps lead to an inequitable situation. Some employees from the political subdivisions will be able to find State employment and receive the benefit of 25-year-and-out whereas other employees of political subdivisions may not be able to find such employment and, therefore, not be entitled to the 25-year-and-out provision.

(6) Credit For Past Service

It appears that an employee who has any years of credited service with the State prior to January 1, 1980, may receive the additional 1% credit for that service so long as he makes some contributions under AS39.30.170. This again leads to the situation where an employee from another political subdivision (who has prior State service) may achieve a "windfall" by working for the State one day after January 1, 1980. In addition, there is a large unknown liability for present retirees. It appears that any present retiree might be able to work one day for the State after January 1, 1980 and thereby pick up the additional 1% windfall for all prior service with the State. Our cost calculations on this bill contemplate credit for past service only to present State employees and not to retirees or employees of other political subdivisions who have worked for the State.

I am sure we will discuss these comments and other aspects of House Bill 946 when I am in Juneau on May 30.

Sincerely,

Bob

Robert F. Richardson, MAAA
Vice President

RFR:Jn

SB

59

(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

March 29, 1979 Date: 4-5-79

Mr. Speaker:

The Committee on STATE AFFAIRS has had CSSB 59

"An Act making a special appropriation for a feasibility study of a Portage to Whittier transportation system; eff. 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 6D (Rev. 12/78)

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6442
JUNEAU, ALASKA 99802

Distributed by Sen. Bradley

1979 MAR 27 AM 2 01

02076 NL ANCHORAGE ALASKA 422 03-26 337P AST

PMS SEN WRAY BRADLEY

JUN

RE SENATE BILL NO. 59

FROM ANCHORAGE YACHT CLUB

WE, THE UNDERSIGNED MEMBERS OF THE ANCHORAGE YACHT CLUB EARNESTLY SOLICIT YOUR SUPPORT FOR S.B. 59. WE CONSIDER IT VITAL TO THE ECONOMIC AND RECREATIONAL NEEDS OF SOUTHCENTRAL ALASKA AND FEEL THAT THE FEASILIBILITY STUDY WILL SUPPORT OUR POSITION.

D. H. HENSON	JIM CHRISTIANSON	SHORTY JACKSON
JERRY P. WILLIS	PHIL DEGNAN	BURTON M. ATWOOD, III
A. E. MILLNER	WILLANNE TITUS	JOHN F. PATTERSON
JIM WOLCOTT	GERALD E. EARP	JAMES A. HAMILTON
J. DOUGLAS BURKE	NEIL DAYTON	JIM ZOBLER
WALTER J. HICKEL	DANIEL A. MOORE JR.	FRED FINK
GRIFFITH R. STEINER	GEORGE M. SULLIVAN	DAN R. POSETA
DON E. BURK	STEPHEN J. KARAKASH	R. M. HASTINGS
ANNE CHRISTIANSON	RUFUS C. HINCHEE	GEORGE F. BOND
WILLIAM H. SCOTT	R. STANLEY DITUS	A. HOWARD HOGUE
DENNIS L. WALDOCK	GEORGE A. MUIR	RICH MASTRIANO
LARRY FORDHAM	CARL F. BRADY JR.	DEL ALLISON
ASA L. MARTIN	RICHARD C. POPE	BETTY L. GONZALES
DONN F. HOWELL	HAROLD L. CLOUD	C. ANDERSON
LARRY NEAL	EDWARD J. ONEILL	CINDY ANDERSON

MEL STARK
EDMOND W. BURKE
EDGAR BILLIMEK
DEMOINE GAMBLE
MURRAY STANLEY
RON L. RETTIG
H. J. WHITE
LOIS L. QUICK
ARTHUR H. SNOWDEN II
KARL S. JOHNSTONE
DAVID G. MARTIN
DARREL L. BAHNER
ROBERT L. SPILS
WILLIAM C. PUNCHES
JOHN I. MILLER, JR.
A. C. SWALLING
JAMES C. PRICHARD
ANNA WOODARD WILLIAMS
DAN BAILEY
NORMA MAC
ROBERT E. MCQUAID
WILLIAM M. MURRAY
JOE COLUMBUS
BILL JONES
DAN FARR
LARON P. MARTIN
FRANK M. REED JR.
GEORGE STARK
M. A. WILSON
. . SCHULTZ

WILLIAM E. SCHOEPHOESTER
BENJ. O WALTERS JR.
KENNETH G. MERRITT
JAKE L. SHUMAKER
LANE A. BOYER
DARELID LARRIGAN
BOBBY CAPPS
RICHARD W. SUTHERLAND
MARK C. ROWLAND
R. H. KINNEY
ARDEN ANDERSON
STEVE JACKSON
ED R. SHEPHERD
ROGER L. JACOBSON
L. B. ANDERSON
ROBERT HICKEL
DAN H. CUDDY
CHARLES MOZLER
PAT MCCARTY
BOB CROW
PAMELA MONROE STONEFELT
VERNON HICKEL
JOHN D. WOOD
FAYNE HASTINGS
BILL SELTENREICH
ROBERT G. SEABURY
DALE UMBERECHT
CURT STOVELL
HUGH G. WADE
JACK STERN

CARL E. ANDERSON
BUCKIE TAFT
T. S. DUFF
LYLE AKERLAND
ERNEST MATZ
BILL J. TAYLOR
BOB MCGRANE
DIANE B. AUKAMP

L. J. SCHULTZ

GEORGE D. COOPER

MAXINE A. KELLY

JAMES LANE RHOADS

R. S. BREWER

EUGENE CLEARY

PHILIP A. STEWART

CHARLIE RUSSELL

VERNON R. JOHNSON

R. JERROLD QUAM

BILL G. MILLER

JACK STEPHL

KARL A. BACHNER

CLIFORD J. GROH

N. E. SOMMERS

WILLIAM H. KENDALL

WILLIAM M. HANNAN

CINNY W. SCHMITT

STEVE P. ANDERSON

ROBERT W. SPARKS, JR.

DON GALT

CHARLES E. WALSH

Requested by: Assemblyman Don Smith
Meeting of: February 20, 1979

ANCHORAGE, ALASKA

ASSEMBLY RESOLUTION

AR NO. 79-39 S

A RESOLUTION OF THE ANCHORAGE ASSEMBLY SUPPORTING COMMITTEE SUBSTITUTE FOR SENATE BILL 59 AND BUDGET PROPOSALS TO FUND A FEASIBILITY STUDY ON ACCESS OPTIONS BETWEEN PORTAGE AND PRINCE WILLIAM SOUND

WHEREAS, the Prince William Sound Region is one of the most magnificent and spectacular areas in Southcentral Alaska and has become a major tourist attraction and recreational area, and

WHEREAS, this area would be readily accessible to over one-half the population of Alaska if reasonable access were provided, and

WHEREAS, improved access is particularly important to the people of the Anchorage Municipality, inasmuch as 5,900 pleasure boats are registered in the Anchorage Area and the small boat harbor is being tripled in size, and

WHEREAS, the Alaska Marine Highway has indicated an intention to increase the level of ferry service to Whittier from Southeast ports if ready access is provided to Anchorage, and

WHEREAS, there are currently proposals before the Legislature to appropriate funds to initiate studies of access options from Portage to Bear Valley including providing frequent shuttle service through the tunnel.

NOW, THEREFORE, BE IT RESOLVED, that the Anchorage Municipal Assembly supports committee substitute for SB 59.

AND BE IT FURTHER RESOLVED, that copies of this resolution be sent to all members of the Legislature and to Governor Hammond.

PASSED AND APPROVED by the Anchorage Assembly this 20th day of March, 1979.

Ernest H. Brannon
Chairman

ATTEST:

Municipal Clerk

CITY OF VALDEZ, ALASKA

RESOLUTION NO. 7801

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA SUPPORTING AND ENCOURAGING THE DEVELOPMENT OF A NEW OR IMPROVED HIGHWAY CONNECTION BETWEEN PORTAGE AND WHITTIER

WHEREAS, the Prince William Sound has developed into a major tourist attraction and recreation area for Alaska; and

WHEREAS, the Prince William Sound area is one of the most magnificent and spectacular areas in Southcentral Alaska and further, that the construction of the Alyeska Marine Tanker Terminal has become an additional spectacular attraction drawing many thousands of additional visitors to Valdez, and

WHEREAS, rail service between Portage and Whittier is the only access via the Alaska Marine Highway from the Anchorage end; and

WHEREAS, an improved road access would make this area far more accessible and available for use by the major concentration of population in Alaska; and

WHEREAS, it is a prime concern of the City Council of the City of Valdez to see the level of ferry service into Valdez increased in order to serve a growing volume of travel and the Council feels that convenient land access would result in improved ferry service in the Prince William Sound; and

WHEREAS, the City Council wishes to again stress that this additional ferry service is required to preclude the creation of great economic loss in Valdez and its neighboring cities in Prince William Sound and the entire tourist industry.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA that

Section 1. The City Council supports and encourages the development of a new or improved highway connection between Portage and Whittier;

Section 2. The City Council again urges that immediate planning be reinstated in regard to the potential for opening a highway link to replace the rail connection into Whittier.

Section 3. Copies of this resolution be distributed to all members of the Alaska State Legislature, the Governor, the Alaska Congressional Delegation and the heads of appropriate agencies.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA this 3rd day of January, 1978.

CITY OF VALDEZ, ALASKA

Mayor

ATTEST:

Deputy City Clerk

RESOLUTION OF THE CITY OF WHITTIER
HIGHWAY CONNECTION BETWEEN PORTAGE
AND WHITTIER: BERNARD L. MARSH
APPOINTED AS LOBBYIST AND
CONSULTANT

RESOLUTION NO. 11.2.77

WHEREAS, the Prince William Sound Region is the most magnificent and spectacular recreational area in Southcentral Alaska, and

WHEREAS, an improved road access would make this recreational area available for use by the major concentration of population in Alaska, and

WHEREAS, Whittier's commercial port capacity would be greatly expanded to the benefit of all Southcentral Alaska if access to Whittier were improved, and

WHEREAS, the current expansion of small boat harbor facilities offers new opportunities for better service that are difficult to exploit without adequate access, and

WHEREAS, lack of convenient land access between Whittier and Anchorage/ Kenai Peninsula is a deterrent to the possible economic growth of Whittier,

NOW, THEREFORE be it resolved by the City Council of the City of Whittier, Alaska:

1. That the Whittier City Council supports and encourages the development of a new or improved highway connection between Portage and Whittier, and

2. That the Whittier City Council urges the Alaska State Legislature, the State Administration, and the appropriate Federal agencies to plan and construct a project to accomplish this purpose, and

3. That the Whittier City Council hereby appoints and retains Bernard L. Marsh of Anchorage, Alaska, as it's lobbyist and consultant, to develop feasibility for and to promote such a pro_ :, and

4. That copies of this resolution be distributed to all members of the Alaska State Legislature, the Governor, the Alaska Congressional Delegation and the heads of appropriate agencies.

PASSED AND APPROVED this 2nd day of November, 1977.

Cecil Zeigler
Cecil F. Zeigler, Mayor

ATTEST:

Anna Faye Sanders
City Clerk/Treasurer

Funding Information
General Fund $250,000
Other Funds -0-
$250,000

Introduced: 1/17/79
Referred: State Affairs and Finance

IN THE SENATE

BY BRADLEY

SENATE BILL NO. 59

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act appropriating $250,000 for the state share of the project cost of the Portage to Bear Valley Road; and providing for an effective date."

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

* Section 1. The sum of $250,000 is appropriated from the general fund to the Department of Transportation and Public Facilities for the state contribution to the federal aid highway project for construction of a highway from Portage to Bear Valley Road.

* Sec. 2. This Act takes effect July 1, 1979.

See Dick Holden for change to "engineering costs"

2136 Loussac Drive
Anchorage, Alaska 99503

March 26, 1979

Senator W. E. Bradley
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Ref: SB 59

Dear Senator Bradley:

This letter is to request your support of SB 59 for improved highway access to Whittier, Alaska.

In these days when Alaska's industry development in many areas have a gloomy outlook due to federal restrictions of one kind or another, we Alaskans must look to encouraging industry development in all feasible areas immune from federal intervention and associated restrictions. One such area that the federal government has not yet effectively restricted is the observing and enjoying of scenic beauty. The Whittier area as a gateway to Prince William Sound offers such a commodity for sale to tourists, an industry that brings outside money to the state of Alaska and thereby is effective in reducing our balance of payments to the south 48 states.

Prince William Sound, from Whittier to Cordova is a vast area of inland-protected water that offers several activities for sale to the tourists, as well as Alaska residents, such as sailing, scuba diving, photography, sport fishing, clam digging, crab potting as well as the most scenic boating area in central and western Alaska. Since these activities are dependent upon renewable or inexpendable resources, once developed they will continue indefinitely. Such economic developments are the wisest type of investments which the state of Alaska can and should make from the income derived from their present depletable resources.

Whittier is the most logical gateway to Prince William Sound since it is the only location that allows access to the sound from the west end through protected inland waterways. Road access to Whittier is essential to promote development of the tourist potential this area has to offer. An approximate fifteen mile extension of the existing highway from Anchorage to Portage would provide such road access. The road to Bear Valley would significantly improve the access to Whittier and would be compatible to an eventual road all the way to Whittier.

As life-long Alaskans, we are interested in maintaining and improving our economic base in order to insure that we, as well as our children and their children may continue to enjoy living in Alaska.

In the interest of Alaska in its entirety, we urge your support of SB 59.

Most sincerely,

Mr. & Mrs. Bud Seltenreich

Mr. and Mrs. Bud Seltenreich

cc: Senator Ed Dankworth
Senator Bill Ray
Bernard L. Marsh, Exec Sec't
Whittier Road Development Assoc

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

OFFICE OF THE COMMISSIONER

POUCH Z JUNEAU 99811
TELEX 45 328

May 8, 1978
000H

Honorable John C. Sackett
Senator
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Sackett:

Following is the information you requested on SB 585, the Act which would appropriate $250,000 for the State share of the project cost of the Portage to Bear Valley Road.

The right-of-way involved is National Park Service land.

The project has not been included in the proposed Capital Improvement Projects of our Department.

The 1972 study of this proposed road showed a cost of $2,348,000 to build 7,650 feet of highway and 440 feet of bridges. The 1978 cost update would total $4,250,000.

Construction should be to state standards for secondary highways using six inches of select material, six inches of crushed aggregate base course, and three inches of hot bituminous pavement. There would be two driving lanes of 12-foot width with 2-foot shoulders. The two bridges would be (1) approximately 280 feet long across Portage Creek, and (2) 160 feet long across Placer Creek.

Sincerely,

Donald Harris
Commissioner

25A-T1LH

ALASKA PLANNING AND MANAGEMENT

Consulting Service

Bernard L. Marsh, President

505 W. Northern Lights Blvd.
Suite 120
Anchorage, Alaska 99503
Tel. (907) 279-3195

MARCH 12, 1979

M E M O R A N D U M

TO: REP. RAY METCALFE, HOUSE STATE AFFAIRS
SEN. BOB MULCAHY, CHAIRMAN SENATE STATE AFFAIRS
SEN. BRAD BRADLEY, SPONSOR SB 59 (BEAR VALLEY ROAD)
SEN. ED DANKWORTH, SENATE FINANCE
SAM COXSON, CITY MANAGER, WHITTIER
PERRY LOVETT, CITY MANAGER, CORDOVA

FROM: BEN MARSH

SUBJECT: SB 59, HB 160, HB 161

I have been asked for my opinion on combining the above bills. HB 160 would provide ferry service to the Alaska Pennisula and the Aleutian Chain at least once a month, HB 161 would appropriate $20,000,000 to acquire two passenger ferries, and SB 59 would fund the intial studies to construct a road from Portage to Bear Valley. The Senate Finance Committee is considering a budget item to provide increased rail shuttle service between Bear Valley and Whittier.

It would seem that these bills could be combined, or at least SB 59 and HB 161 could be combined, it there is substantial support for both. If HB 161 does not stand a chance of passage this year, then they should not be combined. If HB 161 has heavy support from bush legislators, and the projects can be part of the same system, the idea is good.

If HB 161 and SB 59 are combined, then HB 161 should be amended to include increased level of ferry service to Prince William Sound. The technical question of whether this can be done with the new ferrius to be acquired, must be answered by the Marine Highway Division. Input will be needed from the Prince William Sound communities as to the level of service desired.

The road to Bear Valley and improved rail service through the tunnel are vital links to improved access to Prince William Sound, and according to Bill Hudson, former Director of the Marine Highway, will justify better ferry service to all Prince William Sound communities. Also, there will be enormous recreational benefits to the Anchorage and Kenai populations.

cc: City Manager, Seward
City Manager, Valdez
City Manager, Kenai
City Manager, Homer
All Anchorage Legislators

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-8440
JUNEAU, ALASKA 99801

02233 NL TDA WHITTIER ALASKA 50 06-05 1140P ADT

PMS SEN W E BRAD BRADLEY

JUN

I HOPE YOU WILL VOTE APPROVAL ON SB 59 [redacted] BECAUSE THESE BILLS ARE OF SUCH GREAT IMPORTANCE TO A LARGE PART OF THE POPULATION OF THE STATE OF ALASKA.

KAY SHEPHERD, PRESIDENT

WHITTIER HISTORICAL AND FINE ARTS MUSEUM INC

MEMBER BORAD OF DIRECTORS ALASKA STATE MINI TV ASSOC INC

1978 JUN 6 AM 1 58

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-8440
JUNEAU, ALASKA 99801

02213 NL TDA WHITTIER ALASKA 50 06-05 1140P ADT

PMS SEN W E BRAD BRADLEY

JUN

IT IS OF UTMOST IMORTANCE THAT THE SENATE VOTES APPROVAL ON SB 59 [redacted] I BELIEVE THIS IS A PROGRESSIVE LINK TOWARD THE TRANSPORTATION NETWORK SO BADLY NEEDED IN THE STATE OF ALASKA.

MEL WOOTEN COUNCILMAN

CITY OF WHITTIER

1978 JUN 6 AM 1 58

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC
PHONE: 586-8440
JUNEAU, ALASKA 99801

#

02102 NL TDA WHITTIER AK 67 05-05 1245P ADT

PMS SEN W E BRADLEY

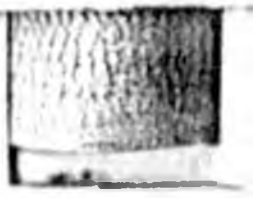
JUN

YOUR APPROVAL OF SB [redacted] WILL MAKE POSSIBLE 4.3 MILES OF HIGHWAY, THE MISSING LING BETWEEN THE STATE HIGHWAY AT PORTAGE GLACIER TOURIST CENTER AND PRINCE WILLIAM SOUND MARINE HIGHWAY SYSTEM. THIS CONNECTION WILL NOT ONLY SERVE THE POPULATION OF INTERIOR ALASKA BUT GIVE ANOTHER MODE OF TRANSPORTATION INTO JUNEAU. IT WILL ALSO HELP MAKE THE STATE FERRY SYSTEM PROFITABLE.

ED R SHEPHERD

3407 SPENARD RD

ANCHORAGE ALASKA 99503



TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-8448
JUNEAU, ALASKA 99801

02066 ANCHORAGE ALASKA 59 06-05 1120A ADT

PMS SENATOR W E BRADLEY

JUN

URGE YOUR SUPPORT FOR [redacted] SB 59 TO AUTHORIZE RIGHT-OF-WAY PORTAGE TO PRINCE WILLIAM SOUND, AND 5 PERCENT STATE SHARE OF ROAD PORTAGE TO BEAR VALLEY. THESE MEASURES WILL START LENGTHY PROCESS TO BUILD ROAD AND SURVEY BALANCE OF ROUTE TO CHOOSE BEST OPTION. THIS PROJECT IMPORTANT TO WHITTIER VALDEZ RAILBELT POPULATION TOURIST INDUSTRY AND MARINE HIGHWAY.

BEN MARSH EXECUTIVE SECTY

ALASKA PLANNING AND MANAGEMENT INC

WHITTIER ROAD DEVELOPMENT ASSOCIATION

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

DEPUTY COMMISSIONER – FACILITIES PLANNING AND RESEARCH

POUCH Z
JUNEAU, ALASKA 99811

March 23, 1979

Honorable W. E. Brad Bradley
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Bradley:

Re: Committee Substitute on SB 59, concerning access to Whittier

Section 142, Title I of the Surface Transportation Assistance Act of 1978, passed by Congress, allows for federal funds to be used for the operations or improvements of the access between Whittier and Portage. The main reason for the substitute language is that all FY 79 and FY 80 federal receipts for the Department of Transportation are appropriated for projects by Chapters 138 and 113 of SLA 78. By providing state funds for the feasibility study of Whittier to Portage access, the Department will be able to initiate a study of the options for access and recommend a program to the Legislature for the FY 81 and 82 Capital Improvements Program.

Sincerely,

Dick Holden

Richard A. Holden
Deputy Commissioner

cc: Robert W. Ward
Keith Specking
Warren Sparks

Bear Valley Road Plan 'Is Put On Back Burner

Times Juneau Bureau

JUNEAU — A bill to pay for the state's share of construction into Bear Valley, from Portage toward Whittier, was put on hold in the Senate State Affairs Committee Friday.

Construction of the project, if it ever begins, is probably at least five years away.

The bill is intended to match funds with federal funds to allow construction of a 2.2-mile stretch of road from the Portage Glacier visitors' center into the valley, where it could connect with the Alaska Railroad and a summer-use-only trail around a mountain, both leading to Whittier on the Prince William Sound.

The committee heard testimony Wednesday from Whittier and Anchorage residents who own property and use the city's harbor for boating, fishing and other recreation.

Representatives of the state Department of Transportation told the committee Friday that it must be decided which form of federal funding the road would qualify for before the state could appropriate the proper amount of money.

The bill, sponsored by Sen. Brad Bradley, R-Eagle River, authorizes spending $250,000 and is the same bill that missed passage in the Senate last year.

Transportation officials said the state money needed would probably be at least $948,000, based on a 12 percent share of the $7.9 million road.

The road, which is being sought by Whittier and Valdez residents because it would beef up tourism traffic to those communities, also would be a better way to evacuate residents in case of medical emergency than the Alaska Railroad is now, a lobbyist for the two towns said Wednesday.

But Friday's hearing pointed out that many political problems face the road before it becomes reality.

Opposition from legislators in other parts of the Kenai Peninsula is based on the supposition that a Whittier Road would divert tourism traffic from the ports of Seward and Homer.

Additionally, in this year of a tight budget, the threat of a line item veto by Gov. Jay Hammond is strong, even if the bill were passed.

Further, any use of federal money requires a number of public hearings, and Dennis Dooley, director of transportation planning for the state Department of Transportation, said some kind of "flak" from environmentalists might be expected.

The question, "How soon can I put my boat in the water?" asked by Eagle River Sen. Tim Kelly was greeted with laughter by the officials testifying.

Whereas the Federal Surface Transportation Assistance Act of 1978, Section 142.(a) RAIL OPERATION PROJECTS IN NONHIGHWAY AREAS provides for assistance for that portion of the Alaska Railroad from Whittier to Portage for the purpose of linking up highways or other transportation modes on the system, allowing the expenditure of not more than 5 percent of the funds apportioned for the Primary System, and any project being subject to all provisions of Title 23, United States Code;

Whereas, it is prudent that the feasibility of the various options that provide such improvements be determined prior to the commitment of any portion of the highway funds now apportioned to the State;

Therefore, the sum of $200,000 is apportioned to the DOT/PF for the purpose of determining the feasibility of the Whittier link-up and the degree of utilization of the estimated $2.5 million available each year as provided by the Act.

NOTE!

Dick Walden will

Put this in a committee

substitute early Monday -

Introduced: 4/11/78
Referred: Commerce and State Affairs

IN THE SENATE BY THE COMMERCE COMMITTEE

SENATE CONCURRENT RESOLUTION NO. 100

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

Relating to the Federal Aid Highway System.

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

WHEREAS Prince William Sound has developed into a major tourist attraction and recreation area for Alaska; and

WHEREAS Prince William Sound is one of the most magnificent and spectacular areas in Southcentral Alaska; and

WHEREAS an improved road access between Portage and Whittier would make this area much more accessible and available to the major concentration of population in Alaska; and

WHEREAS an improved road access between Portage and Whittier would justify an improved level of ferry service on the Marine Highway between the Prince William Scund communities of Whittier, Valdez, and Cordova; and

WHEREAS there is presently no designated route for the construction of a future link between Portage and Whittier on the Federal Aid Highway System; and

WHEREAS the commissioner of the Department of Transportation and Public Facilities has authority to designate such a route and request its inclusion in the Federal Aid Highway System;

BE IT RESOLVED by the Alaska State Legislature that the Governor is respectfully requested to direct the commissioner of transportation and public facilities to designate a route for construction of a highway and tunnel link from the end of the federal aid highway at Portage Glacier Visitors Center to the Port of Whittier, and to request its inclusion in the Federal Aid Highway System; and be it

FURTHER RESOLVED that the Governor is respectfully requested to direct the commissioner of transportation and public facilities to consult with the U.S. Forest Service, Department of Agriculture, to obtain necessary right-of-way for the designated federal aid highway route.

and reports it back as follows: Senator Hackney, Chairman, and Senator Bradley signed "do pass". Senator Willis signed "no recommendation". SB 9

SENATE BILL NO. 9 was referred to the Finance Committee.

The State Affairs Committee has had SENATE BILL NO. 421 (special appropriation to the Alaska Court System) and a majority of the committee reports it back without recommendation. The report was signed by Senator Willis, Co-Chairman, and concurred in by Senators Bradley, Huber and Ray. Senator Kertulla signed "do pass". SB 421

SENATE BILL NO. 421 was referred to the Finance Committee.

The Commerce Committee has had SENATE BILL NO. 585 (appropriating $450,000 for the state share of the project cost of the Portage to Bear Valley Road) under consideration and recommends it do pass. The report was signed by Senator Bradley, Chairman, and concurred in by Senators Sumner and Hackney. SB 585

At the request of Senator Willis, Co-Chairman, State Affairs Committee, the President waived the State Affairs Committee referral on SENATE BILL NO. 585 and it was referred to the Finance Committee.

The Community and Regional Affairs Committee has had SENATE BILL NO. 599 (regulation of the sale of alcoholic beverages by municipalities) under consideration and recommends it be replaced with COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 599 and reports it back as follows: Senator Orsini, Chairman, and Senator Hackney signed "do pass". Senators Willis and Sumner signed "no recommendation". SB 599

SENATE BILL NO. 599 was referred to the Rules Committee.

The State Affairs Committee has had HOUSE BILL NO. 621 (unemployment insurance coverage for employees of the state and its political subdivisions) under consideration and reports it back with the following amendment: HB 621

Page 1, line 10: delete all material and insert:

"Sec. 1. Sections 32 and 33, ch. 122, SLA 1977 are repealed and re-enacted to read:

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES - testimony by Vern Metcalfe relating to SCR 100 (Relating to the Federal Aid Highway System),

The stand of the Department on this is that to date there has not been sufficient evidence to indicate that such a highway can receive a priority when considered with other projects within the state. As you know, the Alaska Railroad currently serves the community of Whittier with service that allows the carrying of recreational equipment etc.

Our Design and Construction Division has, when it was the Department of Highways, surveyed the area on several occasions studying the feabibility of such a project. There are two alternatives. One is the "tunnel alternative" which bears and estimated cost of $130 million and would include the tunnel and the neccessary bridges, lighting, ventilation etc. The Design and Construction Division have also conducted helicopter surveys of an alternative known as the Portage Pass road. They were unable, using helicopters, to determine if the rock base would support such a road. If it would, the cost of such a highway is estimated at $35 million. To determine the feasibility of this possible route would take a surface survey and various testing of the surfaces involved.

--------0----------

To: Senn. B.E. Bradley
Mike Colletta
H.S. Duncworth
Patrick Rodey
John C. Sackett
Terry Stinson
Arliss Sturgulewski
Bill Sumner
Tim Kelly

Don Bennett
Bettye Fahrenkamp
Frank R. Ferguson
Glenn Huckney
George H. Rehman
Jalmar M. Kerttula
H.D. Roland
Bob Ruleaby
Bill Ray
Clem V. Tillion
Robert L. Ziegler, Sr.

The undersigned officers of the Whittier Boat Owners Association, in behalf of our members, urge your support of SB59, to provide a feasibility study of a transportation system to Whittier.

Improvement of transportation to Whittier, even up to standards considered minimum elsewhere--for residents and recreational users alike--is long overdue.

We would be pleased to learn, by communication from you, your position on this bill and others providing improved transportation to Whittier.

Thank you.

Signed: J.F. Katterman, President
A.W. Ronn, Vice President
Ann Pittenger, Secretary
Pauline A. Kelly, Treasurer
D.C. Martin, Board Member

For the Whittier Boat Owners Association, Box 3051, Anchorage, AK 99510

The State Affairs Committee has had SENATE CONCURRENT RESOLUTION NO. 111 (requesting Alaska Airlines to reduce fares between communities in Alaska) under consideration and recommends it do pass. The report was signed by Senator Kerttula, Co-Chairman, and concurred in by Senators Willis and Huber. SCR 111

SENATE CONCURRENT RESOLUTION NO. 111 was referred to the Rules Committee.

The Community and Regional Affairs Committee has had SENATE BILL NO. 454 (volunteer service in state and municipal government) under consideration and recommends it be replaced with COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 454 (C&RA), entitled: SB 454

"An Act relating to volunteer service in state government."

and reports it back as follows: Senator Orsini, Chairman, and Senator Sumner signed "no recommendation". Senator Mackey signed "do pass".

SENATE BILL NO. 454 was referred to the Finance Committee.

The Finance Committee has had SENATE BILL NO. 585 (appropriating $250,000 the state share of project cost of Portage to Bear Valley Road) under consideration and reports it back as follows: Senator Hohman, Vice-Chairman, and Senators Croft and Orsini signed "do pass". Senators Meland and Rasmuson signed "no recommendation". Senator Fithian signed "do not pass". SB 585

See letter for Yea vote

SENATE BILL NO. 585 was referred to the Rules Committee.

The State Affairs Committee has had HOUSE CONCURRENT RESOLUTION NO. 117 amended (Alaska State Office in Tokyo) under consideration and reports it back as follows: Senator Willis, Co-Chairman, signed "do pass". Senators Kerttula and Huber signed "no recommendation". HCR 117 am

HOUSE CONCURRENT RESOLUTION NO. 117 amended was referred to the Rules Committee.

The State Affairs Committee has had HOUSE JOINT RESOLUTION NO. 76 (requesting financial assistance from the federal government to restore state highway damage occasioned by the construction of the trans-Alaska pipeline) under consideration and the committee recommends it do pass. The report was signed by Senator Kerttula, Co-Chairman, and concurred in by Senators Willis and Huber. HJR 76

COMMITTEE REPORT

SENATE

Waived referral 5-3-78

4/11/78

FURTHER: State Affairs and Finance

Date: May 1, 1978

Mr. President:

The Committee on COMMERCE has had SB 585 appropriating $250,000 for state share of project cost of Portage to Bear Valley Road

under consideration and (a majority of the committee) (the committee reports it back as follows)

(✓) 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 _____ ( ) new title ( ) same title

( ) AND attaches a Letter of Intent ( ) New Fiscal Note

( ) reports it back without recommendation

( ) and recommends it be referred to the _____ Committee

MEMBERS SIGNING DO PASS:

Lee Levin

Jean Wadsworth

OTHER RECOMMENDATIONS:

Chairman

S 60 (rev. 6/77)

CITY OF VALDEZ, ALASKA

RESOLUTION NO. 7801

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA SUPPORTING AND ENCOURAGING THE DEVELOPMENT OF A NEW OR IMPROVED HIGHWAY CONNECTION BETWEEN PORTAGE AND WHITTIER

WHEREAS, the Prince William Sound has developed into a major tourist attraction and recreation area for Alaska; and

WHEREAS, the Prince William Sound area is one of the most magnificent and spectacular areas in Southcentral Alaska and further, that the construction of the Alyeska Marine Tanker Terminal has become an additional spectacular attraction drawing many thousands of additional visitors to Valdez, and

WHEREAS, rail service between Portage and Whittier is the only access via the Alaska Marine Highway from the Anchorage end; and

WHEREAS, an improved road access would make this area far more accessible and available for use by the major concentration of population in Alaska; and

WHEREAS, it is a prime concern of the City Council of the City of Valdez to see the level of ferry service into Valdez increased in order to serve a growing volume of travel and the Council feels that convenient land access would result in improved ferry service in the Prince William Sound; and

WHEREAS, the City Council wishes to again stress that this additional ferry service is required to preclude the creation of great economic loss in Valdez and its neighboring cities in Prince William Sound and the entire tourist industry.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA that

Section 1. The City Council supports and encourages the development of a new or improved highway connection between Portage and Whittier;

Section 2. The City Council again urges that immediate planning be reinstated in regard to the potential for opening a highway-link to replace the rail connection into Whittier.

Section 3. Copies of this resolution be distributed to all members of the Alaska State Legislature, the Governor, the Alaska Congressional Delegation and the heads of appropriate agencies.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA this 3rd day of January, 1978

CITY OF VALDEZ, ALASKA

Mayor

ATTEST:

Deputy City Clerk

RESOLUTION OF THE CITY OF WHITTIER
HIGHWAY CONNECTION BETWEEN PORTAGE
AND WHITTIER: BERNARD L. MARSH
APPOINTED AS LOBBYIST AND
CONSULTANT

RESOLUTION NO. 11.2.77

WHEREAS, the Prince William Sound Region is the most magnificent and spectacular recreational area in Southcentral Alaska, and

WHEREAS, an improved road access would make this recreational area available for use by the major concentration of population in Alaska, and

WHEREAS, Whittier's commercial port capacity should be greatly expanded to the benefit of all Southcentral Alaska if access to Whittier were improved, and

WHEREAS, the current expansion of small boat harbor facilities offers new opportunities for better service that are difficult to exploit without adequate access, and

WHEREAS, lack of convenient land access between Whittier and Anchorage/Kenai Peninsula is a deterrent to the possible economic growth of Whittier.

NOW, THEREFORE be it resolved by the City Council of the City of Whittier, Alaska:

1. That the Whittier City Council supports and encourages the development of a new or improved highway connection between Portage and Whittier, and

2. That the Whittier City Council urges the Alaska State Legislature, the State Administration, and the appropriate Federal agencies to plan and construct a project to accomplish this purpose, and

3. That the Whittier City Council hereby appoints and retains Bernard L. Marsh of Anchorage, Alaska, as it's lobbyist and consultant, to develop feasibility for and to promote such a project, and

4. That copies of this resolution be distributed to all members of the Alaska State Legislature, the Governor, the Alaska Congressional Delegation and the heads of appropriate agencies.

PASSED AND APPROVED this 2nd day of November, 1977.

Cecil Zeigler

Cecil F. Zeigler, Mayor

ATTEST:

Anna Faye Sanders

City Clerk/Treasurer

COMMITTEE REPORT

SENATE

5/3/78

FURTHER: _____

Date: June 2, 1978

Mr. President:

The Committee on FINANCE has had SB 505 appropriating $250,000 for state share of project cost of Portage to Bear Valley Road

under consideration and (a majority of the committee) (the committee reports it back as follows)

( ) 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 _____ ( ) new title ( ) same title

( ) AND attaches a Letter of Intent ( ) New Fiscal Note

( ) reports it back without Individual recommendation

( ) and recommends it be referred to the _____ Committee

MEMBERS SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Holland Do Not Pass

Dillion Do not Pass

Chairman

S 60 (rev. 6/77)

AMENDMENT

OFFERED IN THE SENATE: BY: SENATE COMMERCE COMMITTEE

TO: AMEND SENATE BILL No. SCR 100

HOUSE BILL No. _____

PAGE: _____ LINE: _____

PAGE ONE, LINES 12, 15 AND 19:

DELETE THE WORD "WHITTIER" AND ADD THE WORDS "PRINCE WILLIAM SOUND".

PAGE ONE, LINE 28:

DELETE THE WORDS "PORT OF WHITTIER" AND ADD THE WORDS "PRINCE WILLIAM SOUND"

CCOMMITTEE SUBSTITUTE FOR SENATE BILL 59

For an Act entitled: "An Act appropriating $200,000 for a feasibility study for a Portage to Whittier transportation system ~~including the Bear Valley Road option~~ and providing for an effective date."

~~*Section 1. The Federal Surface Transportation Assistance Act of 1978, Section 142.(a) RAIL OPERATION PROJECTS IN NON-HIGHWAY AREAS provides for assistance for that portion of the Alaska Railroad from Whittier to Portage for the purpose of linking up highways or other transportation modes on the system, allowing the expenditure of not more than 5 percent of the funds apportioned for the Primary System, and any project being subject to all provisions of Title 23, United States Code.~~

~~It is prudent that the feasibility of the various options that provide such improvements be determined prior to the commitment of any portion of the highway funds now apportioned to the State.~~

*Section 1. The sum of $200,000. is appropriated from the general fund to the Department of Transportation and Public Facilities for the purpose of determining the economic and environmental feasibility of the various options for developing a transportation system from Portage to Whittier, including the Bear Valley Road.

The Department will present its findings to the Legislature no later than 10 days from the beginning of the second session of the eleventh Alaska Legislature.

Sec. 2. This act takes effect July 1, 1979

WHITTIER ROAD DEVELOPMENT ASSOCIATION
505 W. Northern Lights Blvd., Suite 120
Anchorage, Alaska 99503

Ben Marsh
Executive Director

Phone:
277-0558

March 21, 1979

TO ALL SENATORS
ALASKA STATE SENATE

Dear Senator:

Attached hereto is a copy of Anchorage Assembly Resolution AR NO. 79-39 which endorses and urges passage of CS for SB 59, the Whittier Access Project. CS for SB 59 is scheduled for action by the Senate on Wednesday, March 28.

I am writing on behalf of Whittier Road Development Association, for which I am Executive Secretary. WRDA membership includes condo owners in Whittier, persons who moor their boats in Whittier, Anchorage people who recreate in Prince William Sound, and people interested in encouraging commercial and recreational development in this area. WRDA strongly supports CS for SB 59, and asks for your vote on the bill.

If you have any questions about the possible options for improvement, the potential for benefits, or other aspects of the proposed project, please contact me or Sam Coxson, City Manager of Whittier.

Sincerely,

Ben Marsh

Bernard L. Marsh, Executive Secretary
Whittier Road Development Association

BLM/nc

Enclosure
cc: Sam Coxson

Requested by: Assemblyman Don Smith
Meeting of: February 20, 1979

ANCHORAGE, ALASKA

ASSEMBLY RESOLUTION

AR NO. 79-39 S

A RESOLUTION OF THE ANCHORAGE ASSEMBLY SUPPORTING COMMITTEE SUBSTITUTE FOR SENATE BILL 59 AND BUDGET PROPOSALS TO FUND A FEASIBILITY STUDY ON ACCESS OPTIONS BETWEEN PORTAGE AND PRINCE WILLIAM SOUND

WHEREAS, the Prince William Sound Region is one of the most magnificent and spectacular areas in Southcentral Alaska and has become a major tourist attraction and recreational area, and

WHEREAS, this area would be readily accessible to over one-half the population of Alaska if reasonable access were pro ided, and

WHEREAS, improved access is particularly important to the people of the Anchor ge Municipality, inasmuch as 5,900 pleasure boats are registered in the Anchorage Area and the small boat harbor is being tripled in size, and

WHEREAS, the Alaska Marine Highway has indicated an intention to increase the level of ferry service to Whittier from Southeast ports if ready access is provided to Anchorage, and

WHEREAS, there are currently proposals before the Legislature to appropriate funds to initiate studies of access options from Portage to Bear Valley including providing frequent shuttle service through the tunnel.

NOW, THEREFORE, BE IT RESOLVED, that the Anchorage Municipal Assembly supports committee substitute for SB 59.

AND BE IT FURTHER RESOLVED, that copies of this resolution be sent to all members of the Legislature and to Governor Hammond.

PASSED AND APPROVED by the Anchorage Assembly this 20th day of March, 1979.

Chairman

ATTEST:

Municipal Clerk

CITY OF VALDEZ, ALASKA

RESOLUTION NO. 7801

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA SUPPORTING AND ENCOURAGING THE DEVELOPMENT OF A NEW OR IMPROVED HIGHWAY CONNECTION BETWEEN PORTAGE AND WHITTIER

WHEREAS, the Prince William Sound has developed into a major tourist attraction and recreation area for Alaska; and

WHEREAS, the Prince William Sound area is one of the most magnificent and spectacular areas in Southcentral Alaska and further, that the construction of the Alyeska Marine Tanker Terminal has become an additional spectacular attraction drawing many thousands of additional visitors to Valdez, and

WHEREAS, rail service between Portage and Whittier is the only access via the Alaska Marine Highway from the Anchorage end; and

WHEREAS, an improved road access would make this area far more accessible and available for use by the major concentration of population in Alaska, and

WHEREAS, it is a prime concern of the City Council of the City of Valdez to see the level of ferry service into Valdez increased in order to serve a growing volume of travel and the Council feels that convenient land access would result in improved ferry service in the Prince William Sound; and

WHEREAS, the City Council wishes to again stress that this additional ferry service is required to preclude the creation of great economic loss in Valdez and its neighboring cities in Prince William Sound and the entire tourist industry.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA that

Section 1. The City Council supports and encourages the development of a new or improved highway connection between Portage and Whittier;

Section 2. The City Council again urges that immediate planning be reinstated in regard to the potential for opening a highway-link to replace the rail connection into Whittier.

Section 3. Copies of this resolution be distributed to all members of the Alaska State Legislature, the Governor, the Alaska Congressional Delegation and the heads of appropriate agencies.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA this 3rd day of January, 1978.

CITY OF VALDEZ, ALASKA

Mayor

ATTEST:

Deputy City Clerk

RESOLUTION OF THE CITY OF WHITTIER
HIGHWAY CONNECTION BETWEEN PORTAGE
AND WHITTIER: BERNARD L. MARSH
APPOINTED AS LOBBYIST AND
CONSULTANT

RESOLUTION NO. 11.2.77

WHEREAS, the Prince William Sound Region is the most magnificent and spectacular recreational area in Southcentral Alaska, and

WHEREAS, an improved road access would make this recreational area available for use by the major concentration of population in Alaska, and

WHEREAS, Whittier's commercial port capacity would be greatly expanded to the benefit of all Southcentral Alaska if access to Whittier were improved, and

WHEREAS, the current expansion of small boat harbor facilities offers new opportunities for better service that are difficult to exploit without adequate access, and

WHEREAS, lack of convenient land access between Whittier and Anchorage/ Kenai Peninsula is a deterrent to the possible economic growth of Whittier,

NOW, THEREFORE be it resolved by the City Council of the City of Whittier, Alaska:

1. That the Whittier City Council supports and encourages the development of a new or improved highway connection between Portage and Whittier, and

2. That the Whittier City Council urges the Alaska State Legislature, the State Administration, and the appropriate Federal agencies to plan and construct a project to accomplish this purpose, and

3. That the Whittier City Council hereby appoints and retains Bernard L. Marsh of Anchorage, Alaska, as it's lobbyist and consultant, to develop feasibility for and to promote such a project, and

4. That copies of this resolution be distributed to all members of the Alaska State Legislature, the Governor, the Alaska Congressional Delegation and the heads of appropriate agencies.

PASSED AND APPROVED this 2nd day of November, 1977.

Cecil Zeigler
Cecil F. Zeigler, Mayor

ATTEST:

Anna Faye Sanders
City Clerk/Treasurer

MEMORANDUM State of Alaska

TO: Vern Metcalfe,
Special Assistant
Legislative Liasion
Commissioner's Office
Juneau

DATE: May 4, 1978

FILE NO:

TELEPHONE NO:

FROM: Maurice Wilson
Manager, Central Region
Transportation Planning

SUBJECT: Portage to Bear Valley
Roadway Cost Estimate
S.B. 585

The 1972 study indicated a cost of $2,348,000 to build 7,650 feet of highway and 440 feet of bridges from Portage to Bear Valley. The 1978 cost update is $4,250.000.

The road to Bear Valley would be of little use without the rail shuttle portion of the proposal.

Project scope is as follows:

The new roadway construction for this project would begin on the Portage Glacier Road approximately 1700 feet east of the Portage Glacier Observatory. The alignment curves to the east away from the observatory area to cross Portage Creek approximately 200 feet downstream from the Portage Lake outlet. From this point the alignment curves around the base of the mountain at the northwest end of the lake and crosses Placer Creek with a structure about 400-feet north of the inlet into Portage Lake. The roadway alignment then parallels the mainline tracks of the Alaska Railroad and would terminate at a parking lot 1300 feet west of tunnel door number two.

Construction of the new roadway should be to State Standards for Secondary Highways using six inches of select material, six inches of crushed aggregate base course and three inches of hot bituminous pavement. There would be two driving lanes 12-feet wide with two-foot shoulders and 4:1 side slopes. The first 2000 feet of construction would consist of building a new fill eight to ten feet high to raise the elevation of the proposed roadway to the level of the existing roadway at the beginning of the project. After crossing Portage Creek 3250 feet of rock excavation will be necessary to construct the road into Bear Valley. From this point, an additional 2400 feet of fill, 10 to 12 feet high, will be necessary for constructing the roadway to its termination point at the proposed parking lot.

Two bridges would be required on this project. The first one would be approximately 280 feet long across Portage Creek while the second one crossing Placer Creek would be about 160 feet.

Judy — this road requires an Environmental Impact Statement & a 4F statement because it adjoins a Federal park. The 4F statement would take 15 – 18 months.

Dick Holden
6/1/78

May 8, 1978
OOOH

SB 585

Honorable John C. Sackett
Senator
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Sackett:

Following is the information you requested on SB 585, the Act which would appropriate $250,000 for the State share of the project cost of the Portage to Bear Valley Road.

The right-of-way involved is National Park Service land.

The project has not been included in the proposed Capital Improvement Projects of our Department.

The 1972 study of this proposed road showed a cost of $2,348,000 to build 7,650 feet of highway and 440 feet of bridges. The 1978 cost update would total $4,250,000.

Construction should be to state standards for secondary highways using six inches of select material, six inches of crushed aggregate base course, and three inches of hot bituminous pavement. There would be two driving lanes of 12-foot width with 2-foot shoulders. The two bridges would be (1) approximately 200 feet long across Portage Creek, and (2) 160 feet long across Placer Creek.

Sincerely,

Donald Harris
Commissioner

DH:PPR:rm

State Share: 5% plus.

TELEGRAM

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

02233 NL TDA WHITTIER ALASKA 50 06-05 1140P ADT

PMS SEN W E BRAD BRADLEY

JUN

I HOPE YOU WILL VOTE APPROVAL ON SB585 AND SCR100 BECAUSE THESE BILLS ARE OF SUCH GREAT IMPORTANCE TO A LARGE PART OF THE POPULATION OF THE STATE OF ALASKA.

KAY SHEPHERD, PRESIDENT

WHITTIER HISTORICAL AND FINE ARTS MUSEUM INC

MEMBER BORAD OF DIRECTORS ALASKA STATE MINI TV ASSOC INC

1978 JUN 6 AM 1 59

SB

116

(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

March 14, 1979 Date: 4-9-79

Mr. Speaker:

The Committee on STATE AFFAIRS has had SB 116

"An Act relating to participation by employees of the Alaska State Office in Tokyo in the public employees' retirement system; eff. 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)

[X] replace with CS for SB 116 [ ] same title [X] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House CS for Senate Bill 116
Title An Act Relating to Public Employee Benefit
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Administration - Division of Retirement and Benefits
Program Category Affected Retirement and Benefits (PERS)
BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-01 and 01-71-1-00-00
(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES		1/ 5				
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	TRS STATE MATCH						
100	BENEFITS		13.3	8.3	8.3	8.3	8.3
	TOTAL		30.8	8.3	8.3	8.3	8.3

FUNDING (Thousands of Dollars)

GENERAL FUND		25.2	6.9	6.9	6.9	6.9
FEDERAL FUNDS		1.4	0.4	0.4	0.4	0.4
VETERAN'S FUND		0.1				
FISH & GAME FUND		0.2				
HIGHWAY FUND		0.4	0.1	0.1	0.1	0.1
AIRPORT FUND		0.9	0.2	0.2	0.2	0.2
CAPITAL FUND		2.6	0.7	0.7	0.7	0.7
PERS						
TRS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS
Sections 1,2,3,5

1. It is estimated that an average of approximately $5.0 will be incurred by the State for those individuals receiving additional benefits from the banked medical leave.
2. Estimate that approximately $5.0 has been incurred as a result of the retroactive provision in Section 5 of the bill.

Section 4

1. Of the three employees at the Alaska State office in Tokyo, it is indicated that two will elect to join PERS and one will elect a cash payout.
2. The "cash payout" will increase the operating budget for the Office of the Governor (onetime) by $17,542 (assuming one dollar will purchase 195 yen).
3. The present value of the benefits provided to the two individuals electing to join the PERS has been calculated to be $44,859. These benefits will be funded with level payments of $3,311 per year for the next 25 years, resulting in a total cash outlay by the State of $82,775.

IV. DATE 4-13-79 PREPARED BY Paul B. Arnoldt, Director
AGENCY Division of Retirement & Benefits
PHONE 465-4460

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
Office of the Governor (Keith Specking)

(Rev 12/79)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SENATE BILL NO. 116
Title Participation by Employees of the Alaska State Office in Tokyo in PERS
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Administration - Division of Retirement and Benefits
Program Category Affected Retirement and Benefits (PERS)
BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-01 and 01-71-1-07-00-00
(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL		17.5				
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	TRS STATE MATCH						
100	BENEFITS		3.3	3.3	3.3	3.3	3.3
	TOTAL		20.8	3.3	3.3	3.3	3.3

FUNDING (Thousands of Dollars)

GENERAL FUND		20.3	2.8	2.8	2.8	2.8
FEDERAL FUNDS		0.1	0.1	0.1	0.1	0.1
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND		0.1	0.1	0.1	0.1	0.1
CAPITAL FUND		0.3	0.3	0.3	0.3	0.3
PERS						
TRS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

1. Of the three employees at the Alaska State office in Tokyo, it is indicated that two will elect to join PERS and one will elect a cash payout.

2. The "cash payout" will increase the operating budget for the Office of the Governor (one-time) by $17,542 (assuming one dollar will purchase 195 yen).

3. The present value of the benefits provided to the two individuals electing to join the PERS has been calculated to be $44,859. These benefits will be funded with level payments of $3,311 per year for the next 25 years, resulting in a total cash outlay by the State of $82,775.

Paul B. Arnoldt

IV. DATE 2/05/79 PREPARED BY Paul B. Arnoldt, Director
AGENCY Division of Retirement & Benefits
PHONE 465-4460

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

6300 - sick leave costs

The avg ws the av work mks 1400 pr mo
& the av ill n 6 weeks -
total ben 2100 -
assmp 3 a yr / 6300 total

section 1 of bill covers I, II, III
section 2 of the bill

add 6300 to 3.3
makes 9.6
SG add to total 20.8
then add to 20.3

Alaska State Legislature

House of Representatives

Committee on State Affairs

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

STATE AFFAIRS COMMITTEE LETTER OF INTENT

HCSSB 116

Subsequent to the passage of House Committee Substitute for Senate Bill 116 out of State Affairs Committee the following question has been raised with the Legislative Affairs Agency concerning this legislation: in the case of the employee who was off the job due to medical disability exceeding thirty consecutive working days then returned to work for a short period of time (say, twelve working days) then was off the job for an additional length of time due to illness arising from the same medical disability, the question arises -- would the employee be entitled to take banked medical leave for all of the working days following the tenth working day or would it be necessary for the employee, having returned to work to give up an additional ten days of personal leave before he could again have access to the sick leave bank. It is the purpose of this report to indicate that as long as the second period of illness stemmed from the same medical disability, it would only be necessary for the employee to give up one ten-day period of personal leave. All of the subsequent days of leave covered by the one medical disability would come from the sick leave bank. This interpretation incidentally has been concurred in as far as the language of the act is concerned by the director of the legal division of the Legislative Affairs Agency.

SB
198

(7)

COMMITTEE REPORT

HOUSE

FURTHER:

April 5, 1979 Date: 4-10-79

Mr. Speaker:

The Committee on STATE AFFAIRS has had CSSB 198 am

"An Act relating to the hiring of non-permanent employees in the state personnel system; eff. 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)

[X] replace with CS for C-SB 198 am [ ] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

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

Representative Mike Miller

Division of Personnel

January 21, 1969

The Honorable Clem V. Tillion
President
Alaska State Senate
Juneau, Alaska 99811

Dear Mr. President:

Pursuant to the provisions of Alaska Statute 39.25.195(h) the Director of Personnel shall present a report on nonpermanent and emergency hire practices in state government to the Legislature within the first 10 days of each regular legislative session.

I am herewith respectfully presenting said report.

Because the Blue Ribbon Commission On The State Personnel Act was instrumental in the development of this legislation I have transmitted a copy of the report to Senator Bill Ray.

Sincerely,

Bruce A. Cummings
Director

BC/ms
cc: Senator Bill Ray

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

NONPERMANENT EMPLOYMENT
FIRST ANNUAL REPORT
January 1, 1980

PURPOSE:

The purpose of this report is to be in compliance with AS 39.25.195 (Ch. 67 SLA 1979). That statute in pertinent part requires:

> The director shall present a report on nonpermanent and emergency hire practices in state government to the legislature within the first 10 days of each regular legislative session. ... The report shall include information on the number of nonpermanent employees authorized under this section and the number of emergency employees hired in each department, a description of the procedures used in authorizing the hiring of nonpermenent employees, and any recommendations for legislation required to implement the intent of this section. (AS 39.25.195(h))

The statute became effective January 1, 1980. Because the effective date is so recent, this initial report must be limited in information.

It is intended that the second report, due January 1981, will cover all activity for calendar year 1980. A consistent reporting period is therefore being established for future reports.

The Number of Nonpermanent Employees Authorized:

As of December 31, 1979, two nonpermanent positions had been authorized for filling in January; a Graduate Intern I with the Deparment of Law and a Park Planner II with the Department of Natural Resources. Formal intent to establish an additional 183 nonpermanent positions had been received. However, because the required certifications had not been completed by employing agencies none of the positions had yet been authorized by the Director.

As of December 15, 1979, there were 425 temporary employees on the payrolls of those agencies affected by AS 39.25.195-200.

Summary data by department on temporary employees is presented on Page 6.

A Description of Procedures Uses In Authorizing The Hiring of Nonpermanent Employees.

Preliminary work on developing procedures to implement the law was begun in August, 1979. In early September an interagency committee was formed to complete the procedures. The committee was composed of representatives from the Division of Personnel and Labor Relations and the Departments of Fish and Game, Public Safety, Transportation and Public Facilities, Community and Regional Affairs, Labor, Health and Social Services, and Law. The combined agencies had in the past made approximately 70% of all temporary appointments.

The procedures provide for:

1) a uniform method that the head of the department may designate other persons to make the required certifications,

2) a means for the agencies to notify the Director of Personnel on planned nonpermanent positions,

3) a uniform method of certifying funds and needs for nonpermanent positions consistent with AS 39.25.195,

4) guidelines for certifying the circumstances for each emergency appointment,

5) Waiver of the eligible list for Comprehensive Employment And Training Act (C.E.T.A.) employees.

A primary objective of the committee was to seek compliance with the law by modifying existing procedures whenever possible rather than establishing totally new unfamiliar procedures. To the extent possible that objective has been realized.

The procedures were distributed December 21, 1979, and are an addendum to this report.

The Number of Emergency Employees Hired.

Because of the time frame of this report there have not been any emergency appointments under the new law. A method of reporting emergency appointments has been e tablished within the procedures implementing AS 39.25.195-200, so that emergency appointments made during and after January 1980 will be reported.

DEPARTMENT	PERM. POS. (1)	VACANT NO. (2)	& PERCENT (3)	TEMPS. (4)	NONPERM. (5)
ADMINISTRATION	674	65	9.6	37	7
LAW	208	16	7.7	11	4
REVENUE	314	55	17.5	19	3
EDUCATION	353	45	12.7	31	31
HEALTH & SOCIAL SERVICES	1879	206	11.0	51	22
LABOR	737	165	22.4	49	48
COMMERCE & ECONOMIC DEVELOPMENT	297	26	8.8	6	-0-
MILITARY AFFAIRS	101	16	15.8	4	2
NATURAL RESOURCES	789	249	31.6	26	1
FISH & GAME	720	147	20.4	93	53
PUBLIC SAFETY	805	89	11.1	10	-0-
ENVIRONMENTAL CONSERVATION	135	26	19.3	4	1
COMMUNITY & REGIONAL AFFAIRS	154	32	20.8	22	13
TRANSPORTATION	2873	838	29.2	62	-0-
TOTAL	10,035	1,975	19.7	425	185

Because AS 39.25.195-200 in most part excludes the Office of the Governor, that agency has not been included.

(1) Permanent classified and partially exempt positions as of December 15, 1979.

(2) Of the positions recorded in Column 1 the number vacant. Includes seasonal positions where the employee was on seasonal leave.

(3) Column 2 expressed as percentage of Column 1.

(4) The number of temporary employees as of December 31, 1979.

(5) The number of nonpermanent positions intended and authorized as of December 31, 1979.

Recommendations For Legislation Required To Implement The Intent Of This Section.

Every effort has been made to implement the law consistent with the intent. It must be recognized that the law only recently became effective (January 1, 1980). Therefore, there has been no actual experience in administering this statute. For this reason there are no recommendations for additional legislation at this time. As administrative experience is obtained some unanticipated difficulties are likely. Specific recommendations will be made when legislation is the appropriate solution.

TO: All Personnel Officers

DATE: December 21, 1979

FILE NO:

TELEPHONE NO:

FROM: Sandra Withers SW
Director
Division of Personnel & Labor Relations
Department of Administration

SUBJECT: Procedures;
Nonpermanent Employees

With this memorandum I am transmitting the initial procedures to implement AS 39.25.195-200 (Chapter 67, SLA 1979) which becomes effective January 1, 1980.

These procedures and the new forms being established were developed by a committee of department personnel officers along with this Division. A cross section of all departments were represented. Although all major questions that we could anticipate have been addressed, we realize that after 20 years of developed practices with "temporary" employees some offices will have greater adjustments than others to be in compliance with the law. Please bear in mind, it is the stated intent of the legislature to curb those administrative practices which surrounded temporary employment in the past.

Please address any suggestions or recommendations for improvement on these procedures to Ken Kareen, Deputy Director of this Division. We will have a follow-up meeting with the committee and with all departmental personnel officers to seek improvements based on the experiences gathered by working with these procedures

SW/eiw

NONPERMANENT APPOINTMENT

PROCEDURES

There are five types of nonpermanent appointments. They are: 1) emergency, 2) substitute, 3) program, 4) project, and 5) normal.

All nonpermanent appointments, except emergency, require that a position be established prior to the appointment.

All nonpermanent appointments, except emergency require written approval prior to the appointment from the Director of Personnel and Labor Relations.

Because the procedures for emergency appointments differ from the procedures for other nonpermanent appointments, they are addressed separately in Section G.

Other types of nonpermanent appointments are addressed in the normal sequence of actions which are:

A - Identification of Need for Nonpermanent Employee

B - Certification of Conditions and Funds

C - Position Approval

D - Selection of Employee

E - Appointment

F - Follow Up on Time Restrictions

A. IDENTIFICATION OF NEED FOR NONPERMANENT EMPLOYEE

Normal, Program, and Project Appointments

Two and one-half months prior to the anticipated month of hire the hiring department must submit a completed "Nonpermanent Employee Need Identification" card (02-256) to the Division of Personnel and Labor Relations. If a nonpermanent position has already been established and is available for filling, the department does not need to submit a new card.

Illustration II shows the reporting time frame.

Appendix C is a sample of the form including the instructions for completing it.

ILLUSTRATION I

TYPE OF NONPERMANENT	FORMS REQUIRED		STATUS CODE	NORMAL APPOINTMENTS FROM	DURATION OF APPOINTMENT
	ID CARD (02-256)	CERTIFICATIONS (02 '230)			
EMERGENCY: Appointment made under conditions requiring immediate action to carry on work required in the public interest; appointments limited to 30 days.	NO	NO [1]	EM		UP TO 30 DAYS
PROGRAM: Appointments to nonpermanent positions created primarily to help the employee; appointment limited to duration of the program.	YES	YES	NG	DISPATCH/ELIGIBLE LIST	DURATION OF PROGRAM
PROJECT: Appointments to complete specific work which is not a regular and continuing function of the department, but which requires more than 120 days to complete; appointments limited to duration of project.	YES	YES	NJ	DISPATCH/ELIGIBLE LIST	DURATION OF PROJECT
NORMAL: Appointment to complete a given work assignment which does not exceed 120 calenda days in a 12 month period; an employee may not work more than 120 calendar days in a 12 month period in one department.	YES	YES	NT	DISPATCH/ELIGIBLE LIST	UP TO 120 DAYS
SUBSTITUTE: A nonpermanent appointment to a position which is temporarily vacated by a permanent employee on leave. Appointment limited to duration of the incumbent's leave or an earlier date specified by the department.	YES [2]	NO	NS	DISPATCH/ELIGIBLE LIST	DURATION PER PRIOR LIMIT OF DEPARTMENT OR RETURN OF PERMANENT EMPLOYEE

1. THE FORM IS NOT REQUIRED. CERTIFICATION IN FORM OF LETTER OR MEMORANDUM IS REQUIRED.
2. PARTIALLY COMPLETED CARD REQUIRED.

ILLUSTRATION II

Planned Appointment	Need Identification* Due	Certifications* Due	Expect* Approval
January	October 15	November 5	December 1
February	November 15	December 5	January 1
March	December 15	January 5	February 1
April	January 15	February 5	March 1
May	February 15	March 5	April 1
June	March 15	April 5	May 1
July	April 15	May 5	June 1
August	May 15	June 5	July 1
September	June 15	July 5	August 1
October	July 15	August 5	September 1
November	August 15	September 5	October 1
December	September 15	October 5	November 1

* If the listed date is a Saturday, Sunday, or holiday then the first working day following the date indicated shall be considered appropriate.

Nonpermanent Substitute Appointments

To request authority to make a nonpermanent substitute appointment, the hiring department must submit a partially completed "Nonpermanent Employee Need Identification" card along with a "Request for Certification" (02-254).

Those portions of the "Nonpermanent Employee Need Identification" card which must be completed are:

1. (a) Department
   (b) Division
   (d) Geographical Code
   (e) Beginning Date

2. (b) Ending Date

   Comments:

   Identify the position control number being filled on a substitute basis and state if the incumbent of record is on medical, personal, or annual leave. If the incumbent is on some other type of leave, specify the type.

6. Signature of individual filing this report.

7. (a) Date of the report.

The form "Request for Nonpermanent Position and/or Autnority to Appoint Nonpermanent Employee" (02-230) is not required for substitute appointments.

B. CERTIFICATION OF CONDITIONS AND FUNDS

The form titled "Request for Nonpermanent Position and/or Autnority to Appoint Nonpermanent Employee" constitutes certification by the employing agency that funds are available for the requested position, and that conditions exist in the agency which justify the appointment of a nonpermanent employee in accordance with AS 39.25.195-200.

Sections "A," "B," "C," and "D" of the form should be completed by the hiring department. Sections "B" and "C" on this form must be signed by the Commissioner of the Department or a person designated by the Commissioner as a certifying officer in accordance with AS 39.25.200(1).

If a "Nonpermanent Employee Need Identification" form has not been previously submitted, the department must submit a completed card along with the request. If one has been previously submitted, only the request form is required.

This form is to be completed in duplicate. The hiring department must send the form with original signatures to the Director of Personnel and Labor Relations. The Department Personnel Officer should retain a copy of the forms.

C. POSITION APPROVAL

The Director of Personnel and Labor Relations will indicate approval of the position requested and authority to procede with an appointment in "Section E--Approval" of the request form.

Before proceeding with the appointment, the hiring department should note if the approval is "as requested" or "with qualifications as stated."

If the request is for a nonpermanent substitute appointment, the authority for the department to make an appointment will be issued by "Section B--Certification or Authorization" of the "Request for Certification."

D. SELECTION OF EMPLOYEE

The selection of an employee to fill the position by union dispatch or from the appropriate eligible list must be consistent with bargaining agreements and the Personnel Rules. The normal process shall be the same as filling a permanent position of the same job class.

In some instances another procedure for selecting an employee may be authorized. When another procedure is authorized, the approval will indicate "with qualifications as stated" and instructions shall be detailed in the comments portion of the approval section. (Section E of "Request for Nonpermanent Position and/or Authority to Appoint Nonpermanent Employee.)

If there are any questions about the instructions the Department Personnel Officer must obtain clarification from the Division of Personnel and Labor Relations before proceeding.

E. APPOINTMENT

The appointment of a nonpermanent employee shall follow established department procedures except that the nonpermanent employee may not be placed on the state payroll unless the Director of Personnel and Labor Relations has approved the personnel action for the employee's appointment. Therefore, after the Personnel Action (02-023) has been completed, signed and is ready for payroll, the department must send the central payroll copy and central personnel copy directly to the Director of Personnel and Labor Relations.

Those actions approved by the Director will be forwarded to central payroll. Actions not approved by the Director will be returned to the originating agency.

F. FOLLOW UP ON TIME RESTRICTIONS

All nonpermanent employees are time restricted. The normal restriction is 120 days in a 12-month period. Project and program employees are

limited by the duration of the specified program or project. Substitute appointments are restricted by the department's identified ending date or the return of the permanent employee, whichever occurs first.

It is the employing department's responsibility to monitor all non-permanent appointments and originate timely separating personnel actions on or before the employment authority has expired

G. EMERGENCY APPOINTMENTS

Emergency appointments do not require prior approval, eligible list certification or dispatch. However, use of these procedures is not precluded.

An emergency employee is:

> "....an employee appointed for a period not to exceed 30 calendar days, whose appointment was made under conditions requiring immediate action to carry on work that is required in the public interest." AS 39.25.200(3)

Within 15 working days following an emergency appointment, the employing department shall certify the reasons for the appointment to the Director of Personnel and Labor Relations. There is not a prescribed form for this purpose. The certification shall be in the format of a letter or memorandum and must address the following subjects:

1. The reasons for appointing an emergency employee, including description of the work requiring continuance in the public interest and the location of the work.

2. What alternative actions to the appointment were considered or taken, such as:

   a) reassignment of other employees

   b) authorized overtime

   c) request for assistance from other government agencies

3. The name of the emergency employees appointed.

4. The statement: "I hereby certify that the reported facts and statements are correct and that the emergency appointment is justified in accordance with AS 39.25.195 and AS 39.25.200(3).

_____ _____

Date Signature of Certifying Officer

This report must be certified by the Commissioner or person designated by the Commissioner under AS 39.25.200(1) to certify nonpermanent actions and must be received by the Director of Personnel and Labor Relations within 15 working days of the appointment.

STATE OF ALASKA

CERTIFYING OFFICER'S AFFIDAVIT

AS 39.25.195-200

I hereby designate_____ to certify documents in accordance with AS 39.25.200(1).

This designation is for a period of twelve months beginning from the date of the Department Head's signature. The designation is automatically ended at the time that the employee designated separates from employment with this department. This designation is subject to being revoked at any time by the Department Head notifying the Director of Personnel and Labor Relations in writing of such revocation.

_____ _____

DEPARTMENT SIGNATURE OF DEPARTMENT HEAD

_____

DATE

I have read and understand AS 39.25.195 - AS 39.25.200. The use of my signature stamp in exercising this designation shall be the same as if I personally sign the document and does not in any way diminish my responsibility.

_____

Signature

_____

Date

Distribution:

Director of Personnel & Labor Relations*
Director of Finance
Employing Agency*
Employee Concerned

* Must have original signatures.

12/79

02-1271 (10/79)

APPENDIX C

TO All Personnel Officers

DATE September 19, 1979

FILE NO:

TELEPHONE NO:

FROM: Sandra Withers, Director
Division of Personnel &
Labor Relations
Department of Administration

SUBJECT: Nonpermanent Employee
Need Identification
January-March 1980

The enclosed forms are for your use in planning for nonpermanent positions needed during the first quarter of 1980. The requested information will be used to identify recruitment needs and to develop the procedures necessary to assure compliance with Chapter 67, SLA 1979.

Please ask those in your department responsible for projecting employment needs to complete one form for each nonpermanent appointment you plan to make during the period January 1, through March 31, 1980. You will be asked to project your needs for the second quarter later.

The completed forms must be submitted to the Division of Personnel and Labor Relations by close of business October 3, 1979.

SW/ja

DIVISION OF PERSONNEL & LABOR RELATIONS

NONPERMANENT EMPLOYEE NEED IDENTIFICATION

1. a) Dept. b) Div. c) Class Code d) Geo. Code e) Beginning Date: Mo. Day Year

2. a) Supervisor's Social Security Number b) Ending Date: Mo. Day Year

3. Supervisor's Name: Last First M.

4. Class Title of Nonpermanent Position

5. Location of Nonpermanent Position

COMMENTS:

Div. of Personnel & Labor Relations
Received
Recorded
Verified
Reported

6. Signature of Individual Filing This Report

7. a) Date b) Social Security Number

S/U Identification

08-2568(9/79) Per AS33.25.195-200

INSTRUCTIONS

This form is a planning tool to be used in identifying future needs for nonpermanent employees. It is not a formal request for hire. This information will allow the Division of Personnel & Labor Relations to anticipate your needs and direct its recruitment efforts accordingly.

Please complete a separate form for each nonpermanent position following the instructions below. Use the space for comments to provide additional information or explanation.

Line 1: a) Department code
b) Division code for the division the nonpermanent position will be assigned to.
c) Class code. Most will have four digits, but some classes with more than one eligible list will have a letter in addition.
d) Geographic code for the location of the nonpermanent position.
e) Beginning date. That date the nonpermanent employee will report for work.

Line 2: a) Social security number of person who will be assigned to supervise the nonpermanent employee.
b) Ending date. When will the work of the nonpermanent employee be completed?

Line 3: Name of the supervisor of the nonpermanent employee.

Line 4: Include the complete class title from the classification outline.

Line 5: Location of nonpermanent position. If there is more than one location, explain in the comments section.

Line 6: Signature of the person who by filing this report verifies the probable need for this nonpermanent position.

Line 7: a) Date of report
b) Social security number of person filing the report.

12/79

APPENDIX D

12/79

-10-

12/17/79 PERMANENT POSITIONS INTENDED AND AUTHORIZED PAGE 1
MASTER RECORD (OPTION=APP-ROST)

FISH AND GAME

POSN	SEQ	DIV	TYPE	CLASS	LOC	LOCATION	CODE	BEGIN	END	AVS	DEPT TOTAL
[illegible]	1	00	1	FISH & GAME TECH I	[illegible]	ANCHORAGE	ENA	01-01-80	03-31-80	NO	
[illegible]	1	00	1	CLERK TYPIST III	[illegible]	DILLINGHAM	DAA	01-01-80	04-30-80	NO	
[illegible]	1	00	1	FISH & GAME TECH III	[illegible]	SOLOMON	DSO	01-01-80	01-31-80	NO	
[illegible]	1	00	1	FISH & GAME TECH I	[illegible]	HALIBUT COVE	CYO	01-01-80	04-30-80	NO	
[illegible]	1	00	1	FISH & GAME TECH I	[illegible]	HALIBUT COVE	CYO	01-01-80	04-30-80	NO	
[illegible]	1	00	1	FISH CULTURIST II	[illegible]	IGUNA LAGOON	CYO	05-15-80	07-15-80	NO	
[illegible]	1	00	1	FISH CULTURIST II	[illegible]	SOLDOTNA	DSO	01-01-80	03-31-80	NO	
[illegible]	1	00	1	FISH CULTURIST II	[illegible]	CORDOVA	DAA	05-01-80	06-01-80	NO	
[illegible]	1	00	1	FISH CULTURIST I	[illegible]	DILLINGHAM	DAA	02-01-80	06-01-80	NO	
[illegible]	1	00	1	FISH CULTURIST I	[illegible]	CLEAR	JNO	01-01-80	03-31-80	NO	
[illegible]	1	00	1	[illegible] TECH I	[illegible]	ANCHORAGE	ENA	01-01-80	03-31-80	NO	
[illegible]	1	00	1	FISH CULTURIST I	[illegible]	JUNEAU	JNA	02-01-80	05-01-80	NO	
[illegible]	1	00	1	INFORMATION OFF I	[illegible]	JUNEAU	AKA	05-16-80	06-30-80	NO	
[illegible]	1	00	1	CLERK TYPIST II	[illegible]	JUNEAU	AKA	01-01-80	06-30-80	NO	
[illegible]	1	00	1	PUBLICATIONS TECH I	[illegible]	JUNEAU	AKA	05-16-80	06-30-80	NO	
[illegible]	1	00	1	CLERK TYPIST III	[illegible]	ANCHORAGE	ENA	01-01-80	04-30-80	NO	
[illegible]	1	00	1	FISH & GAME TECH II	[illegible]	ANCHORAGE	ENA	01-01-80	04-30-80	NO	
[illegible]	1	00	1	FISH & GAME TECH II	[illegible]	ANCHORAGE	ENA	01-01-80	04-30-80	NO	
[illegible]	1	00	1	CLERK TYPIST III	[illegible]	ANCHORAGE	ENA	01-01-80	03-31-80	NO	
[illegible]	1	00	1	[illegible]

STS: STATUS CODES

I Indicates an intended position.

A Indicates an authorized position.

D Indicates a position that has been filled and the work has been completed.

E Indicates a position for which the authorization or the intended dates have passed.

TYPE

G Indicates program

J Indicates project

T Indicates normal

E Indicates emergency

INSTRUCTIONS

Section A - Identification

1) Fill in the six character identification established for the position.

or

If no prior identification has been assigned complete a "Nonpermanent Employee Need Identification" card. Attach this card to the form and check (✓) the box indicating that it is attached.

2) Job Class: Indicate the class title of the position being requested.

3) Indicate if the position being requested is "normal" or "program" or "project." If the request is for a project position, statement 4 of Section C must be certified. If the request is for a program position, statement 5 of Section C must be certified. The distinction between program and project exists in the purpose of the employment. If the employment is to assist the individual employed such as CETA, student interns, and apprentices, the position is a program position and the employee must be appointed as such. If an additional position is being requested to complete a specific work project which is not a regular and continuing function of the department or agency, but will exceed 120 days, the position is a project position and the employee must be appointed as such.

4) Indicate if the position will be filled from a certification of eligibles or union dispatch or by other means consistent with AS 39.25.195-200 and the applicable collective bargaining agreement. If "other" is indicated sufficient explanation must be given.

Section B - Funds Certified

This section must be signed by the Commissioner of the department or by a person designated by the Commissioner as a Certifying Officer in accordance with AS 39.25.200 (1).

Section C - Reason Certified

The reason or reasons for the nonpermanent employee are indicated in this section. Not less than one of the five indicated reasons must be certified by the Commissioner or his designee per AS 39.25.200 (1). If more than one statement is appropriate each statement that is a correct description of the circumstances should be signed.

AUTHORITY TO APPOINT NONPERMANENT EMPLOYEE

SECTION A - IDENTIFICATION

1) Position Control Number | | | | | | | OR ☐ Nonpermanent employee need identification card (02-2561 is attached.

2) Job Class

3. This request is for a nonpermanent position as indicated: ☐ Normal (120 day appt.) ☐ Program ☐ Project

4) If approved appointment will be made from: ☐ Eligible List: Certification ☐ Union Dispatch ☐ Other: _____

SECTION B – FUNDS CERTIFIED

I certify that adequate money is available for the anticipated duration of this appointment

Signature of Certifying Officer | Date

SECTION C – REASON CERTIFIED

SIGN WHICHEVER OPTION APPLIES TO YOUR SITUATION

1) I certify that the legislature has appropriated money for the position proposed knowing that it is to be performed by a nonpermanent employee. The appropriation code and budget page reference is cited in Section D.

Signature of Certifying Officer | Date

2) I certify that there is an immediate need to fill an authorized, permanent position and it is impractical to establish the position or to make certification within a reasonable time. The authority, position and circumstances are explained in detail in Section D.

Signature of Certifying Officer | Date

3) I certify that an immediate need exists which this agency could not have reasonably anticipated and met through the creation of a permanent position. The circumstanc[illegible] and the reasons we could not anticipate this need are explained in Sectic[illegible]

Signature of Certifying Officer | Date

4) I certify that a project exists and the need for an employee can be most appropriately met through the use of a project employee. The project and our needs are described in Section D.

Signature of Certifying Officer | Date

5) I certify that a program exists and the need for an employee can be most appropriately met through the use of a program employee. The program and our needs are described in Section D.

Signature of Certifying Officer | Date

SECTION D – EXPLANATION

1) REASON FOR REQUEST

CONTINUE ON REVERSE IF NECESSARY

SECTION D (2) FUNDING SOURCE

SECTION D (3) DESCRIPTION OF DUTIES (P402 Optional)

CONTINUE ON REVERSE IF NECESSARY

SECTION E – APPROVAL

Approved as Requested | Director of Personnel & Labor Relations | Date

Approved with Qualifications as Stated on Reverse in Comments

12/79

SECTION D (1) Reason for Request - Continued

SECTION D (3) Description of Duties - Continued

It is not necessary that sections B and C be signed by the same person. The person certifying Section C is also certifying the correctness of the explanations contained in Section D.

Section D - Explanation

This section is for detailed explanation of: 1) the reason for the request 2) identification of the funding source by sufficient codes so that the Division of Budget and Management can identify the source of the funds without additional information and 3) sufficient explanation of the duties assigned to this position so that proper class allocation can be verified.

Request for Certification

Section A. To: Department of Administration Division of Personnel & Labor Relations

Date: January 16, 1980	Department: Fish and Game
Position Title: Fish Culturist II / Class Code: 6124	Position Control Number: 11 B 016
Location of Position: Tutka Lagoon	Location Code: CYO
Employee Replaced: n/a	Date of Separation: n/a
HOURS OF WORK: ☐ Full Time ☐ Part Time	Date of Classification Action: Authorized 01/4/80

KIND OF POSITION
☐ Permanent ☒ ~~xxxxxxx~~ Non Permanent ☐ Seasonal

ELIGIBLE LISTS
☐ Open Competitive ☐ Departmental ☐ Interdepartmental

SPECIAL REQUESTS
☐ Subfill with _____ job class ☐ _____ Examining Option

Signature of Appointing Authority: Signature

Title: Personnel Officer

Section B. Certification or Authorization

Date _____

To: Requesting Department

The following Certification is hereby issued to your request:

☐ Complete Certification ☐ Agency Lay Off List

☐ Incomplete Certification (May be declined per RULE 5 03.5) ☐ Other _____

☐ ATTACHED MASTER (_____) FOR (_____) CONSTITUTES THE CERTIFICATION OF ELIGIBLES TO FILL THIS POSITION.

☐ ATTACHED MASTERS (_____) FOR (_____) AND (_____) FOR (_____) CONSTITUTE THE CERTIFICATION OF ELIGIBLES TO FILL OR SUBFILL THIS POSITION RESPECTIVELY.

☐ ATTACHED MASTERS (_____) FOR (_____) AND (_____) FOR (_____) CONSTITUTE THE CERTIFICATION OF ELIGIBLES TO FILL THIS POSITION. THE ELIGIBLE LIST FOR (_____) HAS BEEN AUGMENTED FROM THE ELIGIBLE LIST FOR _____. ANY APPOINTMENT SHOULD BE MADE TO THE CLASS OF (_____)

The following Authorization is hereby issued in response to your request:

☐ Provisional Appointment (If no selection has been reported by _____ this authority is automatically rescinded.)

☐ In absence of appropriate eligible list ☐ Incomplete eligible list ☐ Subfilling with _____ class

☐ Temporary Appointment ☐ Other _____

By _____ for Director of Personnel & Labor Relations

Section C. Action of Appointing Authority

Date _____

Return to Department of Administration Division of Personnel & Labor Relations as soon as you have made your selection. If not from the eligible list, attach application.

Appointee _____ Name _____

Effective date of Appointment _____

STATUS OF APPOINTEE

☐ Probationary ☐ Provisional ☐ Subfill ☐ Substitute

☐ Seasonal ☐ Incomplete certification declined ☐ Returned for the following reason _____

☐ Temporary

_____ Signature of Appointing Authority

_____ Title

OF ALASKA

TO: All Personnel Officers
All Administrative Directors

DATE: August 21, 1979

FILE NO

TELEPHONE NO

FROM: Sandra Withers, Director
Division of Personnel and
Labor Relations
Department of Administration

SUBJECT: Non-permanent Employees

Effective January 1, 1980, Chapter 67, SLA 1979, goes into effect. This new law will substantially change procedures governing the hire and retention of non-permanent (temporary) employees.

We are preparing draft regulations to administer the law, and plan to hold personnel council meetings to review the draft and solicit recommendations. The first meeting is scheduled at 10:00 a.m. on September 4, 1979, in the testing room of the Division of Personnel and Labor Relations, 10th floor, State Office Building. The meeting should be attended by each department Personnel Officer and their immediate supervisors, if desired. This meeting will address principles, general needs and the changes which must be made in how we handle non-permanent employment. Of particular concern is that we be prepared to comply with this law on January 1, 1980. We must have procedures ready at that time to:

1) Expedite the processing of requests for non-permanent hire;

2) Provide for certification of eligible lists; and

3) Know the specific numbers, job classes and locations of prospective non-permanent positions.

In the near future, we will be asking for you to identify non-permanent employment needs, and we will request that the information be provided for each department for the first quarter of calendar year 1980. This information will be part of the data base for reports to the Legislature and will direct recruiting efforts to assure that projected employment needs can be met.

Temporary appointments made up to the close of business on December 31, 1979, may last for 120 days from January 1, 1980 or six months from the date of appointment, whichever is less. After that time, the 120 day limit on non-permanent appointments will be in effect. Please note that the law requires prior approval for all non-permanent appointments. It is imperative that you inform all program managers within your department of these new limitations immediately so they may begin planning for what amounts to a substantial change in the way we do business.

If these changes are going to necessitate the establishment of permanent positions in the absence of temporaries to meet your program needs, we strongly suggest that you begin immediately to develop position descriptions and secure necessary budget approval.

The Division of Budget and Management has pledged their assistance in converting funds authorized for temporaries to permanent full-time, part-time and seasonal positions. A "New Position Authorization" (01-021) form issued by Budget and Management will be required for each permanent position established. Procedures for establishing such positions are on page 63 of "A Guide to Revised Program Procedures" issued by the Division of Budget and Management (May, 1979). The fall season is the peak of activity for Budget and Management, yet they have committed themselves to responding on or before November 15, to all requests received prior to October 1.

SW/ljs
Attachment: Chapter 67, SLA 1979.

02 0018 (Rev. 10/79)

STATE
of ALASKA

MEMORANDUM

TO All Personnel Officers

DATE September 14, 1979

FILE NO

TELEPHONE NO

SUBJECT Chapter 67 SLA 1979
Non-Permanent Employees

FROM Sandra Withers, Director
Division of Personnel and
Labor Relations
Department of Administration

As recommended and requested by the Personnel Council Committee on implementation of Chapter 67 SLA 1979, will you please provide a listing of all new permanent positions you intend to establish because of the revised statutes addressing non-permanent employees. The Committee is trying to anticipate the demands that will be placed on the Classification and Pay Section and plan for the timely processing of the increased demand.

Please provide on or before September 21, 1979:

- The number of new positions you expect to establish
- The job class of each position
- The duty station for each position

Thank you.

CETA POSITIONS
BY CONTRACT WITH
THE MUNICIPALITY OF ANCHORAGE

The following actions are necessary for the establishment and filling of nonpermanent positions established as State positions under CETA funds by contract with the Municipality of Anchorage.

ESTABLISHMENT OF POSITIONS

The employing department shall establish the position(s) in accordance with steps A through C of "Nonpermanent Appointment Procedures". The position shall be identified as a program position funded under C.E.T.A. contract with the Municipality of Anchorage. The ending date of the position shall be consistent with the contract and may be extended as the contract is amended or renewed.

FILLING OF POSITIONS

The filling of these positions will continue to be made from certifications by the Municipality of Anchorage. The necessary steps are:

A. Request and receive appropriate "C.E.T.A. Certification List" from Municipality of Anchorage,

B. Make selection from among those certified or request additional certification,

C. Notify Municipality of selection in the manner they designate,

D. Prepare State personnel action attaching to it a copy of "C.E.T.A. Certification List" used and a State employment application by the individual selected,

E. Proceed with steps E and F of "Nonpermanent Appointment Procedures".

CETA POSITIONS BY CONTRACT

WITH DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

The following actions are necessary for the establishment and filling of nonpermanent positions established as a condition of a contract with the Department of Community and Regional Affairs, CETA Division.

ESTABLISHMENT OF POSITIONS

The employing department shall establish the positions(s) in accordance with steps A through C of "Nonpermanent Appointment Procedures." The position shall be identified as a program position funded under CETA contract with the Department of Community and Regional Affairs. The ending date of the position shall be consistent with the contract and may be changed as the contract is amended or renewed.

FILLING OF POSITION

The filling of these positions will be made from referrals by the local Employment Service office, Alaska Department of Labor. The necessary steps are:

A Place job order with the local Employment Service office. When placing the order inform the referral office that the position is a nonpermanent CETA-funded position and the State job classification.

B The Employment Service will refer applicants that appear to meet CETA program eligibility requirements and the State's minimum qualifications for the intended job class.

C The employing department will make a tentative selection from among those referred after determining that the individual selected meets the minimum qualifications for the job class. In addition, the employing department will complete the following forms for the selected individual.

CETA Eligibility Determination/Enrollment (21-45-344)
CETA Application (21-45-306)
State of Alaska Employment Application (02-250)

D The employing department transmits the CETA Eligibility Determination and Application forms to the nearest CETA regional office for review and certification. The employing department will not appoint the individual until notified by the CETA Division that the individual has been certified as eligible.

E Notice of eligibility certification is received from the CETA Division and the employing department appoints the individual and notifies the Employment Service office.

F Prepare personnel action and attach to it the employee's State Employment Application and evidence that the individual was referred by the Employment Service.

G Proceed with steps E and F of "Nonpermanent Appointment Procedures".

SB
361

(7)

COMMITTEE REPORT

HOUSE

2/7/80

FURTHER:

Date: 2-26-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had SB 361am

"An Act authorizing the sale of state flags which have flown over the state capitol."

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

[X] 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

MEMBERS HAVING OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

Alaska State Legislature

SENATOR MIKE COLLETTA

SENATE MAJORITY LEADER

Senate

MEMORANDUM

February 19, 1980

TO: Representative Mike Miller
Chairman
House State Affairs Committee

FROM: Senator Mike Colletta Mike Colletta

RE: Sb ~~316~~ 361 "State Flags"

Enclosed for your review, please find information regarding Senate Bill 361, "An Act authorizing the sale of state flags which have flown over the state capitol", which your committee will be hearing this week.

Please note that several requests for flags have already been received.

ENCLOSURES

ORA, BOX 1888 R, ANCHORAGE 99501 • POUCH V JUNEAU 99811

FEB 1 9 1980

JERRY W. TOKAR
208 W. NORTHERN LIGHTS BLVD. • ANCHORAGE, ALASKA 99503

February 14, 1980

Senator Mike Colletta
Alaska Senate
State Capitol
Juneau, AK 99811

Subject: Alaska State Flags

Dear Senator Colletta:

I read with interest the article that the Anchorage Times carried pertaining to your sponsoring a bill that would make available Alaska state flags that had flown over the capitol.

I am most interested in acquiring one of those flags. Would you please advise me if and when it would be possible for me to do this. Your help in the matter would be greatly appreciated.

Looking forward to hearing from you in the very near future.

Sincerely,

Jerry W. Tokar

JWT/pr

February 19, 1980

Jerry W. Tokar
206 W. Northern Lights Blvd.
Anchorage, AK 99503

Dear Jerry:

Thank you for your note indicating your support for Senate Bill 361, "An Act authorizing the sale of state flags which have flown over the state capitol". Senate Bill 361 is now in House State Affairs Committee and will be heard this week. I am enclosing a cppy of the bill for your review.

I have also taken the liberty of forwarding a copy of your letter to Commissioner Robert Ward, Department of Transportation and Public Facilities requesting he contact you when the legislation has passed and the flags are available.

Again, thank you for your comments. Should you have questions or comments regarding this or other matters before the legislature, please do not hesitate to contact me.

Sincerely,

Mike Colletta
Senate Majority Leader

MC/pb

cc: Commissioner Ward

February 18, 1980

J. Paul Holley, Jr.
S.R.A., Box 30 Y
Anchorage, Alaska 99507

Dear Paul,

Thank you for your letter and further information regarding Senate Bill 361. I have taken the liberty of forwarding to Commissioner Robert Ward, Department of Transportation and Public Facilities, your request for the first flag, as well as the certificate provided to you by Senator Stevens' Office.

As Senate Bill 361 will be heard this week in the House State Affairs Committee, I have also forwarded your information to the Chairman, Representative Mike Miller.

I enjoyed hearing from you and offer best wishes and many successful years in your new business association.

Sincerely,

Mike Colletta
Senate Majority Leader

MC/ms

cc: Representative Mike Miller
Commissioner Robert Ward

NORTHERN TECHNICAL SERVICES
900 WEST FIFTH AVENUE, SUITE 240 • ANCHORAGE, ALASKA 99501
(907) 276-4302

February 7, 1980

Honorable Mike Colletta
Senate Floor Leader
Alaska State Legislature
Mailstop Number 3100
Juneau, Alaska 99811

Dear Mike:

As you can see on the enclosed copy of my letter to Senator Mulcahy, I am delighted about Senate Bill No. 361 which you kindly sponsored.

You know, one of the pleasures of living here in Alaska has been the opportunity to participate in civic and other affairs just to be part of things, or be able to add anything at all to the state or to the community in which we live. That's why the Governor's Round Table and now the "Flag Bill" have been personally rewarding to me.

If at all possible, I would like very much to have the first flag that is offered and, in conclusion, have enclosed informatio. Ted Stevens kindly sent along with my U. S. flag, including the certification that ic was flown over the capitol by George M. White, FAIA, Architect of the Capitol.

My best regards.

NORTHERN TECHNICAL SERVICES

J. Paul Holley, Jr.
Senior Associate

JPH/jh

Enclosure

NORTHERN TECHNICAL SERVICES
900 WEST FIFTH AVENUE, SUITE 240 • ANCHORAGE, ALASKA 99501
(907) 276-4302

February 8, 1980

Honorable Bob Mulcahy, Chairman
Senate State Affairs Committee
Alaska State Legislature
Mailstop Number 3100
Juneau, Alaska 99811

Dear Senator:

I wanted to personally thank you not only for your support of Senate Bill No. 361 (Colletta) but, in addition, your expeditious handling of this legislation. I should also like to thank Vice Chairman Kelly and Committee Members Bradley, Rodey, and Ziegler.

It is a personal thrill for me to watch my idea spawn and glow, and then turn into a reality. I am sure the public response will be great, as I know many Alaskans would welcome the opportunity to demonstrate their love of state by display of our grand flag--a flag flown over our capitol.

Sincerely,

NORTHERN TECHNICAL SERVICES

J. Paul Holley, Jr.
Senior Associate

JPH/jh

cc: Senator Colletta
Senator Kelly
Senator Bradley
Senator Rodey
Senator Ziegler

WARREN G. MAGNUSON, WASH., CHAIRMAN

JOHN C. STENNIS, MISS.
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JAMES A. MC CLURE, IDAHO
PAUL LAXALT, NEV.
JAKE GARN, UTAH
HARRISON SCHMITT, N. MEX.

United States Senate

COMMITTEE ON APPROPRIATIONS
WASHINGTON, D.C. 20510

October 1, 1979

Mr. J. Paul Holley, Jr.
State Route A
Box 30Y
Anchorage, Alaska 99507

Dear Paul:

Attached is the flag which was raised over the United States Capitol, per your request. I apologize for the delay in getting it to you, but we had a mix-up in the mails.

With best wishes,

Cordially,

TED STEVENS
United States Senator

Attachment

THE ARCHITECT OF THE CAPITOL
1793

THE FLAG
OF THE
UNITED STATES
OF AMERICA

This is to certify that the accompanying flag was flown over the United States Capitol on July 12, 1979, at the request of the Honorable Ted Stevens, United States Senator.

This flag was flown for Mr. J. Paul Holley, Jr. of Anchorage, Alaska.

George M. White, FAIA
Architect of the Capitol

OUR FIRST AMERICAN FLAGS

In the first years of the Revolutionary War, Americans fought under many flags. One of them, the Grand Union Flag, or Continental Colors, flew over George Washington's headquarters near Boston. It was the first American flag to be officially recognized by another country.

On November 16, 1776, the American warship, Andrew Doria, saluted a Dutch fort in the West Indies and was saluted in return. This brought a measure of international recognition to the United Colonies.

A flag with thirteen stars and thirteen stripes received its first salute from another country on February 14, 1778, when French vessels in Quiberon Bay, France, saluted John Paul Jones and his ship "The Ranger".

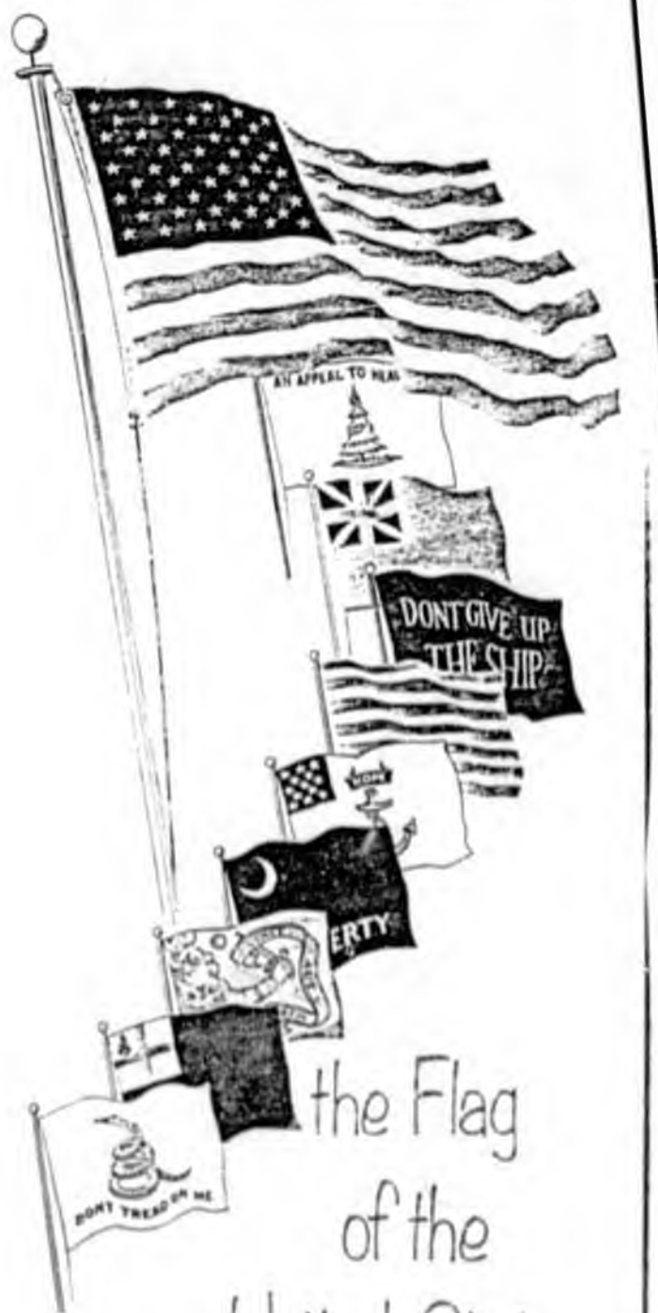
No one knows who designed the first stars and stripes, or who made the first one. Soon after the flag was adopted, Congressman Francis Hopkinson claimed that he had designed it. Some historians believe that Betsy Ross, a Philadelphia seamstress, made the first U. S. flag.

On June 14, 1777, in order to establish an official flag for the new nation, the Continental Congress passed the first Flag Act: *"Resolved, That the flag of the thirteen United States be thirteen stripes alternate red and white; that the union be thirteen stars, white in a blue field, representing a new constellation."*

"We Flag DETTRA FLAG **The Nation"**

U. S. Flags • Church Flags • Flag Accessories • Yacht, Ship and Boat Flags • Golf Flags • Automobile and Danger Flags • Detco Process, centers, special designs • Decorations, Pennant strings, bunting • City, Red Cross, Community Chest, and Confederate Flags • Advertising and House Flags, Pennants • State Flags • Service Club, Fireman's, Fraternal Order Flags and Banners • Military Flags and Guidons • Bugle Banners • Patriotic Organizations, Auxiliary, Junior Flags and Bugle Banners • School and Band Parade Flags and Banners.

ASK ABOUT DETTRA'S award winning, 16 mm, color, sound movie, "OUR U. S. FLAG" —available for schools, clubs.



the Flag of the United States of America

5008 77

J. PAUL HOLLEY, JR.
STAR ROUTE A
BOX 30Y
ANCHORAGE, ALASKA 99507

July 5, 1979

The Honorable Ted Stevens
United States Senate
Room 260
Russell Senate Office Building
Washington, D.C. 20510

Dear Ted:

I have been instructed to write your Washington office to purchase one of our American flags that has flown over the Capitol. Enclosed please find my personal check in the amount of $6.65 for a 3' x 5' nylon flag.

What a great idea this is. As I find it so difficult to purchase an Alaskan State flag, even though residing in the state, I am going to pass along a copy of this letter to Mike Colletta, and suggest the concept is certainly grand enough to investigate for our home state.

Also enclosed is a recent article about the newly formed "Governor's Round Table" which I am sure will be of great interest to you.

My sincere best wishes,

Paul.

J. Paul Holley, Jr.

cc: Senator Colletta

J. PAUL HOLLEY, JR.
HOFFMAN CONSTRUCTION COMPANY
3201 'C' STREET ANCHORAGE, ALASKA 99503
907 - 276-1858

JAY S. HAMMOND
GOVERNOR

Sate Prof

FEB 1 3 1980

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 12, 1980

The Honorable Mike Colletta
Majority Leader
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Mike:

Thank you for your letter of February 5, 1980 regarding the possibility of placing a flag pole on the Capitol Building.

Upon receipt of your letter I contacted Commissioner Ward and asked him to investigate this matter to see if a flag pole could be placed on the Capitol Building. As soon as Commissioner Ward completes his review of this situation, either he or I will contact you directly.

Sincerely,

Jay S. Hammond
Governor

February 5, 1980

The Honorable Jay S. Hammond
Governor
State of Alaska
Pouch A
Juneau, Alaska 99811

Dear Governor Hammond,

As the sponsor of Senate Bill No. 361, "An Act authorizing the sale of state flags which have flown over the state capitol", it has come to my attention that there is no flag pole on our Capitol Building.

Upon checking with the Department of Transportation, I was informed that several years ago, probably when the building roof was repaired, the decision was made, for convenience sake, to utilize the flag poles in the Court Building Plaza.

I would appreciate your reviewing this matter. In light of the enclosed bill, if there is no imperative reason such as hazard or increased cost, perhaps this policy could be changed.

Sincerely,

Mike Colletta
Senate Majority Leader

Enclosure

MC/ms

FEB 5 1980

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAP OL
JUNEAU ALASKA 9 811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M February 5, 1980

SUBJECT: Sale of state flags which have flown over the state capitol. (SB 361)

TO: Senator Mike Colletta

FROM: John B. Chenoweth
Legislative Counsel

It is, perhaps, a symptom of the times in which we live -- or maybe just an oversight on the part of the current administration -- that, in response to a bill you introduced by which the commissioner of transportation and public facilities "shall make available to members of the public official state flags which he certifies have flown over the state capitol (emphasis added)," the fiscal note prepared by that department for that bill assumes "[utilization of] existing flagpoles in Court Building Plaza." See Senate Journal Supplement Number 5, February 4, 1980.

You may wish to ask that the record, as evidenced by the fiscal note, be corrected.

JBC:ljb

MIKE:

Flags that have flown over the U.S. Capitol make a good gift... $4.86 for a 3-ft.-by-5-ft. cotton or $6.51 for the same size in nylon. Order them directly from your congressman...make the check out to him. Or you can get them through your senator...$5.35 for a 3-by-5-ft. cotton, $6.65 for nylon, with your check payable to the Keeper of Stationery. No one can explain the price difference. Larger sizes are available.

3x5 5.35 6.65

[illegible] WASHINGTON LETTER 2.16.79

Robert J. Faro
2100 Campbell Place
Anchorage Alaska 99507

Dear Senator Colletta:

I cut out the enclosed article which I read recently & I like your idea.

I'd like my name put on a list of interested flag purchasers.

FEB 13 19[illegible]

Flag sale, pay advice passed

Associated Press

Juneau — The Senate has approved a bill to allow the sale of state flags that have flown at the Capitol Building and a resolution urging President Carter to restore the 25 percent cost-of-living allowance for federal employees.

Sen. Mike Colletta, R-Anchorage and sponsor of the flag bill, said flags should be available at cost to persons who want to buy them. He said the flags would sell for about $15 to $18. The bill was approved unanimously and sent to the House.

COLLETTA

Also sent to the House a resolution which asks for restoration of the 25 percent cost-of-living adjustment for federa employees in Alaska.

Carter announced this year that it was being reduced to 22.5 percent for employees in Juneau and 20 percent in Anchorage.

Thank You,

Robert J Faro

SB
470

COMMITTEE REPORT

(7)

HOUSE

FURTHER:

5/12/80

Date: MAY 16, 1980

Mr. Speaker:

The Committee on STATE AFFAIRS has had CSSB 470

"An Act relating to the inherent risks of skiing; and providing for an effective date."

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

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for CSSB 470 [X] 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

John D Fuller

Gene Martin

Paul Moreman

Tom Ford

Mike Gleason

MEMBERS HAVING OTHER RECOMMENDATIONS:

John D Fuller

CHAIRMAN

H 60 (Rev. 12/78)

Alyeska RESORT

P.O. BOX 249 GIRDWOOD, ALASKA 99587

APR 29 1980

SB 470

April 26, 1980

Dear Senator:

Your help is needed to pass an important piece of legislation for the ski industry - S.B. 470.

In operating a ski area, we have a tremendous responsibility to provide safe uphill transportation and maintained slopes. We are regulated by very specific state and federal safety codes, and we have annual inspections by our insurance company; and state; and the U. S. Forest Service to insure we are in complete compliance with all regulations. We perform extensive avalanche control work at great expense to the area to insure the safety of the slopes. In addition, we provide well-trained personnel and directional signs for skiers.

At the same time we feel there has to be a certain assumption of risk by the skier and that the skier must be aware that there is an inherent risk in this sport, as in other sports and daily activities, that are beyond the control of ski area operations. We need protection from ambulance chasers trying to make a fast buck off the ski area. In the end this will increase the cost of the sport for everyone.

S.B. 470 which is now being reworded slightly is short and to the point. Longer versions have been passed by other states but these have gone into details that are already included in the National Tramway Safety Code. Similar legislation was introduced several years ago but did not get out of committee before the legislature adjourned. This year, we hope we will be able to get something signed into law this session.

The various other organizations involved in the sport of skiing that support this type of legislation 100 percent are the United States Ski Association - Alaska Division, National Ski Patrol System, National Ski Areas Association, U. S. Forest Service, and my fellow ski area operators in the State of Alaska. The sport of skiing is

very popular in the State and creates a good tax base and a substantial amount of employment.

When this bill comes to the floor of the Senate, I would very much appreciate your strong support. Please feel free to contact me for more information. I have attached copies of some letters of support I have received for such legislation.

Sincerely yours,

Chris von Imhof
Executive Vice President and
General Manager

CVI/bbp
Attachments 4

MR. CHAIRMAN, AND MEMBES OF THE HOUSE JUDICIARY COMMITTEE: MY NAME IS BOB JANES, AND I AM TESTIFYING TODAY ON BEHALF OF THE NATIONAL SKI PATROL SYSTEM IN ALASKA, IN SUPPORT OF HOUSE BILL NO. 860.

THE ALASKA DIVISION OF THE NATIONAL SKI PATROL SYSTEM (NSPS) IS AN ORGANIZATION WITH MORE THAN 300 VOLUNTEER SKI PATROLLERS, IN 13 DIFFERENT PATROLS THROUGHOUT THE STATE. WE HAVE TWO BASIC MISSIONS: (1) TO PROVIDE EMERGENCY CARE AND RESCUE TO SKIERS INJURED IN THE SPORT, OR CAUGHT IN SNOW AVALANCHES; AND (2) TO EDUCATE SKIERS IN THE PREVENTION OF SKI RELATED ACCIDENTS.

WE AGREE WITH THE CONCEPT OF H.B. NO. 860 WHICH ADDRESSES THE RISKS INHERENT IN THE SPORT OF SKIING. SKI AREA OPERATORS IN THE STATE DEFINITELY NEED PROTECTION FROM UNJUSTIFIED LIABILITY INSURANCE CLAIMS ASSOCIATED WITH THE NATURAL RISKS OF THE SPORT. AT THE SAME TIME, WE ARE CONCERNED THAT SKIERS MUST ALSO BE ADEQUATELY PROTECTED AGAINST ANY FORM OF NEGLIGENCE CAUSED BY SKI AREA OPERATORS.

WE BELIEVE WITH A FEW MODIFICATIONS, THE PROPOSED STATUTE CAN ACHIEVE EQUITABLE PROTECTION FOR BOTH SKI AREA OPERATORS AND THE USING PUBLIC.

SUGGESTED REVISIONS TO SEC. 09.10.320 ARE:

1. (C). EXPAND ON SNOW OR ICE CONDITIONS TO CLARIFY THAT VARIATIONS MAY OCCUR BECAUSE OF WEATHER FACTORS AND/OR HILL GROOMING PRACTICES.

2. (D). ELIMINATE THE WORD "STUMPS". THESE ARE PROBABLY MAN-INDUCED OBSTACLES THAT SHOULD BE EITHER ELIMINATED, REDUCED, OR MARKED AS HAZARDS BY THE SKI ARE OPERATOR. [redacted]

(MORE)

Testimony presented by Bob Janes, Regional Director, Alasks Division, National Ski Patrol System, Inc.

3. (F). THE INTENT OF THIS PROVISION IS PROBABLY TO RECOGNIZE THAT ANY SKIER IS RESPONSIBLE FOR HIS OR HER OWN RECKLESSNESS; HOWEVER, THERE ARE RECOGNIZED DANGEROUS LOCATIONS ON SLOPES THAT SKI AREA OPERATORS SHOULD BE RESPONSIBLE TO SIGN FOR CAUTIONARY PURPOSES. THESE INCLUDE WHERE PRIMARY TRAILS MERGE, CONGESTED AREAS NEAR BASE FACILITIES, ETC. THE DETAILS COULD BE SPECIFIED IN AN APPROVED SNOW SAFETY PLAN FOR THE AREA.

4. ADD AN ITEM PERTAINING TO SNOW AVALANCHES, WITH WORDING SUCH AS "SNOW AVALANCHES WHERE CONTROL MEASURES HAVE BEEN TAKEN IN ACCORDANCE WITH AN APPROVED SNOW SAFETY PLAN FOR THE AREA".

LASTLY, WE SUGGEST ADDING A NEW SECTION, AS FOLLOWS: SEC. 09.10.330 SNOW SAFETY PLAN. "FOR THE PROTECTION OF SKIERS, A SKI AREA OPERATOR SHALL ADOPT A SNOW SAFETY PLAN THAT CONSIDERS THOSE RISKS AND HAZARDS WHICH ARE NOT AN INTEGRAL PART OF THE SPORT OF SKIING FOR THAT PARTICULAR AREA. THE PLAN WILL SPECIFY PREVENTION AND/OR CORRECTIVE MEASURES TO DEAL WITH SUCH RISKS AND HAZARDS".

WITH THE ABOVE SUGGESTED CHANGES IN MIND, WE URGE EARLY PASSAGE OF THIS IMPORTANT PROPOSED LEGISLATION.

R.C. Jones

.....

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

April 22, 19[illegible]

Alaska State Legislator
Juneau, Alaska

Dear Alaska State Legislator:

I am writing this letter and basing my request for action both as President of the Alaska Division, U.S. Ski Association and having been on the National Board of Directors of the U.S. Ski Association for the past two years.

Ski areas across the United States are forced with skyrocketing insurance costs which contributes to price increase in lift tickets. Both locally and nationally the ski clubs and associations have seen a need for years for some type of protective legislation to help stem the rise of unwarranted and ridiculous liability suits against ski areas. There is inherent risk in skiing and is it not time we all recognize this?

While I support in concept SB 470 and HB 650, I must add there should also be a requirment on ski areas to maintain their equipment and train their personnel to operate said equipment in a safe and sane manner.

As I said, I could support this type of legislation limiting ski area responsibility if areas were also required to have approved "Snow Safety Plans" in operation; speaking to avalanche control, personal training, emergency evacuation, and other common sense type of safety precautions. The ski areas should also be required to operate their lifts in compliance with the National Lift and Tramway Code as regulated by the American National Standards Institute.

In conclusion, I urge consideration for legislation specking to the inherent risk of skiing.

Sincerely,

Sam Hayes

Sam Hayes, President
U.S. Ski Association - Alaska [illegible]

SH/sc

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

SB 470
Skiing

MAY 15 1980

YAKUTAT CITY SCHOOL DISTRICT

BOX 227
YAKUTAT, ALASKA 99689

JOHN NOVAK, SUPERINTENDENT (907) 784-3318
LIZ BOARIO, ELEMENTARY PRINCIPAL (907) 784-3394

May 14, 1980

Senator Mike Colle'ta
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear SEnator Colletta:

I would like to express my strong support of CS SB 470 relating to the inherent risks of skiing.

I believe that this is an enlightened piece of legislation and deserves prompt passage. As a skier, I belelve it will keep the costs of the sport down to a manageable level.

I certainly think arguments in opposition to this bill are capricious. The thing that makes skiing fun is its risks. I would hate to fee' that only the insurance companies are taking risks when I go skiing.

Sincerely yours,

John S. Novak

cc: Representative Dick Eliason

P.O. BOX 249 GIRDWOOD, ALASKA 99587

March 16, 1980

Representative Charles Parr
Chairman, House Judiciary Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Parr:

Your help is needed to pass an important piece of legislation for the ski industry - H.B. 860 (attached). I have outlined the problem faced by the ski industry in a letter dated January 27 (attached) to Senator Mike Colletta and Representatives Joyce Munson and Ray Metcalf who represent our district. Also, for your information I have attached copies of similar legislation passed by the states of Washington, Oregon, Utah, and Colorado.

In operating a ski area, we have a tremendous responsibility to provide safe uphill transportation and maintained slopes. We are regulated by very specific state and federal safety codes, and we have annual inspections by our insurance company; the State; and the U. S. Forest Service to insure we are in complete compliance with all regulations. We perform extensive avalanche control work at great expense to the area to insure the safety of the slopes. In addition we provide well-trained personnel and directional signs for skiers.

At the same time we feel there has to be a certain assumption of risk by the skier and that the skier must be aware that there is an inherent risk in this sport, as in other sports and daily activities, that are beyond the control of ski area operators. We need protection from ambulance chasers trying to make a fast buck off the ski area. In the end this will increase the cost of the sport for everyone.

The attached draft bill is short and to the point. Longer versions have been passed by other states but these have gone into details that are already included in the National Tramway Safety Code. Similar legislation had been introduced several years ago but did not get out of committee before the legislature adjourned. This year I hope will be different and that we can get something on the books. If at all possible could you please schedule this particular bill on your calendar for a committee hearing. Please feel free to contact me for more information or if you would like me to testify.

The various other organizations involved in the sport of skiing that support this type of legislation 100 percent are the United States Ski Association - Alaska Division, National Ski Patrol System, National Ski Areas Association, U. S. Forest Service, and my fellow ski area operators in the State of Alaska. The sport of skiing is very popular in the State and creates a good tax base and a substantial amount of employment.

We would appreciate your strong support in passing this legislation out of committee so it can come up before the House.

Sincerely yours,

Chris von Imhof
Executive Vice President and
General Manager

CVI/bbp
Attachments

Copy to Nels Anderson
Thelma Buchholdt
Ramona Barnes
Terry Martin
Patrick O'Connell
Randy Phillips
Mike Colletta

Alaska State Legislature

SENATOR MIKE COLLETTA

SENATE MAJORITY LEADER

Senate

RECEIVED

FEB 27

ALYESKA RESORT, INC.

February 21, 1980

Chris von Imhof
Vice President
Alyeska Resort
P. O. Box 249
Girdwood, Alaska 99587

Dear Chris,

Per your request, I have introduced Senate Bill 470, "An Act relating to the inherent risks of skiing", which is enclosed for your review. Also enclosed is House Bill 860 that was introduced in the House concurrently by Representative Joyce Munson.

Please note that SB 470 has been referred to the Senate State Affairs Committee and Finance Committee. I would suggest that you provide Senator Mulcahy and Senator Sackett, Chairmen of the respective committees, with any back up information and testimony you may have gathered. For your convenience, also enlcosed is a Committee Assignment List.

House Bill 860 has been referred to the House Judiciary Committee, therefore, Representative Charles Parr should also receive information regarding this issue.

If you have any questions or comments regarding this or other legislative matters, please feel free to contact me.

Best wishes,

Mike Colletta

Mike Colletta
Senate Majority Leader

MC/ms

Enclosures

P.S. Chris: SB 302 Avalanche will pass the Senate within 10 days, and there is no problem with it on the house side

Mike

SBA, BOX 1498 K, ANCHORAGE 99510 • POUCH V JUNEAU 99811

Alyeska RESORT

P.O. BOX 249 GIRDWOOD, ALASKA 99587

January 27, 1980

Senator Mike Colletta,
Representative Joyce Munson, and
Representative Ray Metcalfe
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mike, Joyce, and Ray:

I would like to review with you a problem faced by our ski area - rising liability insurance premiums.

Insurance premiums for ski areas nationwide have skyrocketed. Alyeska now pays nearly $85,000 in liability premiums alone. The primary reason for increasing insurance rates is expensive settlements of nuisance claims against ski areas for injuries incurred by skiers through no fault of the area.

The ski industry is heavily regulated with regard to the safety of uphill transportation. All lifts must be built and operated according to the National Tramway Safety Code. Ours are no exception. We try to provide safe skiing by doing extensive avalanche control work, marking off unsafe areas, and placing signs to inform skiers of what to expect. Yet, we find ourselves more and more having to defend against claims by skiers who have collided with one another, hit ruts, skied out of control, or run into trees, etc. These types of accidents are impossible for the resort to control.

Many states have now put legislation on the books establishing a certain assumption of risk by the skier himself. I would like to ask your help in passing similar legislation for the State of Alaska.

Enclosed are copies of legislation enacted by Utah, Washington, Oregon, and Colorado. The Utah bill is the one I like best for our purposes. I wonder if I might impose on you to review these bills or have one of your assistants review them with the idea of drafting up a similar bill for Alaska I can assure you that my colleagues at Arctic Valley and Eagle Crest would heartily concur. The United States Ski Association (USSA) and the National Ski Areas

Association and other ski-related organizations support such legislation. They realize that if ski areas do not get some type of protection, the cost of skiing will keep in step with rising insurance costs and soon the sport will be prohibitively expensive for most people.

I want to make it clear that we do not wish to avoid any responsibilities that are rightfully ours in running a safe skiing operation. But at the same time, it is essential that a definition of assumption of risk by skiers be put forth that will be upheld in nuisance claims.

Please let me know if you need any further information. One of our insurance brokers from Seattle and I would be willing to come to Juneau to meet with you and discuss details of the subject.

Best regards,

Chris von Imhof
Vice President and General Manager

CVI/bbp
Attachments 4

RECEIVED
MAR 15
ALYESKA RESORT, INC.

Pettit-Morry Co.
Insurance Brokers
P.O. Box C 19107, Seattle Washington 98109
Telephone (206) 284-2700 • Cable Addr. PETCO SEATTLE
Office • 200 First Avenue West • Te. No. 32-0374

March 13, 1980

Mr. Chris Von Imhoff
Vice President and General Manager
Alyeska Resort
P. O. Box 249
Girdwood, Alaska 99587

Chris:

We have studied the proposed Alaska Skier Responsibility Legislation. Our comments in support of passage follow.

Enclosed please find:

1. Claims by season by type.
2. Loss ratios by season (triangulation).
3. Status of skier responsibility legislation by state.

Skier Responsibility Legislation is needed because of the increasing tendency for people to make claim for damages sustained whether or not negligence is involved. The impact is particularly felt in this sport because injuries are frequent. Frequency of injury combined with a suit conscious society creates for the ski area, and their insurors, a major problem and increases the cost of skiing to the public. The average size ski resort currently can expect approximately five claims a year. This constrasts with a historic average of 2.2 claims per year. The problem facing ski area management, and insurors, is the increase in frequency caused by suit consciousness on the part of the public while most of the claims involve incidents generally understood to be of a non-liability nature. These claims must be investigated and defended.

In order to reverse the trend of increasing incidents on which files must be opened, the ski industry and insurors providing coverage have taken a hard line with respect to recovery. To achieve the desired result, ski area management is required to investigate as many as 30% of the injuries occurring at their ski area. The combination of costs of investigation and defense causes insurance premiums to increase. These costs ultimately are passed on to the public.

The enclosed triangulation indicates loss ratios for the first $500,000 of liability coverage by ski season. The numbers indicated 179%, 89% and so on are a reflection of the unprofitability of liability insurance for ski areas. I should comment that the 61%, 37% and 7% shown for most recent years will expand to approximately 70% as maturity through aging occurs and unreported claims develop.

The problem outlined above is well understood by all facets of the ski industry. These include the National Ski Areas Association (the management group the National Ski Patrol System, the United States Ski Association (skiing public), and the Professional Ski Instructors of America. All of the above organizations have endorsed Skier Responsibility Legislation. They believe that skier legislation, properly written, will provide two major benefits.

1. Provide an educational platform that will inform the skiing public.
2. Substantially reduce non-liability claims. The above organizations are concerned with the problem because in final form, the cost of skiing (lift tickets) must be increased to cover escalating claims costs.

Sixty percent of total claim dollars spent result from investigation, litigation and other expense items. The ratio of expense to paid claims is unusually high because of this situation. The sure way to reduce non-negligence suits is to educate the skier by legislatively barring recovery for those actions only he or she can control and which are beyond the control of a ski resort. The proposed Alaska Skier Responsibility Legislation should be helpful in this regard without jeopardizing the public's right to recover in a real liability matter.

Sincerely,

Carl

Carl H. Neu, Jr.

CHN/lt

Enclosures

With the exception of section 3, which I have vetoed, the remainder of Substitute House Bill No. 821 is approved."

CHAPTER 138

[House Bill No. 797]

HABITUAL TRAFFIC OFFENDERS

AN ACT Relating to habitual traffic offenders; amending section 11, chapter 284, Laws of 1971 ex. sess. and RCW 46.65.090; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 11, chapter 284, Laws of 1971 ex. sess. and RCW 46.65.090 are each amended to read as follows:

It shall be unlawful for any person to operate a motor vehicle in this state while the order of revocation remains in effect. Any person found to be an habitual offender under the provisions of this chapter who is hereafter convicted of operating a motor vehicle in this state while the order of the court prohibiting such operation is in effect shall be guilty of a gross misdemeanor, the punishment for which shall be confinement in the county jail for not more than one year.

For the purpose of enforcing this section, in any case in which the accused is charged with driving a motor vehicle while his license, permit, or privilege to drive is suspended or revoked or is charged with driving without a license, the court before hearing such charge shall determine whether such person has been adjudged an habitual offender and by reason of such judgment is barred from operating a motor vehicle on the highways of this state. If the court determines the accused has been so adjudged ((~~it shall transfer the case to the court of record making such determination~~)), the court shall have jurisdiction for trial of the charge.

NEW SECTION. Sec. 2. This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 22, 1977.
Passed the Senate May 23, 1977.
Approved by the Governor June 1, 1977.
Filed in Office of Secretary of State June 1, 1977.

CHAPTER 139

[Substitute Senate Bill No. 2973]

SKIING AND SKI AREAS—SAFETY AND LIABILITY

AN ACT Relating to skiing and commercial ski activity; adding a new chapter to Title 70 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. (1) The operator of any ski area shall maintain a sign system.

All signs for instruction of the public shall be bold in design with wording short, simple, and to the point. All such signs shall be prominently placed

Entrances to all machinery, operators', and attendants' rooms shall be posted to the effect that unauthorized persons are not permitted therein.

The sign "Men Working on Lift" or a similar warning sign shall be hung on the main disconnect switch and at control points for starting the auxiliary or prime mover when men are working on the passenger tramway.

(2) The interior of each reversible aerial tramway and gondola lift shall be prominently posted to show:

(a) The maximum capacity of each reversible aerial tramway and gondola lift in pounds and number of passengers (which shall also be posted at each loading area); and

(b) Instructions for procedure in emergencies.

(3) The following signs shall be posted at all aerial lifts except gondola lifts:

(a) "Prepare to Unload" (not less than fifty feet ahead of unloading area);

(b) "Keep Ski Tips Up" (ahead of any point where skis may come in contact with a platform or the snow surface);

(c) "Unload Here";

(d) "Safety Gate" (if applicable);

(e) "Remove Pole Straps from Wrists" (at loading area); and

(f) Sign visible at all points of downhill loading, listing downhill capacity of lift.

(4) The following signs shall be posted at all surface lifts:

(a) "Prepare to Unload" (not less than fifty feet ahead of unloading area);

(b) "Stay in Track";

(c) "Unload Here";

(d) "Safety Gate"; and

(e) "Remove Pole Straps from Wrists" (at loading area).

(5) The following signs shall be posted at all tows:

(a) "No Loose Scarves
No Loose Clothing
No Long Hair Exposed"
(at loading area);

(b) "Stay in Track";

(c) "Unload Here"; and

(d) "Safety Gate".

(6) All signs required for normal daytime operation shall be in place, and those pertaining to the tramway, lift or tow operations shall be adequately lighted for night skiing.

(7) If a particular trail or slope has been closed to the public by an operator, the operator shall place a notice thereof at the top of the trail or slope involved, and no person shall ski on a slope or trail which has been designated "Closed".

(8) An operator shall place a notice at the embarking terminal or terminals of a lift or tow which has been closed that the lift or tow has been closed and that a person embarking on such a lift or tow shall be considered to be a trespasser.

(9) An operator shall prominently place a notice containing the substance of section 3 of this act in such places as are necessary to notify the public.

(10) Any snow making machines or equipment shall be clearly visible and clearly marked.

(8) Subsections (6) and (7) of this section notwithstanding, any person on foot or on any type of sliding device shall be responsible for any collision whether the collision is with another person or with an object.

(9) A person embarking on a lift or tow without authority shall be considered to be a trespasser.

NEW SECTION. Sec. 3. Any person who is involved in a skiing accident and who departs from the scene of the accident without leaving personal identification or otherwise clearly identifying himself or herself before notifying the proper authorities or obtaining assistance, knowing that any other person involved in the accident is in need of medical or other assistance, shall be guilty of a misdemeanor.

NEW SECTION. Sec. 4. (1) Every tramway, ski lift, or commercial skimobile operator shall maintain liability insurance of not less than one hundred thousand dollars per person per accident and of not less than two hundred thousand dollars per accident.

(2) Every operator of a rope tow, wire rope tow, j-bar, t-bar, or similar device shall maintain liability insurance of not less than twenty-five thousand dollars per person per accident and of not less than fifty thousand dollars per accident.

(3) This section shall not apply to operators of tramways that are not open to the general public and that are operated without charge, except that this section shall apply to operators of tramways that are operated by schools, ski clubs, or similar organizations.

NEW SECTION. Sec. 5. Sections 1 through 4 of this act shall constitute a new chapter in Title 70 RCW.

Passed the Senate May 23, 1977.
Passed the House May 20, 1977.
Approved by the Governor June 1, 1977.
Filed in Office of Secretary of State June 1, 1977.

CHAPTER 140

[Engrossed Substitute Senate Bill No. 3098]

INSURANCE——DRIVING RECORD ABSTRACTS——LAW ENFORCEMENT OFFICERS OR FIRE FIGHTERS

AN ACT Relating to insurance; amending section 27, chapter 21, Laws of 1961 ex. sess. as last amended by section 1, chapter 37, Laws of 1973 1st ex. sess. and RCW 46.52.130, and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 27, chapter 21, Laws of 1961 ex. sess. as last amended by section 1, chapter 37, Laws of 1973 1st ex. sess. and RCW 46.52.130 are each amended to read as follows:

The director shall upon request furnish any insurance company or its agent, having or considering the issuance of a policy of insurance and any employer or prospective employer of persons who drive commercial motor vehicles or school buses a certified abstract of the driving record of any person, covering a period of not more than three years last past, whenever possible, which abstract shall include an enumeration of motor vehicle accidents in which such person has been involved.

(11) The operator of any ski area shall maintain a readily visible sign on each rope tow, wire rope tow, j-bar, t-bar, ski lift, or other similar device, advising the users of the device that:

(a) Any person not familiar with the operation of the lift shall ask the operator thereof for assistance and/or instruction; and

(b) The skiing-ability level recommended for users of the lift and the slopes served by the device shall be classified "easiest", "more difficult", and "most difficult".

NEW SECTION. Sec. 2. (1) In addition to the specific requirements of this section, all skiers shall conduct themselves within the limits of their individual ability and shall not act in a manner that may contribute to the injury of themselves or any other person.

(2) No person shall:

(a) Embark or disembark upon a ski lift except at a designated area;

(b) Throw or expel any object from any tramway, ski lift, commercial skimobile, or other similar device while riding on the device;

(c) Act in any manner while riding on a rope tow, wire rope tow, j-bar, t-bar, ski lift, or similar device that may interfere with the proper or safe operation of the lift or tow;

(d) Wilfully engage in any type of conduct which may injure any person, or place any object in the uphill ski track which may cause another to fall, while traveling uphill on a ski lift; or

(e) Cross the uphill track of a j-bar, t-bar, rope tow, wire rope tow, or other similar device except at designated locations.

(3) Every person shall maintain control of his or her speed and course at all times, and shall stay clear of any snowgrooming equipment, any vehicle, any lift tower, and any other equipment on the mountain. Snow grooming equipment or any other vehicles shall be equipped with a flashing yellow light at any time the vehicle is moving on or in the vicinity of a ski run.

(4) A person shall be the sole judge of his or her ability to negotiate any trail, slope, or uphill track and no action shall be maintained against any operator by reason of the condition of the track, trail, or slope unless the condition results from the negligence of the operator.

(5) Any person who boards a rope tow, wire rope tow, j-bar, t-bar, ski lift, or other similar device shall be presumed to have sufficient abilities to use the lift. No liability shall attach to any operator or attendant for failure to instruct the person on the use of the device, but a person shall follow any written or verbal instructions that are given regarding the use.

(6) Because of the inherent risk in the sport of skiing all persons using the ski hill shall exercise reasonable care for their own safety. However, the primary duty shall be on the person skiing downhill to avoid any collision with any person or object below him or her.

(7) Subsection (6) of this section notwithstanding, any person skiing on other than improved trails or slopes within the area shall be responsible for any injuries or losses resulting from his or her action.

A-Engrossed

Senate Bill 329

Ordered by the Senate May 4
(Including Amendments by Senate May 4)

Sponsored by Senators HEARD, JERNSTEDT, Representatives LOMBARD, THROOP

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Sets forth rights and duties of skiers and ski area operators. Requires ski area operators to maintain a specified series of signs and warnings in ski area. Prohibits certain activities by skiers. Limits liability of ski area operators for injuries caused by dangerous ski trail or ski slope conditions unless conditions result from negligence of ski area operator. Limits liability of ski area operators based upon failure to instruct on use of towing devices. Requires skier involved in ski accident to provide identification before leaving scene of accident. Makes leaving scene of ski accident without providing identification a Class A misdemeanor. Requires ski area operators to maintain specified liability insurance. Requires actions against ski area operators to be commenced within two years after injury and after specified notice.]

Declares policy. Defines terms relevant to this Act. Specifies that an individual engaging in specified skiing activities assumes and accepts certain risks associated with such activities. Requires that notification of an injury to a skier must be given to a ski area operator by registered or certified mail within 180 days of the injury. Establishes a two-year limitation for commencement of an action against a ski area operator for recovery of damages. Requires ski area operators to provide skiers with information concerning notification requirements. Specifies duties of skiers. Specifies that violation of such duties entitles ski area operators to withdraw skier's privilege of skiing. Requires ski area operators to notify skiers of duties established by this Act.

A BILL FOR AN ACT

Relating to skiing.

Whereas it is the purpose of this Act to clarify the policy of this state governing the duties of skiers and the liability of operators of ski areas with respect to skiing injuries resulting from alpine or nordic skiing; and

Whereas the Legislative Assembly affirms the principle that certain risks are inherent in the sport, and that, as a matter of public policy, no person engaged in such sport shall recover damages from a ski operator for injuries resulting from those inherent risks; now, therefore,

Be It Enacted by the People of the State of Oregon:

SECTION 1. As used in this Act:

(1) "Inherent risks of skiing" includes, but is not limited to, those dangers or conditions which are an integral part of the sport, such as changing weather conditions, variations or steepness in terrain, snow or ice conditions, surface or subsurface conditions, bare spots, creeks and gullies, forest growth, rocks, stumps, lift towers and other structures and their components, collisions with other skiers and a skier's failure to ski within the skier's own ability.

(2) "Injury" means any personal injury or property damage or loss.

(3) "Skier" means any person who is in a ski area for the purpose of engaging in the sport of skiing or who rides as a passenger on any ski lift device.

(4) "Ski area" means any area designated and maintained by a ski area operator for skiing.

(5) "Ski area operator" means those persons, and their agents, officers, employes or representatives, who operate a ski area.

NOTE: Matter in **bold face** in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted; complete new sections begin with SECTION.

SECTION 2. In accordance with ORS 18.470 and notwithstanding subsection (2) of ORS 18.475, an individual who engages in the sport of skiing, alpine or nordic, accepts and assumes the inherent risks of skiing in so far as they are reasonably obvious, expected or necessary.

SECTION 3. (1) A ski area operator shall be notified of any injury to a skier by registered or certified mail within 180 days after the injury or within 180 days after the skier discovers, or reasonably should have discovered, such injury.

(2) When an injury results in a skier's death, the required notice of the injury may be presented to the ski area operator by or on behalf of the personal representative of the deceased, or any person who may, under ORS 30.020, maintain an action for the wrongful death of the skier, within 180 days after the date of the death which resulted from the injury. However, if the skier whose injury resulted in death presented a notice to the ski area operator that would have been sufficient under this section had the skier lived, notice of the death to the ski area operator is not necessary.

(3) An action against a ski area operator to recover damages for injuries to a skier shall be commenced within two years of the date of the injuries. However, ORS 12.160 and 12.190 apply to such actions.

(4) Failure to give notice as required by this section bars a claim for injuries or wrongful death unless:

(a) The ski area operator had knowledge of the injury or death within the 180-day period after its occurrence;

(b) The skier or skier's beneficiaries had good cause for failure to give notice as required by this section, or

(c) The ski area operator failed to comply with subsection (5) of this section.

(5) Ski area operators shall give to skiers, in a manner reasonably calculated to inform, notice of the requirements for notifying a ski area operator of injury and the effect of a failure to provide such notice under this section.

SECTION 4. (1) Skiers shall have duties which include but are not limited to the following:

(a) Skiers who ski in any area not designated for skiing within the permit area assume the inherent risks thereof.

(b) Skiers shall be the sole judges of the limits of their skills and their ability to meet and overcome the inherent risks of skiing and shall maintain reasonable control of speed and course.

(c) Skiers shall abide by the directions and instructions of the ski area operator.

(d) Skiers shall familiarize themselves with posted information on location and degree of difficulty of trails and slopes to the extent reasonably possible before skiing on any slope or trail.

(e) Skiers shall not cross the uphill track of any surface lift except at points clearly designated by the ski area operator.

(f) Skiers shall not overtake any other skier except in such a manner as to avoid contact and shall grant the right of way to the overtaken skier.

(g) Skiers shall yield to other skiers when entering a trail or starting downhill.

(h) Skiers must wear retention straps or other devices to prevent runaway skis.

(i) Skiers shall not board rope tows, wire rope tows, j-bars, t-bars, ski lifts or other similar devices unless they have sufficient ability to use the devices, and skiers shall follow any written or verbal instructions that are given regarding the devices.

(j) Skiers, when involved in a skiing accident, shall not depart from the ski area without leaving their names and addresses if reasonably possible.

(k) A skier who is injured should, if reasonably possible, give notice of the injury to the ski area operator before leaving the ski area.

(L) Skiers shall not embark or disembark from a ski lift except at designated areas or by the authority of the ski area operator.

(2) Violation of any of the duties of skiers set forth in subsection (1) of this section entitles the ski area operator to withdraw the violator's privilege of skiing.

SECTION 5. Ski area operators shall give notice to skiers of their duties under section 4 of this Act in a manner reasonably calculated to inform skiers of those duties.

Utah

(INHERENT RISKS OF SKIING)

1979

GENERAL SESSION

S. No. 146

By _____

IVAN M MATHESON
KARL G SNOW JR
RONALD E GRIFFIN
A BURTON
KARL G SWAN

AN ACT RELATING TO THE SPORT OF SKIING; RECOGNIZING THE INHERENT RISKS INVOLVED IN THAT SPORT; DECLARING THAT ANY PERSON ENGAGING IN THAT SPORT SHALL BE PRECLUDED FROM MAKING ANY CLAIM AGAINST, OR RECOVERING FROM, ANY SKI AREA OPERATOR FOR INJURY RESULTING FROM RISKS INHERENT IN THAT SPORT; PROVIDING FOR POSTING OF NOTICES IN SKI AREAS LISTING THE INHERENT RISKS OF SKIING; REQUIRING NOTICE TO SKI AREA OPERATORS WITHIN A SPECIFIED TIME OF ANY INJURY TO A SKIER; AND PROVIDING A STATUTE OF LIMITATIONS ON ANY ACTIONS AGAINST SKI AREA OPERATORS FOR INJURIES TO A SKIER.

Be it enacted by the Legislature of the State of Utah:

Section 1. The legislature finds that the sport of skiing is practiced by a large number of residents of Utah and attracts a large number of non-residents, significantly contributing to the economy of this state. It further finds that few insurance carriers are willing to provide liability insurance protection to ski area operators and that the premiums charged by those carriers have risen sharply in recent years due to confusion as to whether a skier assumes the risks inherent in the sport of skiing. It is the purpose of this act, therefore, to clarify the law in relation to skiing injuries and the risks inherent in that sport, to establish as a matter of law that certain risks are inherent in that sport, and to provide that, as a matter of public policy, no person engaged in that sport shall recover from a ski operator for injuries resulting from those inherent risks.

Section 2. As used in this act:

(1) "Inherent risks of skiing" means those dangers or conditions which are an integral part of the sport of skiing, including, but not limited to: changing weather conditions, variations or steepness in terrain; snow or ice conditions; surface or subsurface conditions such as bare spots, forest growth, rocks, stumps, lift towers and other structures and their components; collisions with other skiers; and a skier's failure to ski within his own ability.

(2) "Injury" means any personal injury or property damage or loss.

(3) "Skier" means any person present in a ski area for the purpose of engaging in the sport of skiing.

(4) "Ski area" means any area designated by a ski area operator to be used for skiing.

(5) "Ski area operator" means those persons, and their agents, officers, employees or representatives, who operate a ski area.

Section 3. Notwithstanding anything in section 70-27-37 to the contrary, no skier shall make any claim against, or recover from, any ski area operator for injury resulting from any of the inherent risks of skiing.

Section 4. Ski area operators shall post trail boards at one or more prominent locations within each ski area which shall include a list of the inherent risks of skiing, and the limitations on liability of ski area operators, as defined in this act.

Section 5. (1) Any claim against a ski area operator arising out of any injury to a skier shall be forever barred unless that ski area operator is notified of that injury within 90 days after its occurrence or within 90 days after the skier discovers, or through the use of reasonable diligence should have discovered, that injury.

S. B. No. 146

(2) No action shall be maintained against a ski area operator arising out of an injury to a skier FROM THE INHERENT RISKS OF SKIING, unless that action is commenced within two years from the date of the occurrence of the injury.

SUMMARY OF PROPOSED LEGISLATION

146

By: SENATOR FINLINSON

Title: INHERENT RISKS OF SKIING

Summary: Th is bill decloses certain risks to be inherent in the sport of skiing and precludes any recovery for injuries resulting from the risks.

MANAGEMENT AND FISCAL ANALYSIS

S. B. No. 146

It is estimated that this proposed bill would not have any fiscal impact on State agencies.

It could offset the insurance rates paid by ski area operators for liability insurance.

OFFICE OF THE LEGISLATIVE FISCAL ANALYST

An Act

SENATE BILL NO. 203. BY SENATORS Bishop, Barnhill, H. Fowler, L. Fowler, Hatcher, Soash, Allshouse, Anderson, McCormick, and Noble; also REPRESENTATIVES Theos, Davoren, Fine, Herzberger, Hinman, Hudson, Lillpop, Marks, DeNier, Jones, and Winkler.

CONCERNING SKIING, AND ESTABLISHING RESPONSIBILITIES AND LIABILITIES OF SKIERS AND SKI AREA OPERATORS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 33, Colorado Revised Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 44

Ski Safety and Liability

33-44-101. Short title. This article shall be known and may be cited as the "Ski Safety Act of 1979".

33-44-102. Legislative declaration. The general assembly hereby finds and declares that it is in the interest of the state of Colorado to establish reasonable safety standards for the operation of ski areas and for the skiers using them. Realizing the dangers that inhere in the sport of skiing, regardless of any and all reasonable safety measures which can be employed, the purpose of this article is to supplement the passenger tramway safety provisions of part 7 of article 5 of title 25, C.R.S. 1973; to further define the legal responsibilities of ski area operators and their agents and employees; to define the responsibilities of skiers using such ski areas; and to define the rights and liabilities existing between the skier and the ski area operator and between skiers.

33-44-103. Definitions. As used in this article, unless the context otherwise requires:

CAPITAL letters indicate new material added to existing statute; dashes through words indicate deletions from existing statutes and such material not part of act.

(1) "Base area lift" means any passenger tramway which skiers ordinarily use without first using some other passenger tramway.

(2) "Competitor" means a skier actually engaged in competition or in practice therefor with the permission of the ski area operator on any slope or trail or portion thereof designated by the ski area operator for the purpose of competition.

(3) "Conditions of ordinary visibility" means daylight and, where applicable, nighttime in nonprecipitating weather.

(4) "Passenger" means any person who is lawfully using any passenger tramway.

(5) "Passenger tramway" means a device as defined in section 25-5-702 (4), C.R.S. 1973.

(6) "Ski area" means all ski slopes or trails and other places under the control of a ski area operator and administered as a single enterprise within this state.

(7) "Ski area operator" means "operator" as defined in section 25-5-702 (3), C.R.S. 1973, and any person, partnership, corporation, or other commercial entity having operational responsibility for any ski areas, including an agency of this state or a political subdivision thereof.

(8) "Skier" means any person utilizing a ski area for the purpose of skiing or for the purpose of sliding downhill on snow or ice on skis, a toboggan, a sled, a tube, a ski-bob, or any other device.

(9) "Ski slopes or trails" means those areas designated by the ski area operator to be used by skiers for any of the purposes enumerated in subsection (8) of this section. Such designation shall be set forth on trail maps, if provided, and designated by signs indicating to the skiing public the intent that such areas be used by skiers for the purpose of skiing. Nothing in this subsection (9) or in subsection (8) of this section, however, shall imply that ski slopes or trails may not be restricted for use by persons using skis only or for use by persons using any other device described in subsection (8) of this section.

33-44-104. Negligence - civil actions. (1) A violation of any requirement of this article shall, to the extent such violation causes injury to any person or damage to property, constitute negligence on the part of the person violating such requirement.

(2) A violation by a ski area operator of any requirement

of this article or any rule or regulation promulgated by the passenger tramway safety board pursuant to section 25-5-710 (1) (a), C.R.S. 1973, shall, to the extent such violation causes injury to any person or damage to property, constitute negligence on the part of such operator.

(3) Notwithstanding the provisions of section 24-4-103 (5), C.R.S. 1973, all rules adopted or amended by the passenger tramway safety board on or after July 1, 1979, shall expire June 1 of the year following their adoption unless extended by the general assembly acting by bill. The general assembly, in its discretion, may postpone such expiration as often as necessary, but no such postponement shall exceed two years. All rules and amendments thereto shall be submitted pursuant to section 24-4-103 (8) (d), C.R.S. 1973.

33-44-105. Duties of passengers. (1) No passenger shall board a passenger tramway if he does not have sufficient physical dexterity, ability, and knowledge to negotiate or use such facility safely or until such passenger has asked for and received information sufficient to enable him to use the equipment safely. A passenger is required to follow any written or verbal instructions that are given to him regarding the use of the passenger tramway.

(2) No passenger shall:

(a) Embark upon or disembark from a passenger tramway except at a designated area except in the event of a stoppage of the passenger tramway (and then only under the supervision of the operator) or unless reasonably necessary in the event of an emergency to prevent injury t the passenger or others;

(b) Throw or expel any object from any passenger tramway while riding on such device, except as permitted by the operator;

(c) Act, while riding on a passenger tramway, in any manner that may interfere with proper or safe operation of such passenger tramway;

(d) Engage in any type of conduct that may contribute to or cause injury to any person;

(e) Place in an uphill track of a J-bar, T-bar, platter pull, rope tow, or any other surface lift any object that could cause another skier to fall;

(f) Embark upon a passenger tramway marked as closed;

(g) Disobey any instructions posted in accordance with th article or any verbal instructions by the ski area operat regarding the proper or safe use of a passenger tramway unle such verbal instructions are contrary to this article or t

rules promulgated under it, or contrary to posted instructions.

33-44-106. Duties of operators - signs. (1) Each ski area operator shall maintain a sign system with concise, simple, and pertinent information for the protection and instruction of passengers. Signs shall be prominently placed on each passenger tramway readable in conditions of ordinary visibility and, where applicable, adequately lighted for nighttime passengers. Signs shall be posted as follows:

(a) At or near the loading point of each passenger tramway, regardless of the type, advising that any person not familiar with the operation of the device shall ask the operator of the device for assistance and instruction;

(b) At the interior of each two-car and multicar passenger tramway, showing:

(I) The maximum capacity in pounds of the car ard the maximum number of passengers allowed;

(II) Instructions for procedures in emergencies.

(c) In a conspicuous place at each loading area of two-car and multicar passenger tramways, stating the maximum capacity in pounds of the car, and the maximum number of passengers allowed.

(d) At all chair lifts, stating the following:

(I) "Prepare to Unload", which shall be located not less than fifty feet ahead of the unloading area;

(II) "Keep Ski Tips Up", which shall be located ahead of any point where the skis may come in contact with a platform or the snow surface;

(III) "Unload Here", which shall be located at the point designated for unloading;

(IV) "Safety Gate", which shall be located where applicable;

(V) "Remove Pole Straps from Wrists", which shall be located prominently at each loading area;

(VI) "Check for Loose Clothing and Equipment", which shall be located before the "Prepare to Unload" sign.

(e) At all J-bars, T-bars, platter pulls, rope tows, and any other surface lift, stating the following:

(I) "Remove Pole Straps from Wrists", which shall be placed at or near the loading area;

(II) "Stay in Tracks", "Unload Here", and "Safety Gate", which shall be located where applicable;

(III) "Prepare to Unload", which shall be located not less than fifty feet ahead of each unloading area.

(f) Near the boarding area of all J-bars, T-bars, platter pulls, rope tows, and any other surface lift, advising passengers to check to be certain that clothing, scarves, and hair will not become entangled with the lift;

(g) At or near the boarding area of all lifts, regarding the requirements of section 33-44-109 (6).

(2) Other signs not specified by subsection (1) of this section may be posted at the discretion of the ski area operator.

(3) The ski area operator, before opening the passenger tramway to the public each day, shall inspect such passenger tramway for the presence and visibility of the signs required by subsection (1) of this section.

(4) The extent of the responsibility of the ski area operator under this section shall be to post and maintain such signs as are required by subsection (1) of this section in such condition that they may be viewed during conditions of ordinary visibility. Evidence that signs required by subsection (1) of this section were present, visible, and readable where required at the beginning of the passenger tramway operation on any given day raises a presumption that all passengers using said devices have seen and understood said signs.

33-44-107. Duties of ski area operators - signs required for skiers' information. (1) Each ski area operator shall maintain a sign and marking system as set forth in this section in addition to that required by section 33-44-106. All signs required by this section shall be maintained so as to be readable and recognizable under conditions of ordinary visibility.

(2) A sign shall be placed in such a position as to be recognizable as a sign to skiers proceeding to the uphill loading point of each base area lift depicting and explaining signs and symbols which the skier may encounter at the ski area as follows:

(a) The ski area's least difficult trails and slopes, designated by a green circle and the word "easiest";

(b) The ski area's most difficult trails and slopes designated by a black diamond and the words "most difficult";

(c) The ski area's trails and slopes which have a degree of difficulty that falls between the green circle and the black diamond designation, designated by a blue square and the word

"more difficult";

(d) Danger areas, designated by a red exclamation point inside a yellow triangle with a red band around the triangle and the word "Danger" printed beneath the emblem;

(e) Closed trails or slopes, designated by an octagonal-shaped sign with a red border around a white interior containing a black figure in the shape of a skier with a black band running diagonally across the sign from the upper right-hand side to the lower left-hand side and with the word "Closed" printed beneath the emblem.

(3) If applicable, a sign shall be placed at or near the loading point of each passenger tramway, as follows:

"WARNING: This lift services (most difficult) or (most difficult and more difficult) or (more difficult) slopes only."

(4) If a particular trail or slope or portion of a trail or slope is closed to the public by a ski area operator, such operator shall place a sign notifying the public of that fact at each identified entrance of each portion of the trail or slope involved. Alternatively, such a trail or slope or portion thereof may be closed with ropes or fences.

(5) The ski area operator shall place a sign at or near the beginning of each trail or slope, which sign shall contain the appropriate symbol of the relative degree of difficulty of that particular trail or slope as set forth by subsection (2) of this section. This requirement shall not apply to a slope or trail designated "easiest" which to a skier is substantially visible in its entirety under conditions of ordinary visibility prior to his beginning to ski the same.

(6) The ski area operator shall mark its ski area boundaries in a fashion readily visible to skiers under conditions of ordinary visibility. Where the owner of land adjoining a ski area closes all or part of his land and so advises the ski area operator, such portions of the boundary shall be signed as required by paragraph (e) of subsection (2) of this section. This requirement shall not apply in heavily wooded areas or other nonskiable terrain.

(7) The ski area operator shall mark hydrants, water pipes, and all other man-made structures on slopes and trails which are not readily visible to skiers under conditions of ordinary visibility from a distance of at least one hundred feet and shall cover such obstructions with a shock-absorbent material that will substantially lessen injuries. Any type of marker shall be sufficient, including but not limited to wooden poles, flags, or signs, if the marker is visible from a distance of one hundred feet and if the marker itself does not constitute a serious

hazard to skiers.

33-44-108. Ski area operators - additional duties. (1) Any motorized snow-grooming vehicle shall be equipped with a light visible at any time the vehicle is moving on or in the vicinity of a ski slope or trail.

(2) Whenever maintenance equipment is being employed to maintain or groom any ski slope or trail while such ski slope or trail is open to the public, the ski area operator shall place or cause to be placed a conspicuous notice to that effect at or near the top of that ski slope or trail.

(3) All snowmobiles operated on the ski slopes or trails of a ski area shall be equipped with at least the following: One lighted headlamp, one lighted red tail lamp, a brake system maintained in operable condition, and a fluorescent flag at least forty square inches mounted at least six feet above the bottom of the tracks.

(4) The ski area operator shall have no duty arising out of its status as a ski area operator to any skier skiing beyond the area boundaries marked as required by section 33-44-107 (6).

(5) The ski area operator, upon finding a person skiing in a careless and reckless manner, may revoke that person's skiing privileges.

33-44-109. Duties of skiers - penalties. (1) Each skier solely has the responsibility for knowing the range of his own ability to negotiate any ski slope or trail and to ski within the limits of such ability.

(2) Each skier has the duty to maintain control of his speed and course at all times when skiing and to maintain a proper lookout so as to be able to avoid other skiers and objects. However, the primary duty shall be on the person skiing downhill to avoid collision with any person or objects below him. It is presumed, unless shown to the contrary by a preponderance of the evidence, that the responsibility for collisions by skiers with any person, natural object, or man-made structure marked in accordance with section 33-44-107 (7) is solely that of the skier or skiers involved and not that of the ski area operator.

(3) No skier shall ski on a ski slope or trail that has been posted as "Closed" pursuant to section 33-44-107 (2) (e) and (4).

(4) Each skier shall stay clear of snow-grooming equipment, all vehicles, lift towers, signs, and any other equipment on the ski slopes and trails.

(5) Each skier has the duty to heed all posted information

and other warnings and to refrain from acting in a manner which may cause or contribute to the injury of the skier or others. Each skier shall be presumed to have seen and understood all information posted in accordance with this article near base area lifts, on the passenger tramways, and on such ski slopes or trails as he is skiing. Under conditions of decreased visibility, the duty is on the skier to locate and ascertain the meaning of all signs posted in accordance with sections 33-44-106 and 33-44-107.

(6) Each ski used by a skier while skiing shall be equipped with a strap or other device capable of stopping the ski should the ski become unattached from the skier. This requirement shall not apply to cross country skis.

(7) No skier shall cross the uphill track of a J-bar, T-bar, platter pull, or rope tow except at locations designated by the operator; nor shall a skier place any object in such an uphill track.

(8) Before beginning to ski from a stationary position or before entering a ski slope or trail from the side, the skier shall have the duty of avoiding moving skiers already on the ski slope or trail.

(9) No person shall move uphill on any passenger tramway or use any ski slope or trail while such person's ability to do so is impaired by the consumption of alcohol or by the use of any narcotic or other drug or while such person is under the influence of alcohol or any narcotic or other drug.

(10) No skier involved in a collision with another skier or person in which an injury results shall leave the vicinity of the collision before giving his name and current address to an employee of the ski area operator or a member of the voluntary ski patrol, except for the purpose of securing aid for a person injured in the collision; in which event the person so leaving the scene of the collision shall give his name and current address as required by this subsection (10) after securing such aid.

(11) No person shall knowingly enter upon public or private lands from an adjoining ski area when such land has been closed by its owner and so posted by the owner or by the ski area operator pursuant to section 33-44-107 (6).

(12) Any person who violates any of the provisions of subsection (3), (9), (10), or (11) of this section is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars.

33-44-110. Competition. (1) The ski area operator shall, prior to the beginning of a competition, allow each competitor a

reasonable visual inspection of the course or area where the competition is to be held.

(2) The competitor shall be held to assume the risk of all course conditions including, but not limited to, weather and snow conditions, course construction or layout, and obstacles which a visual inspection should have revealed. No liability shall attach to a ski area operator for injury or death of any competitor proximately caused by such assumed risk.

33-44-111. Statute of limitation. All actions against any ski area operator or its employees brought to recover damages for injury to person or property caused by the maintenance, supervision, or operation of a passenger tramway or a ski area shall be brought within three years after the claim for relief arises and not thereafter.

SECTION 2. Effective date. This act shall take effect July 1, 1979.

SECTION 3. 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.

Fred E. Anderson
PRESIDENT OF
THE SENATE

Robert F. Burford
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Marjorie L. Rutenbeck
SECRETARY OF
THE SENATE

Lorraine F. Lombardi
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED May 25, 1979 — 11:20 AM

Richard D. Lamm
GOVERNOR OF THE STATE OF COLORADO

Original sponsors: Colletta and Kerttula

Offered: 5/8/80
Referred: Rules

IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

CS FOR SENATE BILL NO. 470

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the inherent risks of skiing; and providing for an effective date."

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

* Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds that the sport of skiing is practiced by a large number of residents of the state and attracts a large number of nonresidents, significantly contributing to the economy of the state. It further finds that insurance carriers are increasingly reluctant to provide liability insurance protection to ski area operators and that the premiums charged by insurance carriers have risen sharply in recent years due to confusion as to whether a skier assumes the risks inherent in the sport of skiing when he participates actively in the sport. It is the intent of the legislature in enacting this Act to clarify the law in relation to skiing injuries and the risks inherent in that sport and to provide that, as a matter of public policy, a person engaged in that sport may not recover from a ski area operator for injuries resulting from those inherent risks.

* Sec. 2. AS 09.10 is amended by adding new sections to read:

ARTICLE 2. LIMITATIONS ON CLAIMS ARISING FROM INHERENT RISKS OF SKIING.

Sec. 09.10.300. LIMITATIONS ON CLAIMS. A skier may not recover from a ski area operator for injury resulting from an inherent risk of skiing unless the injury occurred when the ski area operator was not providing the information required by AS 09.10.310.

Sec. 09.10.310. INFORMATION FOR SKIERS. A ski area operator shall

post trail signs at prominent locations within a ski area which shall include a list of the inherent risks of skiing and the limitation on liability of the ski area operator provided by AS 09.10.300.

Sec. 09.10.320. DEFINITIONS. In AS 09.10.300 - 09.10.320

(1) "inherent risks of skiing" means the dangers or conditions which are an integral part of the sport of skiing, including, but not limited to,

(A) changing weather conditions;

(B) variations or steepness in terrain;

(C) snow or ice conditions;

(D) surface or subsurface conditions such as bare spots, forest growth, and rocks;

(E) collisions with lift towers, other structures, and their components unless the skier is on the lift;

(F) collisions with other skiers; and

(G) a skier's failure to ski within the limits of his own ability;

(2) "injury" means a personal injury or property damage or loss;

(3) "skier" means a person in a ski area engaged in the sport of skiing, sliding downhill on snow or ice on skis, a toboggan, a sled, a tube, a ski-bob, or other device for recreation in snow;

(4) "ski area" means all ski slopes, trails and other places under the control of a ski area operator and administered as a single enterprise in the state;

(5) "ski area operator" means the operator of a ski area.

* Sec. 3. AS 18 is amended by adding a new chapter to read:

CHAPTER 76. SNOW SAFETY.

Sec. 18.76.010. SNOW SAFETY AND OPERATION PLAN. (a) A ski area

may not be operated except under a snow safety and operation plan approved by the commissioner of public safety under regulations adopted by him.

(b) A ski area operated on land owned by the United States shall comply with a snow safety and operation plan required by the agency of the United States that manages the land on which the ski area operates.

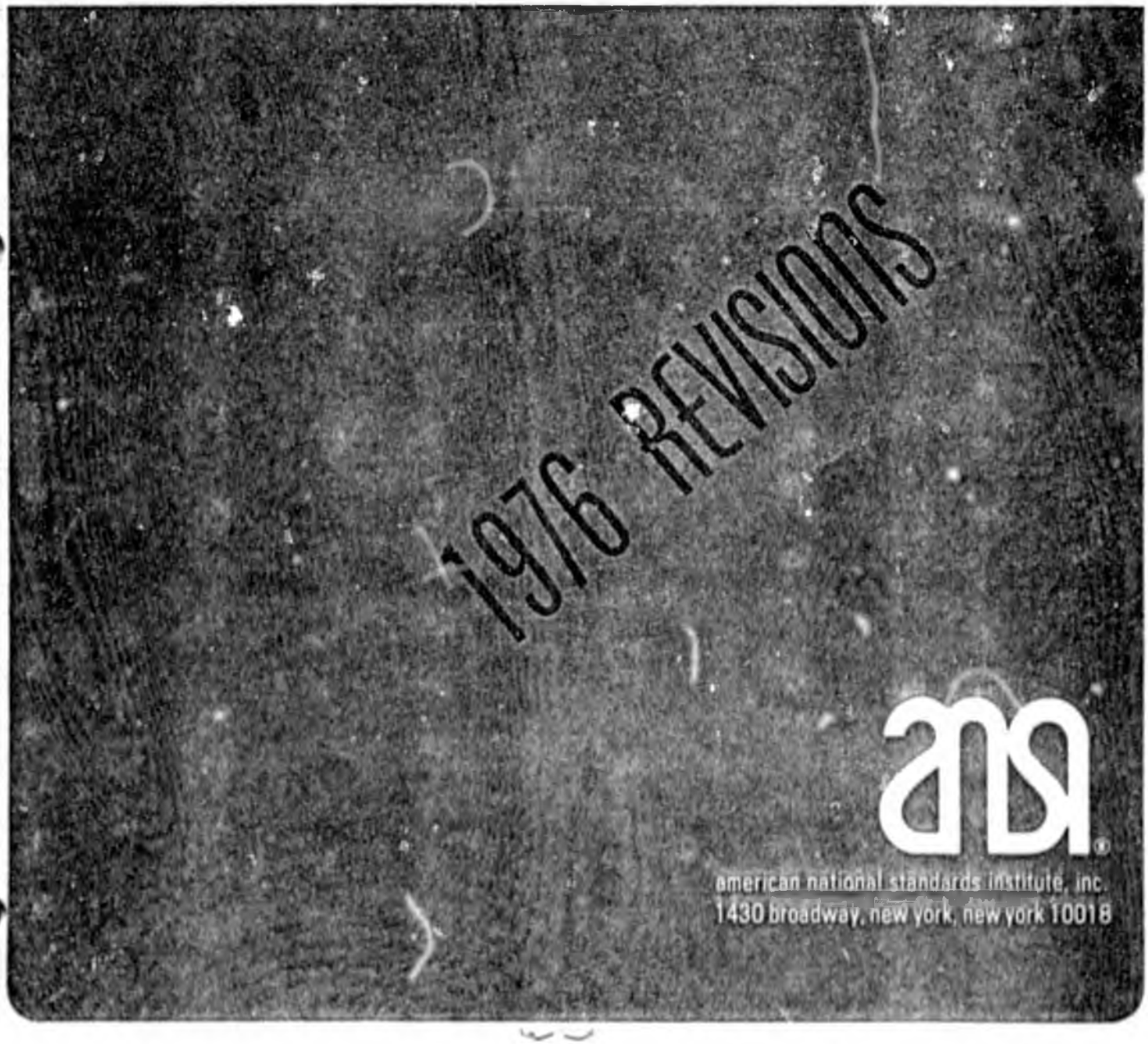
* Sec. 4. AS 05.20.012 is repealed.

* Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-070(c).

change to approval by the agency (commissioner of public safety for U.S. Agency) or the other

American National Standard

safety requirements for aerial passenger tramways



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1430 broadway, new york, new york 10018

B77.1-1976

American National Standard

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ANSI/AWS A3.0-76

Foreword

(This Foreword is not a part of American National Standard Safety Requirements for Aerial Passenger Tramways, B77.1-1976.)

This standard is a revision of American National Standard Safety Requirements for Aerial Passenger Tramways, B77.1-1973. Previous editions of the standard were approved in 1960 and 1970. Both the original standard and subsequent revisions were developed under the committee procedures of the Standards Institute.

This project had its inception in 1956. At that time, the industry dealing with recreational passenger transportation had reached such proportions that safeguards were required for the protection of the public and the progress of the industry. At the request of the Eastern Ski Area Operators Association, one of the original sponsors of the project, a general conference was held in New York City. As a result of that conference, the Standards Institute established the B77 Committee, composed of operators, users, designers, and manufacturers of aerial tramways, to develop safety requirements for the equipment. The standard was approved June 8, 1960.

The present revision brings the standard up-to-date with the latest developments in the field. It was approved as an American National Standard by the Standards Institute on November 19, 1975. The secretariat of B77 is held by the National Ski Areas Association.

Suggestions for improvement of this standard will be welcome. They should be sent to the American National Standards Institute, 1430 Broadway, New York, N Y 10018.

This standard was processed and approved for submittal to ANSI by American National Standards Committee on Aerial Passenger Tramways, B77. Committee approval of the standard does not necessarily imply that all committee members voted for its approval. At the time it approved this standard, the B77 Committee had the following members:

William A. Norton, Chairman
Cal Conniff, Secretary

Organization Represented	*Name of Representative*
American Society of Civil Engineers	David L. Fleming
American Society of Mechanical Engineers	Victor L. Hall
California Division of Industrial Safety	(Representation Vacant)
Colorado Tramway Safety Board	Stephen Bradley
Cordage Institute	Franz J. Haas
Eastern Ski Association	Ben Bucko
Institute of Electrical and Electronics Engineers	John Fletcher
Massachusetts Tramway Safety Board	Channing Murdock
Michigan Tramway Safety Board	LaVerne Tripp
National Safety Council	(Representation Vacant)
National Ski Areas Association	Ruth Barringer
	Richard Randolph
	Walter Stopa
National Ski Patrol System	Robert Miller
New Hampshire Tramway Safety Board	Albert W. Currier
	Stanley Judge
New York Tramway Safety Board	(Representation Vacant)
Pacific Northwest Ski Areas Association	Nelson Bennett
	Mel Borgersen
U.S. Department of Agriculture, Forest Service	Charles F. Dwyer
Wire Rope Technical Board	J. W. Armstrong
	R. P. Ramsey
	William M. Schwenke
	A. B. Whitlock, Jr.
Individual Members	Hugo Birdsall
	Harold L. Chester
	Robert Heron
	J. R. Sowder

Contents

SECTION PAGE

1. General 9
1.1 Scope 9
1.2 Intent 9
1.2.1 Other Classifications 9
1.2.2 New Materials, Devices, or Types of Aerial Passenger Tramways 9
1.2.3 Exceptions 9
1.2.4 Existing Installations 9
1.2.5 Interpretation of Standard 9
1.2.6 Existing Laws or Ordinances 9
1.3 Reference to Other Codes and Standards 9
1.4 Mandatory and Advisory Rules 10
1.5 Authority Having Jurisdiction 10
1.5.1 Approved 10
1.6 Aerial Passenger Tramway Classifications 10
1.6.1 Reversible Aerial Tramways 10
1.6.2 Aerial Lifts and Skimobiles 10
1.6.3 Surface Lifts 10
1.6.4 Tows 10
1.7 Tramway, Lift, and Tow Systems 11
1.7.1 Monocable System 11
1.7.2 Bicable System 11
1.8 Definitions 11
1.8.1 Rope and Strand 11
1.8.2 Fiber Rope 11
1.8.3 Sheaves 11
1.8.4 Diameter 11
1.8.5 Safety Gate 11
1.8.6 Capacity 11
1.8.7 Qualified Engineer 11
1.8.8 Operator 11
1.8.9 Attendant 11
1.8.10 Conductor 11
1.8.11 Supervisor 11

2. Design and Installation 11
2.1 General 11
2.1.1 Design Passenger Weight 11
2.1.2 Location 11
2.1.3 Width of Clearing 12
2.1.4 Path of Rope 12
2.1.5 Capacity and Speed 14
2.1.6 Structures and Foundations 15
2.1.7 Wire Rope and Strand to Be Used as Haul Ropes, Counterweight Ropes, and Track Cables 15
2.1.8 Communications 17
2.1.9 Electrical Design and Installation 17
2.1.10 Internal Combustion Engine Installation 17
2.1.11 Loading and Unloading Areas 18
2.1.12 Signs 19
2.1.13 Evacuation—Reversible Aerial Tramways and Aerial Lifts 19
2.1.14 Acceptance Tests and Inspection 20
2.1.15 Safety of Operating and Maintenance Personnel 20

SECTION PAGE

2.2 Terminals and Stations 20
2.2.1 Prime Mover 20
2.2.2 Speed Reducers and Gearing 21
2.2.3 Bearings, Clutches, Couplings, and Shafting 21
2.2.4 Acceleration and Speed Control 21
2.2.5 Brakes 22
2.2.6 Location of Machinery 24
2.2.7 Sheaves in Terminals and Stations 24
2.2.8 Tension Sheave Carriages 25
2.2.9 Counterweight and Tensioning Systems 26
2.2.10 Anchoring Devices 26
2.2.11 Manual and Automatic Stops 27
2.2.12 Wind Gages 28
2.3 Line Structures 28
2.3.1 Towers 28
2.3.2 Guards and Clearances 28
2.3.3 Haul Rope Sheaves and Mounts 29
2.3.4 Track Cable Saddles and Mounts 30
2.4 Line Equipment 31
2.4.1 Haul Rope 31
2.4.2 Track Cable 31
2.4.3 Haul Rope Grip 31
2.4.4 Track Cable Trucks – Bicable Systems 32
2.4.5 Carriers 32
2.5 Provisions for Operating Personnel 34
2.5.1 Reversible Aerial Tramways 34
2.5.2 Aerial Lifts and Surface Lifts 34
2.5.3 Tows 34
2.6 Operational and Maintenance Manuals 34
2.6.1 Operational Manual 34
2.6.2 Maintenance Manual 34

3. Operation and Maintenance 34
3.1 General 34
3.1.1 Personnel Safety 34
3.2 Operation 34
3.2.1 Personnel 34
3.2.2 Minimum Operating Personnel 35
3.2.3 Duties of Operating Personnel 35
3.2.4 Operational Procedures 36
3.3 Maintenance 37
3.3.1 General 37
3.3.2 Wire Rope 37
3.3.3 Fiber Rope 38
3.4 Annual Inspections 38
3.4.1 General Inspection 38
3.4.2 Wire Rope Inspection 39
3.5 Records 39
3.5.1 Operational Log 39
3.5.2 Wire Rope Log 39
3.5.3 Maintenance Log 39

SECTION PAGE

3.6 Passenger Conduct 39
3.6.1 Dexterity and Ability 39
3.6.2 Embarkation and Disembarkation 39
3.6.3 Riding 39
3.6.4 Downhill Skier 39

4. Wire Rope and Strand Requirements 39
4.1 Dimensional Properties 39
4.1.1 Diameter Tolerances 39
4.1.2 Nominal Breaking Strengths 40
4.1.3 Tensile Strengths 41
4.1.4 Torsion Requirements 42
4.2 Testing 42
4.2.1 Testing Procedures 42
4.2.2 Test Reports 43
4.2.3 Rejects and Retests 43

5. Revision of American National Standards Referred to in This Document 44

Tables

Table 1 Maximum Carrier Speed, in Feet per Minute, for Chair Lifts with Fixed Grips 15
Table 2 Minimum Diameters for Counterweight Rope Sheaves and Sheaves Not Specifically Covered Elsewhere 25
Table 3 Wire Rope Diameter Tolerances for New Rope 39
Table 4 Minimum Acceptable Wire Rope Diameter in Service 39
Table 5 Bright (Uncoated) or Drawn Galvanized Wire Rope, Fiber Core, Nominal Breaking Strength in Tons of 2000 Pounds 40
Table 6 Bright (Uncoated) or Drawn Galvanized Wire Rope, Independent Wire Rope Center, Nominal Breaking Strength in Tons of 2000 Pounds 41
Table 7 Tensile Strength Requirements for Main Rope Wires 41
Table 8 Torsion Values for Main Rope Wires 42
Table 9 Torsion Value Reductions for Wire Galvanized at Finished Size 42
Table 10 Tensile Force on Wires during Torsional Test 43

Index 45

American National Standard Safety Requirements for Aerial Passenger Tramways

1. General

1.1 Scope. This standard establishes safety regulations for recreational transportation of passengers on devices which are usually referred to by the following names:

(1) Reversible aerial tramways (single and double)

(2) Aerial lifts (gondola lifts, chair lifts, skimobiles, and similar equipment)

(3) Surface lifts (T-bar lifts, J-bar lifts, platter lifts, and similar equipment)

(4) Tows (wire and fiber rope tows)

1.2 Intent. The intent of this standard is to establish practical factors of safety and adequate safety features for the design, construction, operation, and maintenance of aerial passenger tramways.

It represents the combined efforts of a cross section of the industry and existing regulatory agencies and should form the basis for safety regulations to be established by federal and state governments, other legal agencies, insurance companies, and interested industrial and engineering associations.

1.2.1 Other Classifications. Tramway configurations that may be proposed and do not conform to any of the classifications specified in 1.1, but fall within the general category of reversible aerial tramways, aerial lifts, surface lifts, and tows, should not be free from control. Each configuration should be evaluated by the authority having jurisdiction (see 1.5) on the basis of an interpretation of this standard, pending wide enough use of such a configuration to justify a separate category and addition to the standard.

1.2.2 New Materials, Devices, or Types of Aerial Passenger Tramways. If a designer or manufacturer of equipment wishes to use materials, devices, or components for reversible aerial tramways, aerial lifts, surface lifts, or tows not covered by this standard, full information shall be submitted to the authority having jurisdiction.

1.2.3 Exceptions. Wherever it may be proposed to depart from the provisions of this standard, due to special difficulties, the authority having jurisdiction (see 1.5) may grant exceptions from the literal requirements or permit the use of other devices or methods that provide features comparable to those included in this standard.

1.2.4 Existing Installations. Installations operating prior to the approval date of this revision and with a good safety record need not comply with the new or revised requirements of this edition except where specifically required by the authority having jurisdiction. Operation and maintenance procedures shall be in compliance with this standard.

1.2.5 Interpretation of Standard. In cases where additional explanation or interpretation of this standard is required, such requests should be referred to Standards Committee B77, American National Standards Institute, 1430 Broadway, New York, N.Y. 10018.

1.2.6 Existing Laws or Ordinances. This standard shall be considered as supplementary to any existing law or ordinance covering the installation or operation of these facilities.

1.3 Reference to Other Codes and Standards. The design, installation, operation, and maintenance of aerial passenger tramways and their components should conform to standards or codes published by recognized agencies listed herein. Unless otherwise specified, the designer shall select codes or standards of these agencies. To the extent that they are available, applicable codes or standards shall be selected to cover all features, including, but not limited to, allowable unit stresses and properties of materials. Each code or standard should be of the most recent issue, and the designer shall state which he has followed. The following agencies are hereby recognized:

American Association of State Highway Officials
American Concrete Institute
American Gear Manufacturers Association
American Institute of Steel Construction
American Institute of Timber Construction
American Insurance Association
American National Standards Institute
American Society for Testing and Materials

American Society of Civil Engineers
American Society of Mechanical Engineers
American Welding Society
Institute of Electrical and Electronics Engineers
National Forest Products Association
Society of Automotive Engineers

Authorities having jurisdiction (see 1.5) may supplement the foregoing with additional recognized codes, special codes, or regulating requirements pertaining to the specific field of jurisdiction. Features not covered by this standard, recognized codes, special codes, or regulating requirements shall be handled in accordance with sound engineering judgment to the satisfaction of the authority having jurisdiction.

1.4 Mandatory and Advisory Rules. In this standard, the word "shall" is understood as mandatory and the word "should" as advisory.

1.5 Authority Having Jurisdiction. The phrase "authority having jurisdiction" means the authorized public or private body that is empowered by law or common agreement to enforce provisions of this standard. Where no such body exists, the phrase "authority having jurisdiction" shall be considered synonymous with "owner."

1.5.1 Approved. The word "approved" means "approved by the authority having jurisdiction."

1.6 Aerial Passenger Tramway Classifications

1.6.1 Reversible Aerial Tramways. That class of aerial passenger tramways and lifts wherein the passengers are transported in carriers and are not in contact with the ground or snow surface, and in which the carriers reciprocate between terminals.

1.6.1.1 Single-Reversible Tramways. That type of reversible aerial tramway having a single carrier, or single group of carriers, that moves back and forth between terminals on a single path of travel. This type is sometimes called a "to-and-fro" aerial tramway.

1.6.1.2 Double-Reversible Tramways. That type of reversible aerial tramway having two carriers, or two groups of carriers, that oscillate back and forth between terminals on two paths of travel. This type is sometimes called a "jig-back" aerial tramway.

1.6.2 Aerial Lifts and Skimobiles. That class of aerial passenger tramways and lifts wherein the passengers are transported in carriers and are not in contact with the ground or snow surface and in which the carriers circulate around a closed system and are activated by a wire rope or chain. The carriers usually make U-turns in the terminals and move along generally parallel and opposing paths of travel. The carriers may be open or enclosed cabins, chairs, cars, or platforms. The carriers may be fixed or detachable.

1.6.2.1 Gondola Lifts. That type of lift wherein the passengers are transported in open or enclosed cabins. The passengers embark and disembark while the carriers are stationary or moving slowly under a controlled arrangement.

1.6.2.2 Chair Lifts. That type of lift wherein the passengers are transported in chairs, either open or partially enclosed.

1.6.2.3 Skimobiles. That type of lift wherein the passengers are transported in open or enclosed cars that ride on a rigid structural system and are propelled by a wire rope or chain.

1.6.2.4 Similar Equipment. Lifts that utilize carrier configurations not specified in 1.6.2.1, 1.6.2.2, or 1.6.2.3, but do not require that the passenger remain in contact with the ground or snow surface.

1.6.3 Surface Lifts. That class of conveyance wherein the passengers are propelled by means of a circulating overhead wire rope while remaining in contact with the ground or snow surface. Transportation is limited to one direction. Connection between the passengers and the wire rope is by means of a device attached to and circulating with the haul rope known as a "towing outfit."

1.6.3.1 T-Bar Lifts. That type of lift wherein the device between the haul rope and passengers forms the shape of an inverted "T," propelling passengers located on both sides of the stem of the "T."

1.6.3.2 J-Bar Lifts. That type of lift wherein the device between the haul rope and passenger is in the general form of a "J," propelling a single passenger located on the one side of the stem of the "J."

1.6.3.3 Platter Lifts. That type of lift wherein the device between the haul rope and passenger is a single stem with a platter (or disk) attached to the lower end of the stem, propelling the passenger astride the stem of the platter (or disk).

1.6.3.4 Similar Equipment. Lifts that utilize towing device configurations not specified in 1.6.3.1, 1.6.3.2, or 1.6.3.3, but require that passengers remain in contact with the ground or snow surface, and conform to the general description of 1.6.3.

1.6.4 Tows. That class of conveyance wherein the passengers grasp the circulating haul rope or a handle attached to the circulating haul rope, or attach a gripping device to the circulating haul rope, and are propelled by the circulating haul rope. The passengers remain in contact with the ground or snow surface. The upward-traveling haul rope remains adjacent to the uphill track of the passengers and at an elevation that permits them to maintain their grasp on the haul rope, handle, or gripping device throughout the portion of the tow length that is designed to be traveled.

1.6.4.1 Fiber Rope Tow. A tow having a fiber (natural or synthetic) haul rope.

1.6.4.2 **Wire Rope Tow.** A tow having a metallic haul rope.

1.7 Tramway, Lift, and Tow Systems

1.7.1 **Monocable System.** A system using a moving haul rope to both support and control motion of the carriers.

1.7.2 **Bicable System.** A system using separate cables to support and control motion of the carriers.

1.8 Definitions

1.8.1 Rope and Strand

1.8.1.1 **Rope.** Unless otherwise specified, the term "rope" shall mean wire rope. (The terms "rope," "wire rope," and "cable" are interchangeable, except where, by the context, "cable" refers to a strand used as a track cable.)

1.8.1.2 **Strand.** Unless otherwise specified, the term "strand" shall mean wire strand, consisting of several wires twisted together (as compared with wire rope, which consists of several strands twisted together).

1.8.2 **Fiber Rope.** A stranded or braided rope made from natural or synthetic fibers.

1.8.3 **Sheaves.** Pulleys or wheels grooved for rope.

1.8.3.1 **Haul Rope Sheaves.** Sheaves that support or hold down the haul rope at towers or terminals. (The angle of deflection is usually small.)

1.8.3.2 **Rollers.** Sheaves of small diameter used to guide or restrain the rope from leaving its proper alignment.

1.8.3.3 **Terminal Sheave.** A haul rope sheave at a terminal that rotates continuously when the haul rope is moving and deflects the haul rope by an angle of 10 degrees or more.

1.8.3.3.1 **Deflection Sheave.** A terminal sheave that deflects the haul rope at least 10 degrees but less than 150 degrees.

1.8.3.3.2 **Bull Wheel.** A terminal sheave that deflects the haul rope 150 degrees or more. When under power, the sheave is referred to as a drive sheave (or drive bull wheel); when acting as a movable tensioning device, it is referred to as a tension sheave (or tension bull wheel); and when it is acting simply as a fixed return for the haul rope, it is referred to as a fixed return sheave (or fixed return bull wheel).

1.8.3.4 **Counterweight Sheave.** A sheave used in the counterweight roping system that is active during normal operations.

1.8.4 **Diameter.** Wherever the term "diameter" is used in specifying sheaves, it refers to the diameter at the bottom of sheave grooves (tread diameter).

1.8.5 **Safety Gate.** A type of automatic stopping device that, when actuated by a passenger's weight, contact, or passage, will automatically stop the tramway, lift, or tow.

1.8.6 Capacity

1.8.6.1 **Design Capacity.** The capacity established by the designer as the optimum operating capability of the equipment.

1.8.6.2 **Operational Capacity.** The capacity for which the installation has been tested and approved.

1.8.7 **Qualified Engineer.** An engineer who by training or experience, or both, is qualified to design, survey, supervise construction, supervise maintenance, or perform inspections, as the case may require, of tramways, lifts, or tows, and who meets the requirements of the authority having jurisdiction.

1.8.8 **Operator.** An individual in charge of a tramway, lift, or tow.

1.8.9 **Attendant.** An individual assigned to particular duties or functions in the operation of a tramway, lift, or tow.

1.8.10 **Conductor.** An attendant assigned to duties or functions in an enclosed carrier.

1.8.11 **Supervisor.** An individual in responsible charge of aerial passenger tramway operations and personnel.

2. Design and Installation

2.1 General

2.1.1 **Design Passenger Weight (All Classifications).** For purposes of design, a passenger shall be considered as having a weight of 170 pounds.

2.1.2 **Location (All Classifications).** In selecting the location and alignment of an installation, consideration shall be given to the following:

(1) Electric power lines
(2) Railways
(3) Highways
(4) Structures
(5) Rock and earth slides, cave-ins, washouts, etc
(6) Snow creep and avalanches
(7) Wind action
(8) Icing
(9) Ski slopes and trails
(10) Rivers and gullies
(11) Buried installations, including pipelines

Location with respect to such conditions shall meet the requirements of the authority having jurisdiction.

2.1.2.1 **Surface Lifts — Additional Requirements**

2.1.2.1.1 **Ski Track Gradient.** The maximum permissible grade of the ski track shall be 100% for surface lifts using single passenger towing outfits, and 50% for surface lifts using towing outfits for more than one passenger. No reverse grades shall be permitted except for very gradual inclines at loading and unloading areas.

unless otherwise permitted by the authority having jurisdiction.

2.1.2.1.2 **Cross Slope.** The cross slope of a ski track shall not exceed 5% except at unloading areas, for surface lifts using towing outfits for more than one passenger. For single-passenger surface lifts, the cross slope shall not exceed 5% except at towers and unloading areas. The cross slope at towers shall not exceed 10% and shall slope away from the centerline of the lift.

2.1.2.1.3 **Ski Slopes and Trails.** No ski traffic shall be allowed to cross the surface lift line except where specifically permitted by the authority having jurisdiction.

2.1.2.2 **Tows – Additional Requirements**

2.1.2.2.1 **Ski Track Gradient.** The maximum grade of a ski track shall be regulated for the use intended. In no case shall the grade exceed that recommended by the tow design engineer or the supplier. No reverse grades shall be permitted except for very gradual inclines at loading and unloading areas unless otherwise permitted by the authority having jurisdiction.

2.1.2.2.2 **Cross Slope.** The cross slope of a ski path shall not exceed 5% except at unloading areas, and on wire rope tows any cross slope shall be away from the tow.

2.1.3 **Width of Clearing (All Classifications).** The clearing shall be wide enough to prevent interference with the tramway, lift, or tow by adjacent vegetation. Such clearings shall be protected, if necessary, to avoid washouts that might endanger the installation. Potentially dangerous trees shall be cleared far enough back to avoid their falling on the tramway, lift, or tow.

2.1.3.1 **Surface Lifts – Additional Requirements**

2.1.3.1.1 **Track Clearing.** A minimum track width shall be cleared and maintained in such a manner that no rocks, stumps, or other obstructions project above the snow surface from the point where the passenger embarks on the lift to the point beyond the safety gate where the passenger would stop under the most adverse conditions. The minimum total snow track width shall be 2 feet 6 inches times the design number of passengers per carrier. In no case shall the track clearing width be less than 6 feet.

2.1.3.1.2 **Ski Track Width.** A minimum skiable track width of 2.5 feet times the design number of passengers per carrier, but not less than 4 feet, shall be maintained free of obstructions through the length of the track clearing described in 2.1.3.1.1.

2.1.3.2 **Tows – Additional Requirements**

2.1.3.2.1 **Track Clearing.** A minimum track width of 3 feet on each side of the centerline of the uphill track shall be cleared and maintained in such a manner that no rocks, stumps, or other obstructions project above the snow surface from the point where the passenger embarks on the tow to the point beyond the safety gate where the passenger would stop under the most adverse conditions.

2.1.3.2.2 **Ski Track Width.** A minimum skiable track width of 4 feet shall be maintained free of obstructions through the length of the track clearing described in 2.1.3.2.1.

2.1.4 **Path of Rope (All Classifications).** Terminals and towers shall be designed and installed to provide the clearances as herein specified and to minimize surge of the line under operating conditions. Local wind conditions shall be taken into consideration. Clearing shall be accomplished in such a manner that cabins or carriers will not come in contact with trees or vegetation during operating surges of the line, maximum design wind conditions, or any combination of these two conditions. In no case shall trees or vegetation extend within 5 feet of any portion of a carrier under normal (nonsurge) operating conditions.

2.1.4.1 **Reversible Tramways – Additional Requirements**

2.1.4.1.1 **Vertical Clearances.** Under the most adverse loading conditions, a minimum space of 5 feet shall exist between the lower edge of the carrier or ropes and the terrain or other possible obstacles, including snow pack. Whenever the clearance is less than 15 feet, no surface transportation shall be permitted beneath the tramway. Whenever the clearance is less than 8 feet, provision shall be made to prevent access to the area beneath the tramway by unauthorized persons.

2.1.4.1.2 **Horizontal Clearances.** The minimum distance between two passing carriers, each swung 10 degrees inward from the vertical, shall be 2 feet 6 inches, or the following, whichever is greater

$$0.02\,(V)\left(1 - \frac{V}{S}\right) \qquad \text{(Eq 1)}$$

where

S = the slope length of the span, in feet

V = the slope distance, in feet, from the point of the carriers passing to the nearest tower or track rope supporting structure

The distance between haul ropes (or track cables), for the purpose of these checks, shall be considered as equal to the gage of the line.

2.1.4.1.3 **Path of Rope Adjustment.** Terminals and towers containing provision for change in height of rope or track supports, or both, shall be used only with the approval of the authority having jurisdiction.

2.1.4.2 **Aerial Lifts – Additional Requirements**

2.1.4.2.1 **Vertical Clearances.** Where skiing is permitted beneath the lift line, or at points where ski trails cross under a lift line, a minimum vertical distance

of 13 feet between the design maximum snow depth and the top of the carrier seat shall be maintained under conditions of maximum sag.

Whenever the clearance is less than 15 feet, no public transportation shall be permitted beneath the tramway. Whenever the clearance is less than 8 feet for gondolas and empty chairs or 10 feet for chairs carrying foot passengers, provision shall be made to prevent access by unauthorized persons to the area beneath the tramway. Under the most adverse loading conditions, a minimum space of 5 feet shall be maintained between the lower edge of carriers or ropes and the terrain or other possible obstacles, including snow path.

2.1.4.2.2 **Horizontal Clearances.** The minimum distance between passing carriers, each swung 10 degrees inward from the vertical, shall be the greater of the following:

(1) 2 feet 6 inches

(2) 1/2% of the span length (applies to gondolas only)

The distance between haul ropes (or track cables), for the purpose of these checks, shall be considered as equal to the gage of the line.

2.1.4.2.3 **Path of Rope Adjustment.** Terminals and towers containing provision for change in height of rope or track supports, or both, shall be used only with the approval of the authority having jurisdiction. Such provision, if made, shall be controlled in a manner to avoid overloading or underloading tower units. The control shall be provided in the following manner.

There shall be made available to the designer not only the profile of the natural terrain along the line but also profiles, approved by the owner, of the various anticipated snow depths for which he wishes the lift to be designed. The designer shall select one set of tower locations that will be suitable for all of these profiles. For each profile he shall determine the proper number and height of sheaves for each tower. The sheave units furnished for each tower shall be suitable for all of these profiles. Each tower shall be marked with the location of the assigned height for the sheave units for each profile, giving each profile a serial number or letter, such as A, B, C, D, etc. The operating instructions shall clearly state that when the sheaves on one tower are at location A, for example, then the sheaves on all towers shall be at location A, and similarly for all other serial letters. The instructions shall also include a standard procedure for determining which serial designation to use to suit the snow conditions existing at any given time. The owner shall make sure that these instructions are followed. After any such change the lift shall not be started until the alignment of the sheave units has been checked.

Skimobiles – Additional Requirements. Trestles shall be bridged over ski trails with an opening wide enough and high enough to permit the passage of skiers.

2.1.4.4 **Surface Lifts – Additional Requirements**

2.1.4.4.1 **Vertical Clearances.** Terminals and towers shall be located so that, under the most adverse conditions, the towing outfit will not lift a passenger from the snow surface. Also, under the most adverse conditions, the haul rope shall be high enough to clear a passenger's head by at least 2 feet, and keep down-coming, empty towing outfits clear of the snow. The down-coming, empty towing outfits shall clear a passenger's head by at least 2 feet at any area where the passengers cross the path of such outfits.

The towers shall be of such a height and so located that if the up-going haul rope comes off the supporting sheaves of one tower, the towers (or terminal) on either side will support the rope clear of the design ski track by a minimum of 2 feet.

2.1.4.4.2 **Path of Rope Adjustment.** In areas of deep snow, it may be imperative to use variable rope sheave heights. In such cases, changes in tower height shall be controlled in a manner to avoid overloading or underloading tower sheave assemblies. This control shall be provided in the same manner as for aerial lifts (see 2.1.4.2.3).

2.1.4.5 **Tows – Additional Requirements**

2.1.4.5.1 **Vertical Clearances.** At no point between the loading and discharge areas shall the rope exert a downward force greater than 35 pounds, or an upward force greater than 30 pounds, when held at a height of 2 feet above the snow surface by a single passenger.

(1) Fiber rope tows: When the down-coming rope is less than 7 feet above the ski track, protective fencing, or other approved means, shall be provided to prevent persons from coming in contact with the down-coming rope.

(2) Wire rope tows: Towing devices shall not contact the ground or snow surface at any point along the tow.

2.1.4.5.2 **Horizontal Clearances.** There shall be a minimum distance of 3 feet between the up-going rope and any pole located between the loading and discharge areas.

2.1.4.5.3 **Other Clearances.**

(1) Fiber rope tows: There shall be a minimum distance of 5 feet between the up-going rope and the down-coming rope poles for 50 feet uphill of the loading area.

(2) Wire rope tows: The distance between the up-going and down-coming ropes shall at all points exceed twice the projection of any towing device attached to the haul rope, but in no event be less than 4 feet 6 inches.

The uphill track shall be so located that a passenger cannot be struck by a down-coming towing device.

2.1.4.6 Bicable Systems – Additional Requirements

2.1.4.6.1 Track Cable Saddles. The tower and terminals shall be arranged so as to keep the track cable in the saddles under the most adverse conditions. These provisions shall not interfere with any track cable movement or any track cable brake operation.

2.1.4.6.2 Haul Rope Sheave Units. Haul rope sheave units are generally of the support type. "Depression" or "hold-down" sheave units shall be subject to the requirements of 1.2.2.

2.1.4.6.3 Fair Leads. All line sheave units, including both high and low tower roller assemblies, shall be provided with fair leads or guides to accomplish the following:

(1) Permit the unobstructed passage of a carrier gripped to the haul rope regardless of the position of the haul rope guided by the fair leads as the carrier approaches the sheave assembly.

(2) Return the haul rope to the sheave groove when it has been lifted in normal operations or for other reasons.

(3) Provide the rope guidance necessary beneath sheave assemblies and adjacent structures to prevent entanglement of the haul rope as it is returned by the carrier to normal operating position from any location it may assume due to deropement or other displacement.

2.1.4.6.4 Intermediate Structures. Auxiliary intermediate structures shall be provided to support sheave units as required to maintain a minimum clearance of 8 feet between the haul rope and the snow profile.

2.1.5 Capacity and Speed

2.1.5.1 Reversible Tramways

2.1.5.1.1 Capacity. The design capacity of each carrier shall be posted conspicuously in each carrier and at each loading area. (See also 2.1.12.1(1).)

2.1.5.1.2 Speed. The maximum carrier speeds, in feet per minute, shall be as follows:

Condition	*Monocable System*	*Bicable System*
Clear spans	2000	2000
Across towers	1000	1500*
Entering terminals	300	300

*This maximum speed for bicable systems is based on the assumption that track cable saddles are so designed that the carriage wheels ride directly on the track cables over the saddles as well as in the spans, and do not come in contact with, or ride on, any part of the saddles, or retaining clips, if used. If this condition does not exist, speed over the saddles shall be reduced to a maximum of 800 feet per minute.

When there is no conductor in a carrier, the foregoing maximum clear-span speeds shall be reduced 25% and the across-tower speeds shall be reduced 30%.

2.1.5.2 Aerial Lifts

2.1.5.2.1 Gondola Lifts and Detachable Chair Lifts. Rope speed shall not exceed 800 feet per minute, unless approved by the authority having jurisdiction. Smooth acceleration of the carrier shall be accomplished from and to full rope speed. Provisions shall be made to space the carriers at prescribed intervals, never less than that contemplated in the design.

2.1.5.2.2 Chair Lifts – Fixed Grips. The maximum carrier speed shall be as shown in Table 1.

Higher speeds may be approved by the authority having jurisdiction. The speeds listed in Table 1 may be increased if a lift is slowed or stopped for loading and unloading, but in no case shall the speed exceed 700 feet per minute.

2.1.5.2.3 Skimobiles. As a general rule, skimobiles should not be operated at speeds in excess of 550 feet per minute. The loading interval for single-passenger cars should not be less than 4 seconds.

This speed may be increased if a lift is stopped for loading and unloading.

Furthermore, although the foregoing speed and interval have been proved successful by experience, higher speeds and shorter intervals may be approved by the authority having jurisdiction if a proposed scheme can be shown to represent safe operation.

2.1.5.3 Surface Lifts. The speed of the lift and the spacing of the towing outfits shall be such that the minimum loading intervals designated in 2.1.5.3.1 and 2.1.5.3.2 are maintained, unless reduced time intervals are approved by the authority having jurisdiction.

For lifts with detachable grips, means shall be provided to maintain the minimum distance between successive skiers that was used in the design of the lift. The skier(s) shall not be loaded until the skier(s) ahead has (have) traveled this minimum distance from the loading point.

Automatic launching devices meet the requirements of 2.1.5.3 when timed to release to meet the minimum loading interval.

2.1.5.3.1 Single-Passenger Carriers. The minimum loading interval shall be 3 seconds plus the time required to extend the towing outfit to such a point that the passenger starts to move.

2.1.5.3.2 Multiple-Passenger Carriers. The minimum loading interval shall be 4 seconds plus the time required to extend the towing outfit to such a point that the passengers start to move.

2.1.5.4 Tows

2.1.5.4.1 Capacity. The loading interval and capacity shall be regulated to suit the design limitations

Table 1
Maximum Carrier Speed, in Feet per Minute, for Chair Lifts with Fixed Grips

Conditions of Use	Single Chair	Double Chair	Triple Chair	Other Chairs
Skiers	600	550	500	450
Foot passengers	350	300	275	250

of the equipment as well as the slope gradient and the ability of the skiers to load and leave the tow safely.

2.1.5.4.2 Fiber Rope Tows. The rope speed shall not exceed 1500 feet per minute for passenger operation, with the following exceptions and qualifications:

(1) Higher speeds may be used to transport ski patrol members on emergency missions.

(2) In the case of each tow, speed of operation should be specifically approved by the authority having jurisdiction. The authority may require lower speeds under some conditions and may also grant special exceptions for operation at higher speeds if safe operation can be demonstrated to the satisfaction of the authority having jurisdiction.

2.1.5.4.3 Wire Rope Tows. The rope speed shall not exceed 800 feet per minute for passenger operation.

2.1.6 Structures and Foundations (All Classifications). All structures and foundations shall be designed and installed in conformance with applicable criteria listed in 1.3. Applied design loads shall include dead, live, snow, wind, and dynamic loads due to normal or emergency operation.

Structures and foundations located in snow creep areas shall be designed for such conditions and loads or be protected by snow breakers or shears.

2.1.6.1 Structures. Where structures are bolted to foundations, double nuts, lock nuts, or equivalent means of locking nuts shall be used.

2.1.6.1.1 Bicable Sytems – Additional Requirements. On bicable systems, torsional displacement of towers under the most adverse conditions shall be limited to a value that will not cause deropement of the track cable from the saddle.

2.1.6.2 Foundations. In determining the resistance of the earth to motion of the foundation, the subsoil conditions at the site shall be considered, including any buoyancy due to groundwater that may be present. If the resistance of the soil is not practically determinable, the foundation or anchorage should be designed as a gravity anchor using a coefficient of friction appropriate to the general character of the soil. Bottoms of foundations shall be below the normal frost depth unless resting on solid rock, and tops shall be a minimum of 6 inches above the finished grade. Foundations on rock shall be firmly anchored to solid rock unless designed as gravity foundations.

2.1.6.2.1 Factor of Safety. The design shall have a factor of safety of 2 in resisting overturning or sliding under dead load and live load, and 1.5 under these loadings plus wind acting simultaneously.

2.1.6.3 Anchorages – Tows. All structures shall be supported on sills or other supports that, however temporary, are capable of carrying the loads imposed by structural and machine elements under static or operating conditions without shifting or settlement that will impair the operation of the tow.

Anchors may be natural objects or devices installed in a manner capable of withstanding tensions and uplift imposed by tow installation. See 2.2.10.

2.1.6.3.1 Factor of Safety. The design shall have a factor of safety of 2 in resisting overturning, sliding, or withdrawal under dead and live load.

2.1.7 Wire Rope and Strand to Be Used as Haul Ropes, Counterweight Ropes, and Track Cables (All Classifications)

2.1.7.1 Specification. Wire rope or track strand shall be specified by the designer. The specification shall include the following:

(1) Diameter
(2) Diameter tolerance
(3) Number and arrangement of wires
(4) Strength grade
(5) Type of core for wire rope
(6) Lay of wire rope or strand, or both
(7) Nominal breaking strength

This specification shall also state that the rope or strand member shall comply with all provisions of 4.1.

This specification shall be referred to herein as the Approved Specification. Copies of the Approved Specification shall be furnished to the manufacturer, owner, and authority having jurisdiction.

Only wire rope and track strand that are the subject of and in compliance with an Approved Specification shall be installed on a tramway.

2.1.7.2 Tests. Before installation, a certified test report covering the tests required in 4.2 shall be provided from a testing laboratory in the United States acceptable to the authority having jurisdiction. Unless otherwise specified, the manufacturer of the wire rope or track strand is responsible for performance of all testing requirements of this standard. Copies of the test report (see 4.2.2) shall be furnished to the manufacturer, owner, and authority having jurisdiction.

2.1.7.3 Approval of Specifications and Tests. Copies of the specifications (see 2.1.7.1) and tests (see 2.1.7.2) shall be furnished to the owner and authority having jurisdiction. The authority having jurisdiction

may designate detailed specifications and test procedures to supplement the requirements of 2.1.7.1 and 2.1.7.2.

2.1.7.4 Splices

2.1.7.4.1 **Haul Ropes.** Splicing shall be performed by an experienced splicer acceptable to the authority having jurisdiction. The minimum length of the splice shall be 1200 times the nominal rope diameter. The tails, or lengths of the rope strands tucked into the core of the rope on splicing, shall be a minimum of 30 times the nominal rope diameter in length.

When two or more contiguous long splices occur in a rope, they shall be separated by an undisturbed length of rope that is a minimum of 2400 times the nominal rope diameter.

No type of connection other than the conventional "long" splice shall be used in a haul rope without specific approval of the tramway designer and the authority having jurisdiction.

(1) Reversible bicable systems: Splicing of haul ropes on reversible bicable systems shall not be permitted, with the following two exceptions:

(a) The infrequent case that this rule would result in a shipping package that is too large to handle by existing means of transportation.

(b) When two haul ropes are used, either of which would sustain the maximum load with a static factor of safety of 5 if the other haul rope were broken.

(2) Exception — wire rope tows: Sleeve-type splices or wedge-splice handles are permitted when installed in accordance with the lift manufacturer's instructions. This type of splice shall be replaced annually.

2.1.7.4.2 **Emergency Repairs (Patch).** In the event that damage occurs to the wire rope and such damage is confined only to a single strand of the rope, replacement of the damaged strand will be permitted on an emergency basis and the rope may be continued in service under the following conditions:

(1) Prior approval is obtained from the authority having jurisdiction for such repairs.

(2) A competent wire rope splicer verbally advises the authority having jurisdiction, with written confirmation to the authority having jurisdiction prior to the rope's being placed back in operation, that a suitable replacement strand was available and that all other conditions were such that he was able to make a proper repair to the rope by the use of this method.

(3) The minimum length of the new piece of strand is at least 360 times the nominal rope diameter between end tucks, and the length of tail tucked into the core at each end shall be at least 30 times the nominal rope diameter.

(4) The repaired area is outside of an existing splice, and both new tucks are at least 960 times the nominal rope diameter from the end tuck of an existing splice.

(5) The repaired area is inspected daily for the first 5 days of operation and once weekly thereafter during the operating season, but is removed from operation immediately if core collapse, pulling, high stranding, or other significant distortions occur.

(6) This procedure is a temporary emergency repair. It is intended to permit operation for the remainder of a season but in no case more than 6 months. At the end of the season or after 6 months, whichever comes first, the damaged section shall be cut out and a full-splice repair will be made.

(7) Documents showing the splice diagrams and overall length of the patch, as prepared by the competent wire rope splicer, are filed with the authority having jurisdiction and also placed in the owner's wire rope log for that rope.

2.1.7.4.3 **Counterweight Ropes.** No splices shall be permitted in counterweight ropes.

2.1.7.4.4 **Track Cables.** Track cable couplings shall not be used. No splices shall be permitted in wire rope used as track cables.

2.1.7.5 **End Connections**

2.1.7.5.1 **Haul Ropes — Bicable Systems.** Sockets shall be capable of developing the full strength of the rope to which they are attached. If types of end connections are proposed that are other than the current standard types used in the United States, their suitability should be established by tests. The authority having jurisdiction shall have the right to approve or disapprove the use of the proposed connection even though such tests have been made.

2.1.7.5.2 **Counterweight Ropes.** End connections shall not fail or slip under a tension equal to 80% of the strength of the rope. End connections shall satisfy the recommendations of the manufacturers of the fittings involved. Sections of rope permanently deformed or damaged by the application of wire rope clips, or bent around thimbles, sheaves, or other anchoring devices not meeting the minimum diameters specified in 2.2.7.3, Condition C, shall not be relocated or reused as a part of the section under load.

2.1.7.5.3 **Track Cables.** Rope and cable sockets shall be designed so that they shall not be stressed beyond the yield point of the material used when the ropes or cables they are for are under tensions equal to their nominal breaking strength.

The method of attachment shall be one currently in practice in the United States or established by tests, and shall develop at least 90% of the nominal breaking strength of the cable.

The authority having jurisdiction shall have the right to approve or disapprove the use of the proposed connection even though such tests have been made.

2.1.8 Communications (All Classifications). A permanently installed two-way voice communication system shall be provided between the motor control point, loading stations, and unloading stations. The power for this system shall be independent of the primary power source.

2.1.8.1 Reversible Aerial Tramways – Additional Requirements. An additional system of two-way voice communication from operating room to all carriers and to opposite terminal platform shall be provided where carriers are attended by a conductor.

2.1.8.2 Surface Lifts and Tows – Exceptions. Voice communication systems are not required for those conveyances qualifying for operation by a single operator, as defined in 3.2.2.3.1 and 3.2.2.4.

2.1.9 Electrical Design and Installation (All Classifications)

2.1.9.1 Applicable Codes. All electrical work shall comply with American National Standard National Code, C1-1975 (NFPA No. 70-1975), and American National Standard National Electrical Safety Code, C2 (1973 Edition), including C2.1-1971, C2.2-1960 and Supplement C2.2a-1965, C2.3-1973, and C2.4-1973.

2.1.9.2 Location. All exposed electric power transmission wiring shall be so located that in case of collapse or breakage of the power line it will not come in contact with carriers, ropes, or passengers.

2.1.9.3 Protection. All transformer stations and other electric equipment shall be protected so as to prevent unauthorized persons from entering the area or coming in contact with any portion of the equipment or wiring. All power equipment shall be protected against overloads by proper circuit breakers or fuses.

2.1.9.4 Signal, Communication, and Control Circuits. Only signal, communication, and control circuits are permitted to be supported between towers that support the tramway, lift, or tow. Voltage on overhead or exposed circuits shall be limited to 55 volts.

2.1.9.5 Electric Stop Circuits. All electric stop control circuits shall be energized circuits so that, in the event of electric power failure, the system will fail-safe and the tramway, lift, or tow shall be inoperative. Circuits shall be all-metallic. An inadvertent ground shall cause the system to fail-safe. Circuits may be grounded during lightning storms and when the installation is unattended.

Where guillotine-type switches are used to sever wires in the emergency stop circuit upon deropement from line sheaves, solid conductors shall be used.

Interruption of the emergency stop circuit shall stop the prime mover or auxiliary prime mover, whichever is in use at the time.

When there is only one stop circuit, it shall be classified as the emergency stop circuit.

2.1.9.5.1 Stop Switches. All stop switches in the safety control system shall be of the type that must be reset manually.

2.1.9.6 Grounding. All metallic structures shall be individually grounded using No. 4 copper wire or larger and 5/8-inch diameter by 8-foot-0-inch-long copper-coated steel grounding rod or the equivalent. If the ground connection is not visible, the construction shall be certified in writing by a qualified engineer acceptable to the authority having jurisdiction.

Except for the haul rope on reversible tramways, grounding wheels or equivalent means shall be provided at all terminals and stations for the purpose of grounding track and haul cables, as applicable.

2.1.9.7 Night Lighting. For nighttime operation, operating tramways, lifts, and tows shall be provided with lighting facilities. For aerial tramways and aerial lifts, lighting shall be provided at loading and discharge areas. For surface lifts and tows, the entire path of travel, including the loading and discharge areas, shall be lighted.

2.1.9.7.1 Illumination. Lights shall be located in a manner to provide generally uniform illumination.

2.1.9.7.2 Types. Lamps shall be of a type suitable and rated for minimum temperatures of the location. Fixtures shall be designed to maintain proper lamp operating characteristics.

2.1.9.7.3 Location. Lights shall be mounted on substantial poles or standards. Lift tower and terminal structures may be used for supporting lights subject to the following requirements:

(1) Approval shall be obtained from a qualified engineer and the authority having jurisdiction.

(2) The service conductors to each lift tower or terminal structure shall be underground or in rigid raceways. No wiring shall be supported between towers and no open wiring shall pass over or under the lift line.

(3) A separate enclosed disconnect or circuit breaker shall be required for each tower or terminal structure.

(4) All metallic raceways on a tower or terminal structure shall be grounded.

(5) The lighting installation shall not conflict with other requirements of this standard and shall not interfere with operations of the tramway, lift, or tow in any manner.

2.1.9.7.4 Emergency Lighting. Emergency lighting shall be provided in the event of electric power failure, to permit

(1) Regular unloading of tramway, lift, or tow facilities.

(2) Emergency evacuation of carriers.

2.1.10 Internal Combustion Engine Installation

2.1.10.1 Fuel Storage. Fuel tanks, except for diesel fuel, shall be of adequate capacity to permit un-

interrupted operation during the normal operating period. Where internal combustion engines are located in weatherproof equipment rooms or buildings, fuel tanks shall be located at least 5 feet from the outside of the rooms or buildings for surface tanks or in an underground installation. The fill pipe shall be capped and locked, and located to avoid toxic fumes and fire hazard during refueling. Stopcocks shall be provided on fuel lines at points where the lines enter the building in underground installations or where the lines leave the tanks for aboveground installations.

Integrally mounted fuel tanks are permissible on auxiliary engines located in other than weathertight rooms.

In all respects the installation shall comply with American National Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines, B176.1-1974 (NFPA No. 37-1970).

Exception: Integrally mounted steel fuel tanks may be located within or beneath weathertight buildings supported on, or enclosing, combined drive-tension carriages, provided that the end of the fill pipe is located beyond the sides of the building, has a locked fill cap, and is in such a location as to avoid toxic fumes and fire hazard during refueling.

2.1.10.1.1 **Applicable Specifications.** Liquid fuels shall be stored and handled in accordance with American National Standard Flammable and Combustible Liquids Code, Z288.1-1974 (NFPA No. 30-1973), and American National Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines, B176.1-1974 (NFPA No. 37-1970). Liquefied petroleum gas installations shall be made in accordance with American National Standard for the Storage and Handling of Liquefied Petroleum Gases, Z[illegible].1-1974 (NFPA No. 58-1974).

2.1.10.2 **Exhaust Systems.** Exhausts shall be designed and installed to discharge to the atmosphere. Exhaust stacks within reach of personnel shall be equipped with guards or heat shields.

2.1.10.3 **Gear Shifts.** Where gear shift levers are used on internal combustion engines, provisions shall be made to prevent accidental shifting of levers into speed ratios exceeding design or accidentally into reverse gear during public operation. Gears shall not be shifted when the lift is moving.

2.1.11 **Loading and Unloading Areas.** Platforms, ramps, and related units comprising the loading and unloading areas of all aerial tramway types are integrally related to the safe operation of that unit. They shall be designed and installed in conformance with applicable criteria listed in 1.3.

2.1.11.1 **Reversible Tramways.** Platforms shall be provided with sufficient space for passengers waiting to embark and for passengers disembarking. Provisions shall be made for separation of incoming and outgoing passengers. Railing shall be provided to guide passengers safely to and from the carriers. The platforms should be as level as possible. Steps should be avoided where possible.

Guide rails with curved ends shall be provided so that entrance and exit of carriers to and from the platforms can be accomplished smoothly and with minimum impact when carriers are deflected from the vertical 10 degrees laterally and, simultaneously, 10 degrees longitudinally.

2.1.11.2 **Aerial Lifts – Fixed Grips.** Handrails, safety nets, or ramps shall be provided where required for the protection of the passengers and operating personnel. The haul rope shall approximately parallel the platform.

Carriers passing loading and unloading areas shall not vary in height above the area greater than 4 inches under the most adverse conditions of design loadings and rope tensions.

Intermediate unloading and loading stations, when located in tandem to permit simultaneous unloading and loading at an intermediate station, shall be separated by an adequate distance that will permit the safe exit of the unloading passenger and the reloading of the vacated carrier. In no case shall the distance, in feet, from the unloading point to the loading point be less than 8 times the maximum rope speed in feet per second. Provisions shall be made to provide safe egress from and ingress to these areas. When either area of the combined station is not in operation, a sign shall be so displayed, and the ingress closed.

2.1.11.2.1 **Loading Areas.** Loading areas shall have sufficient level length to permit passengers to load safely. The minimum length shall be 8 feet.

Towers adjacent to loading areas shall be protected to prevent ski tips of passengers from becoming entangled in the towers.

2.1.11.2.2 **Unloading Areas.** Unloading areas shall have sufficient length to permit passengers to unload safely. A minimum length of 8 feet shall be provided that is inclined along the direction of carrier travel not more than 10% downward or upward. The entering end of this section shall be fitted with inclined guards to prevent ski tips of unwary passengers from being caught under the edges of the platform.

Ramps sloping downward from the exit of the unloading area shall not be steeper than 40%.

Bull wheel unloading. When a lift and unloading area are designed for passengers to disembark in close proximity to the upper terminal bull wheel, normally designated as "bull wheel unloading," the following requirements shall be met:

(1) The beginning of the exit ramp shall be so situ-

ated that the combination of ramp slope and distance from point of tangency of bull wheel to top of ramp shall be such that the passengers shall clear the carrier as they ski down the ramp under most adverse conditions of snow friction.

(2) A safety gate shall be required to stop the lift in the event a passenger fails to unload. Provision shall be made to unload passengers from the carrier in this event without either lift reversal or carrying passengers beyond the downhill end of the unloading area.

(3) The discharge ramp shall be clearly identified by a pronounced break having a minimum gradient of 12%.

(4) There shall be a sign clearly identifying the unloading point: "Unload Here."

(5) There shall be no impediment to unobstructed passage of persons inadvertently failing to unload.

(6) Any ramp on the return side shall be required to have proper protection for ski tips of passengers who actuate the safety gate and pass around to this ramp.

2.1.11.3 Aerial Lifts – Detachable Grips. Handrails, safety nets, or ramps shall be provided where required for the protection of the passengers and operating personnel.

2.1.11.4 Surface Lifts. Loading areas shall be of sufficient length and grade to permit the passenger to embark safely.

Unloading areas shall be of sufficient length and grade to permit the disembarking passenger to leave the towing outfit safely. The area shall contain an approximately level section followed by a slight downgrade to assist the passenger skiing away from the towing device.

The distance between unloading area and upper terminal guides shall be sufficient to allow towing outfits to become retracted and to permit their oscillations to diminish adequately before entering the terminal.

2.1.11.5 Tows. Loading areas shall be nearly level. The area shall be free of obstructions and fenced in a manner to guide passengers to the loading point.

Unloading areas shall be nearly level or graded to form a ramp inclined downward in the direction of travel and outward from the line of the uphill track to provide movement away from the tow.

2.1.12 Signs (All Classifications). All signs for instruction of the public shall be bold in design with wording short, simple, and to the point. All such signs shall be prominently placed.

Entrances to all machinery, operators', and attendants' rooms shall be posted to the effect that unauthorized persons are not permitted therein.

The sign "Men Working on Lift" or a similar warning sign shall be hung on the main disconnect switch and at control points for starting the auxiliary or prime mover when men are working on the passenger tramway. See 2.1.15 for additional requirements.

2.1.12.1 Reversible Aerial Tramways and Gondola Lifts. The interior of each carrier shall be prominently posted to show:

(1) The maximum capacity of each carrier in pounds and number of passengers. (This shall also be posted at each loading area.)

(2) Instructions for procedure in emergencies.

2.1.12.2 Aerial Lifts (except Gondola Lifts). The following signs shall be posted:

(1) "Prepare to Unload" (not less than 50 feet ahead of unloading area)

(2) "Keep Ski Tips Up" (ahead of any point where skis may come in contact with a platform or the snow surface)

(3) "Unload Here"

(4) "Safety Gate" (if applicable)

(5) "Remove Pole Straps from Wrists" (at loading area)

(6) Sign visible at all points of downhill loading, listing downhill capacity of lift.

2.1.12.3 Surface Lifts. The following signs shall be posted:

(1) "Prepare to Unload" (not less than 50 feet ahead of unloading area)

(2) "Stay in Track"

(3) "Unload Here"

(4) "Safety Gate"

(5) "Remove Pole Straps from Wrists" (at loading area)

2.1.12.4 Tows. The following signs shall be posted:

(1) "No Loose Scarves
No Loose Clothing
No Long Hair Exposed"
(at loading area)

(2) "Stay in Track"

(3) "Unload Here"

(4) "Safety Gate"

2.1.12.5 Night Lighting (All Classifications). All signs required for normal daytime operation shall be in place, and those pertaining to the tramway, lift, or tow operations shall be adequately lighted for night skiing.

2.1.13 Evacuation – Reversible Aerial Tramways and Aerial Lifts. These installations shall be provided with approved means to evacuate passengers from stranded carriers. For heights over 250 feet, or for locations over obstacles such as rivers, etc, evacuation equipment shall include an emergency carrier system or other approved equivalent rescue device.

All nonmetallic rope used for evacuation shall be of synthetic polyester fiber[1] or of a hard lay nylon with a minimum diameter of 7/16 inch and a minimum break-

[1] For example, Dacron.

ing strength when new of 5000 pounds. No natural fiber or polypropylene ropes shall be used.

These ropes shall be carefully stored when not in use, and they shall be examined after each complete lift evacuation and prior to each season of operation, both summer and winter, to ascertain that they are in satisfactory condition.

Carabiners, if used, shall be of the locking type.

2.1.14 Acceptance Tests and Inspection (All Classifications). Before the system is opened to the public, it shall be given thorough inspection and tests by qualified personnel to verify compliance with the plans and specifications of the designer and all applicable regulations of the authority having jurisdiction. The designer or manufacturer shall propose and submit a load test procedure for approval by the authority having jurisdiction.

It shall be the responsibility of the owner to see that the following conditions have been met:

(1) Tightness of all structural connections

(2) Lubrication of all moving parts

(3) Alignment and clearances of all open gearing

(4) Installation and alignment of all drive components

(5) Position and freedom of movement of counterweights or other tensioning means and carriages

(6) Haul rope alignment at entrance to bull wheels

(7) Operation of all electrical components, including circuit protection and grounding

2.1.14.1 Reversible Aerial Tramways and Aerial Lifts – Additional Requirements. Inspection shall also cover:

(1) Track cable and haul rope sags under the most adverse static loadings.

(2) Alignment of track cable saddles and haul rope sheave units.

(3) Evacuation equipment and procedures, including an actual test at the most difficult location.

(4) Towers and terminals, for correct location and installation in accordance with plans and specifications. A certification from a representative of the designer may be accepted as evidence of compliance with this provision.

(5) Thorough operating tests under full loading and any partial loadings that may provide the most adverse operating conditions. Test load per carrier shall be 110% of the design live load. For chair lifts wherein loaded chairs can pass around the terminal (see 2.2.11.2.2(1)), the test shall include passing a loaded carrier with twice the design live load around the bull wheel at full speed. The functioning of all push-button stops, automatic stops, limit switches, selected detrapement switches, and communications shall be checked. Acceleration and deceleration rates shall be satisfactory under all loadings. Motive power and all braking and backstops shall be proved adequate under the most adverse loadings. The tests shall include at least 6 hours of continuous operation with empty carriers to check for overheating of moving parts, excessive vibration or deflection of mechanical or structural components, free movement of tensioning systems, etc.

(6) For systems using detachable grips, all transfer, launching, and grip-testing equipment shall be thoroughly checked both before and during the continuous run test.

2.1.14.2 Surface Lifts – Additional Requirements. Inspection shall also cover:

(1) Alignment of haul rope line sheave units.

(2) Haul rope sags.

(3) Retraction of towing outfits.

(4) Towers, bents, and terminals, for correct location and installation in accordance with plans and specifications. A certification from a representative of the designer may be accepted as evidence of compliance with this provision.

(5) Thorough operating tests. The functioning of all push-button stops, automatic stops, safety gates, limit switches, selected detrapement switches, and communication devices shall be checked. Braking shall be proved adequate. The tests shall include at least 3 hours of continuous operation with empty carriers at full speed to check for overheating of moving parts, excessive vibration or deflection of mechanical or structural components, free movement of tensioning systems, etc.

2.1.14.3 Tows – Additional Requirements. Inspection shall also cover:

(1) Horizontal and vertical clearances. See 2.1.4.5.

(2) Terminals for correct location and installation in accordance with plans and specifications.

(3) Thorough operating tests. The functioning of all push button stops, safety gates, etc, shall be checked. Braking shall be proved adequate. The tests shall include full-speed operation for as long as required to check for overheating of moving parts, excessive vibration or deflection of mechanical or structural components, free movement of tensioning systems, etc.

(4) Rope twist or spiraling.

2.1.15 Safety of Operating and Maintenance Personnel (All Classifications). Provision shall be incorporated in an aerial tramway design to render the system inoperable when necessary for the protection of personnel working on the tramway.

2.2 Terminals and Stations

2.2.1 Prime Mover (All Classifications). All prime movers shall have capacity to handle the most unfavorable design loading conditions, including the starting of a fully loaded tramway, lift, or tow.

Where manual multispeed transmissions are used on either the prime mover or auxiliary prime mover, gears shall not be shifted when the tramway is moving.

Where reverse capability is provided on the prime mover or auxiliary prime mover for any tramway, provisions shall also be made to prevent accidentally shifting into reverse whenever the tramway is operating.

2.2.1.1 Auxiliary Power Unit – Reversible Aerial Tramways and Gondola Lifts. An auxiliary power unit with an independent power source shall be provided that can readily be used to move the carrier(s) to a terminal in the event of failure of the primary power unit, unless other means acceptable to the authority having jurisdiction are provided. A single auxiliary power unit shall not be used except to unload passengers and for maintenance purposes. The auxiliary engine shall not depend upon the mechanical integrity of a single prime mover to drive the unit.

2.2.1.2 Auxiliary Power Unit – Aerial Lifts (Other than Gondola Lifts). An auxiliary power unit with an independent power source shall be provided that can readily unload the line in the event of failure of the primary power unit. As a minimum, the auxiliary power unit shall be capable of starting and moving a fully loaded line in a forward direction at not less than 100 feet per minute or at an average speed in feet per minute equal to 1/60 the slope length of the lift in feet, whichever is greater. The auxiliary engine shall not depend upon the mechanical integrity of a single prime mover to drive the unit.

A single auxiliary power unit shall not be used except to unload passengers and for maintenance purposes unless the following requirements are met.

(1) All automatic brakes, the manual brakes, and backstop are functional with the auxiliary drive. The automatic brake may be manually operated if an attendant is specifically assigned to this function and has no other duties.

(2) All control circuits, safety gates, and stop switches are functional and control the auxiliary drive.

(3) Temperature and weather conditions are such that a 2-hour waiting period in the carrier would not be injurious to passengers.

(4) Evacuation gear and personnel are immediately available in sufficient number and quantity that the entire lift can be evacuated in a 2-hour period. Demonstration of the capability will be required before authorization is granted to use the auxiliary power unit for passenger operations.

(5) If downhill capacity is desired, 2.2.4.2 must be complied with.

2.2.1.3 Auxiliary Power Unit – Surface Lifts and Tows. None required.

2.2.2 Speed Reducers and Gearing (All Classifications). All speed reducers and gearing shall have capacity for starting a tramway, lift, or tow under the most unfavorable design loading conditions, and shall comply with the following standards of the American Gear Manufacturers Association,[2] as applicable:

Surface Durability (Pitting) of Spur Gear Teeth, AGMA 210.02, 1965

Surface Durability (Pitting) of Helical and Herringbone Gear Teeth, AGMA 211.02, 1969 (R1974)

Surface Durability (Pitting) Formulas for Straight Bevel and Zerol Bevel Gear Teeth, AGMA 212.02, 1964 (R1974)

Information Sheet for Surface Durability (Pitting) of Spur, Helical, Herringbone and Bevel Gear Teeth, AGMA 215.01, 1966 (R1974)

Surface Durability (Pitting) Formulas for Spiral Bevel Gear Teeth, AGMA 216.01, 1964

Rating the Strength of Spur Gear Teeth, AGMA 220.02, 1966

Rating the Strength of Helical and Herringbone Gear Teeth, AGMA 221.02, 1965

Rating the Strength of Straight Bevel and Zerol Bevel Gear Teeth, AGMA 222.02, 1964

Rating the Strength of Spiral Bevel Gear Teeth, AGMA 223.01, 1964

Practice for Gearmotors Using Spur, Helical, Herringbone and Spiral Bevel Gears, AGMA 460.05, 1971

Practice for Spur, Helical and Herringbone Gear Shaft-Mounted Speed Reducers, AGMA 480.05, 1974

2.2.3 Bearings, Clutches, Couplings, and Shafting (All Classifications). Bearings, clutches, and couplings shall be selected on the basis of the manufacturer's published recommendations for the particular use. If published data are not available for the specific use, the manufacturer's approval shall be obtained. Bearings, clutches, and couplings of special design, if used, should have the approval of a qualified mechanical engineer.

Provision shall be made for adjustment and lubrication of all bearings, clutches, and couplings when required.

All shafting shall be designed in accordance with accepted standard practices.

2.2.4 Acceleration and Speed Control.

2.2.4.1 Reversible Aerial Tramways. Acceleration and speed controls are prime considerations for

[2] Available from American Gear Manufacturers Association, 1330 Massachusetts Avenue, N.W., Washington, D.C. 20005.

this type of tramway in order to avoid discomfort to the passengers caused by undue longitudinal swinging of the carrier or by excessive acceleration or deceleration and in order to start and stop the carriers smoothly and safely.

In addition, the following requirements shall be incorporated in the design:

(1) Provision shall be made for smooth deceleration of the tramway prior to the actuation of one of the automatic drive terminal brakes described in 2.2.5.1. The operation of the drive sheave brake or track cable brake shall not result in deceleration of the tramway that exceeds 7 feet per second squared under the most adverse design conditions.

(2) Carrier(s) shall be brought to a stop for loading and unloading, and provision shall be made to keep the carrier(s) stationary during loading and unloading periods. The control room shall contain, in full view of the operator, indicators that will show the location of the carrier(s) at all times.

(3) Provision shall be made for an overhauling load so that the system shall always operate at a controlled speed not exceeding design speed by more than 6%. The energy developed by the overhauling load shall be dissipated in a satisfactory manner without using the brakes specified under 2.2.5.1.

2.2.4.2 Aerial Lifts. The drive equipment shall be designed to accelerate the line smoothly and to avoid severe oscillation or undulation under any loading condition.

For lifts in this category that have stationary loading and unloading, the acceleration and deceleration of the carrier to and from the design rope speed shall be of such rate as not to endanger the carrier or the passenger. The interval between carriers shall be controlled by automatic carrier spacers or other suitable devices. Unbalanced loading shall be controlled to the extent required by the design through the use of automatic carrier counters or other suitable devices.

The drive shall be capable of rotating the unloaded system at reduced speed for rope inspection and equipment maintenance. This reduced-speed operation may be obtained by the use of the auxiliary engine.

On installations in which an overhauling condition exists:

(1) Provision shall be made for an overhauling load so that the system shall always operate at a controlled speed not exceeding design speed by more than 6%. The energy developed by the overhauling load shall be dissipated in a satisfactory manner without using the brakes specified under 2.2.5.2.

(2) Provision shall be made for slowing and stopping the lift drive automatically if the line speed exceeds the design speed by more than 10%. The service brake (see 2.2.5.2.1) shall slow and stop the tramway automatically if the line speed exceeds the design speed by more than 10%, and the emergency brake shall automatically slow and stop the tramway if the line speed exceeds the design speed by more than 15%.

Design values of line speed pertain to the design speed for the particular condition of operation (that is, winter operation with skiers, summer operation with foot passengers, etc).

All installations in which downhill traffic is either limited or not permitted shall be so identified with clearly visible signs at loading or unloading areas, and this information shall be further contained in operating instructions posted in these areas.

2.2.4.3 Surface Lifts and Tows. Acceleration of a drive shall be regulated with regard to lift or tow type, profile, speed, and use to the satisfaction of the authority having jurisdiction.

2.2.5 Brakes (All Classifications). All braking systems shall be capable of operation to comply with daily inspection required by 2.2.4.2(4). All emergency brakes shall be capable of retarding the speed within 5 seconds after the operator or attendant reacts to the stimulus to apply the brake.

2.2.5.1 Reversible Aerial Tramways. Each reversible aerial tramway shall have the brakes designated in 2.2.5.1.1 through 2.2.5.1.3.

2.2.5.1.1 Service Brake. An automatic brake to stop and hold the tramway system under maximum load when power is shut off or the tramway is stopped for any reason. This brake shall be applied to a drive shaft so that there is no clutch, or similar device, between the brake and the drive sheave.

The brake shall be automatically applied mechanically by springs or weights except in cases wherein another type of fail-safe brake has been specifically approved by the authority having jurisdiction. In all cases the brake shall be normally in the applied position. It shall be held open for operation of the tramway by a device that is automatically cut out when power is shut off or the tramway is stopped. This device shall be placed in operation before the tramway is started. This brake shall decelerate the tramway at a minimum rate of 1 foot per second squared when operating under the most unfavorable condition of overhauling load and at full speed.

2.2.5.1.2 Overspeed Device. An automatic overspeed device that will interrupt the power to the prime mover and actuate the service brake or a similar independent brake if the speed of the tramway can exceed the rated speed by more than 10%.

2.2.5.1.3 Emergency Brake. An emergency brake located on the main drive sheave with controls within reach of the operating attendant. It shall be ap-

plied automatically if the speed of the haul rope exceeds the design speed by more than 15% or if the carriers travel beyond their stopping position in either terminal.

The automatic actuation of this brake should be fail-safe, powered either by springs or weights. This brake, when set automatically, shall stop and hold a fully loaded tramway at a deceleration rate not to exceed 7 feet per second squared and not less than 1.5 feet per second squared when operating under the most unfavorable condition of overhauling load and at full speed.

A qualified engineer shall furnish a written procedure to be followed and specify the auxiliary equipment necessary for periodic testing and adjustment of the holding power of the emergency brake on the drive sheave. Such testing shall be accomplished as part of normal maintenance during the operating season, but shall be performed when the tramway is not open to the public.

2.2.5.2 **Aerial Lifts.** Each aerial lift shall have the brakes designated in 2.2.5.2.1 through 2.2.5.2.4.

2.2.5.2.1 **Service Brake.** An automatic brake to stop and hold the lift under maximum load when power is shut off or the lift is stopped for any reason. This brake shall automatically be applied mechanically by springs or weights. The rate of application of this brake shall not cause an excessively rapid stop so as to cause undue swinging of the carriers or oscillations of the haul rope under any operating conditions.

This brake shall be adjusted so as to stop the lift from full speed when empty or when loaded under the most unfavorable overhauling condition. The stopping distance shall not exceed 10 feet or the distance $d = V^2/8000$, where d is the stopping distance in feet and V is the lift speed in feet per minute, whichever is greater.

This brake shall be applied to a drive shaft so that there is no clutch, or similar device, between the brake and the drive sheave.

The hydraulic system of an aerial lift using a hydraulic motor geared directly to the bull wheel, so designed that the system can operate to perform the function required of a service brake, may be used in place of a mechanical brake, with the approval of the authority having jurisdiction.

2.2.5.2.2 **Emergency Brake.** An emergency brake located on the main drive sheave, with controls located at the operating station. It is not permissible to locate the controls to the emergency brake in a position such that the operator would be required to pass through the path of moving carriers to operate same. Operation of the emergency brake shall automatically stop the prime mover of the lift on installations that are regenerative or have brakes not applied by human force.

A qualified engineer shall furnish a written procedure to be followed and specify the auxiliary equipment necessary for periodic testing and adjustment of the holding power of the emergency brake on the drive sheave. Such testing shall be accomplished as part of normal maintenance during the operating season, but shall be performed when the tramway is not open to the public.

2.2.5.2.3 **Backstop Brake.** A backstop brake to automatically prevent reverse rotation of the tramway. The backstop brake shall act directly on a bull wheel, on a ring gear attached to a bull wheel, or on the haul rope. The backstop brake shall not be located on other than the drive sheave unless its location on other bull wheels will not decrease the factor of safety of the haul rope below the minimum permissible value when the backstop brake operates.

The bull wheel backstop brake and any other low- or high-speed backstop installed in addition to the bull wheel backstop brake shall have the capability of being inactivated during testing periods.

2.2.5.2.4 **General.** The service brake, emergency brake, and backstop brake shall be independent systems, such that failure of one system will not impair the function of the other systems.

Suitable protection shall be provided to assure operation under all anticipated weather conditions.

2.2.5.3 **Surface Lifts.** Each surface lift shall have the brakes designated in 2.2.5.3.1 and 2.2.5.3.2.

2.2.5.3.1 **Backstop Brake.** A backstop brake shall be provided to automatically prevent reverse rotation of the lift under maximum load.

2.2.5.3.2 **Stopping Brake.** Unless an unloaded lift operating at maximum speed will stop in 25 feet or the distance $d = V^2/18\,000$, where d is the stopping distance in feet and V is the lift speed in feet per minute, whichever is greater, an automatic brake shall be provided to assure this stopping distance. This brake shall be applied by springs or weights when any stop switch or safety gate is actuated. If the prime mover is an internal combustion engine, the compression of the engine may serve as a brake when this unit is not declutched by activation of the stop circuit. When the motive power is an internal combustion engine, a positive system shall be provided to stop the lift.

2.2.5.4 **Tows.** Each tow shall have the brakes designated in 2.2.5.4.1 and 2.2.5.4.2.

2.2.5.4.1 **Backstop Brake.** A backstop brake to automatically prevent reverse rotation of the tow is required on all tows having an average grade in excess of 15%. If it can be demonstrated that the tow will not roll back (if declutched) under the most adverse loading, a backstop is not necessary.

2.2.5.4.2 **Stopping Brake.** Unless an unloaded tow operating at maximum speed will stop in 25 feet or less, an automatic brake shall be provided to assure this

stopping distance. This brake shall be applied by springs or weights when any stop switch or the safety gate is actuated. When the motive power is an internal combustion engine, a positive system shall be provided to stop the tow.

2.2.6 Location of Machinery (All Classifications)

2.2.6.1 General. Moving machine parts that normally may be in reach of personnel shall be fitted with safety guards conforming to American National Standard Safety Standard for Mechanical Power Transmission Apparatus, B15.1-1972.

Protection against lightning and static electricity shall be provided.

Fire-fighting devices shall be available.

2.2.6.2 Machinery Not Housed in a Machine Room. Provisions shall be made to keep the public away from the machinery. All power units, all components of the drive train, and all safety devices, such as backstops, brakes, relays, etc, shall be protected from the weather.

2.2.6.3 Machinery Housed in a Machine Room. The machine room shall be well ventilated. It shall have a permanently installed lighting system adequate for proper machinery maintenance and safety of operating personnel. The arrangement shall permit proper maintenance. A door with a suitable lock shall be provided, and the design shall keep the public away from the machinery. When a passageway is provided between machines or machinery and walls, a minimum passageway width of 18 inches shall be maintained. Means shall be provided to heat the machine room unless the designer or manufacturer certifies in writing that the drive machinery is rated for operation in an unheated room.

2.2.7 Sheaves in Terminals and Stations (All Classifications)

2.2.7.1 General. All sheaves, including their mountings and frames, shall be designed to withstand static and dynamic loads. Sheave bearings and mountings shall be selected, designed, and installed in accordance with the recommendations of the manufacturers of the bearings.

When unlined sheave grooves are used for wire rope, they should be V-shaped and shall have rounded bottoms with a radius equal to approximately 55% of the rope diameter.

When lined sheave grooves are used, the allowable bearing pressures of the liner material shall not be exceeded.

2.2.7.2 Haul Rope Terminal Sheaves (Bull Wheels and Deflection Sheaves)

2.2.7.2.1 Reversible Aerial Tramways and Aerial Lifts. Haul rope terminal sheave frames shall be so designed as to retain the rope in the event of sheave, shaft, or mounting failure. In instances where the sheave is cantilevered, the design working stresses shall not be more than 60% of those otherwise allowable.

The minimum diameter of terminal sheaves shall be 72 times the nominal diameter of the haul rope, provided that no gripping device passes around the sheave. The minimum diameter shall be 96 times the nominal haul rope diameter in cases where gripping devices pass around the sheave. The sheave assembly shall be designed to retain the haul rope in the event of a deropement from the sheave. A flange extension of 1-1/2 times the rope diameter (measured from the bottom of the rope groove) shall be deemed adequate for retention when the provisions of 2.2.7.4.1 are fully complied with.

Haul rope terminal sheaves that act as driving, braking, or holding sheaves shall be so designed that the haul rope does not slip in the sheave groove. The design coefficient of friction for a particular sheave liner shall not exceed the following values:

Sheave Liner	*Coefficient of Friction*
Steel or cast iron grooves	0.070
Leather	0.150
Rubber or neoprene	0.205

For other sheave liner combinations, values shall be determined to the satisfaction of the authority having jurisdiction, but in no case shall the value exceed 0.205.

2.2.7.2.2 Surface Lifts and Wire Rope Tows. Haul rope terminal sheave frames shall be so designed as to retain the sheave in the event of shaft or mounting failure. In instances where the sheave is cantilevered, the design working stresses shall not be more than 60% of those otherwise allowable.

The minimum diameter of terminal sheaves shall be 72 times the nominal diameter of the haul rope, provided that no gripping device passes around the sheave. The minimum diameter shall be 80 times the nominal haul rope diameter in cases where gripping devices pass around the sheave. In the latter case, means shall be provided to guide towing outfits or towing handles into, around, and out of terminal sheaves and to prevent the towing outfits or towing handles from swinging excessively while passing around the sheave. The sheave assembly shall be designed to retain the haul rope in the event of a deropement from the sheave.

Haul rope terminal sheaves that act as driving, braking, or holding sheaves shall be so designed that the haul rope does not slip in the sheave groove.

For wire rope tows, provisions shall be made to permit adjustment of the terminal sheaves to control the rotation of the haul rope and towing devices.

Table 2
Minimum Diameters for Counterweight Rope Sheaves and Sheaves Not Specifically Covered Elsewhere

	Sheave Diameter		
Rope Type	Condition A	Condition B	Condition C
6 × 7	72*d*	42*d*	24*d*
6 × 19	45*d*	30*d*	20*d*
6 × 37	27*d*	18*d*	12*d*

NOTE: *d* equals the nominal rope diameter.

2.2.7.2.3 Fiber Rope Tows. Sheaves shall be of such design and so arranged as to prevent unnecessary stressing, wear, or disfiguration of the fiber haul rope. They shall be of sufficient strength and properly balanced to prevent excessive vibration at any operating speed. A suitable method shall be provided to retain the rope in the terminal in the event of a deropement from the sheave.

2.2.7.3 Counterweight Rope Sheaves and Sheaves Not Specifically Covered Elsewhere (All Classifications). The minimum diameters for these sheaves shall be as indicated in Table 2.

Condition A is applicable where bending over sheaves is of major importance. This condition shall be used as a minimum design criterion for track cable counterweight ropes.

Condition B is applicable where bending over sheaves is important, but some sacrifice in rope life is acceptable to achieve reduction in weight, economy in design, etc.

Condition C is applicable to sheaves that are not intended to rotate due to any tension sheave movement but are intended to rotate only due to counterweight adjustment.

In the case of locked coil track cable passing over a sheave or roller chain and connected directly to a counterweight, the radius of curvature of the sheave or the roller chain shall not be less than 100 times the cable diameter or 1200 times the greater dimension of the cross section of the largest wire of the cable, whichever is greater.

Provisions shall be made to assure that all counterweight sheaves rotate freely.

2.2.7.4 Haul Rope Line Sheaves (All Classifications). The requirements of 2.3.3 are applicable to haul rope line sheaves used in terminals and stations, with the following exceptions:

(1) Sheaves that carry no load other than the weight of the rope and carriers.

(2) Where the sheaves are located such that the weight of carriers is either wholly or partially supported on tracks or by other means.

(3) Where the sheaves are located such that carriers attached to the cable are not passing onto the sheaves.

In such cases the design shall be modified to meet the requirements of the particular installation.

2.2.7.4.1 Aerial Lifts with Fixed Grips Only. Guide sheaves shall be located in order to prevent misalignment of rope entering and leaving the drive and return sheaves. Such sheaves shall be as close as practicable to the drive and return sheaves, but not farther than one diameter of the drive or return sheave from the point of tangency. Shoes, rollers, or sheaves shall be placed on the opposite side of the rope adjacent thereto to prevent deropement in that direction.

2.2.7.4.2 Surface Lifts. On all installations except floating tension sheave carriages (see 2.2.8.4) the requirements of 2.2.7.4.1 are applicable.

2.2.7.4.3 Tows. In the event auxiliary terminal guide sheaves are required, they shall be sized and located, have sufficient guides, and be otherwise designed to present no operation hazard to passengers, operating personnel, or mechanical elements of the tow.

2.2.8 Tension Sheave Carriages (All Classifications). The available travel of the tension sheave and carriage shall be adequate for the maximum limits of motion under normal operation.

2.2.8.1 Reversible Aerial Tramways – Rigid Mounted Carriages. For all carriage arrangements other than those whose motion is vertical, the mounting that travels under the action of the counterweight shall be supported on rigid straight rails by means of wheels. For carriage arrangements with vertical motion, guides shall be provided.

2.2.8.2 Aerial and Surface Lifts – Rigid Mounted Carriages. The sheave carriage shall be supported from the ground by a rigid structure. The mounting that travels under the action of the counterweight shall be supported on rigid, straight rails by means of wheels. Torsional loads due to driving torque, braking torque, or reactions of a backstop shall be considered, and the structure and carriage shall adequately transmit these loads to the foundations.

Mechanical stops shall be provided to prevent overtravel of the carriage and the tension sheave. These stops and the terminal structure shall be designed so as to resist, at normal design stresses, an unbalanced horizontal force on the bull wheel applied in the direction of the opposite terminal and equal in magnitude to 30% of the counterweight reaction on the bull wheel.

2.2.8.3 Aerial Lifts – Floating Tension Sheave Carriages. The sheave mounting shall be installed and operated in such a manner that the haul rope, in every case, considering every possibility of overloading, remains in the center of the sheave groove. The lateral

tilt of the sheave shall not exceed 2 degrees from the horizontal when in a stationary position and when the up-going and down-going unloaded carriers are equidistant from the sheave.

To prevent excessive lateral tilt in case a loaded carrier passes around the sheave, the counterweight or anchor cables shall be connected to at least two points on the mounting frame of the sheave. The connections of the counterweight or anchor cables to the sheave frame and the support points of the cables shall be spaced a minimum of 70% of the pitch diameter of the sheave and increased as necessary to limit the allowable lateral tilt of the sheave to a maximum of 6 degrees from the static position when passing a carrier with full design load.

The design shall incorporate provision for adjustment to control the position of the haul rope entering the terminal sheave.

2.2.8.4 Surface Lifts – Floating Tension Sheave Carriages. A floating tension sheave carriage may be used and operated with a lateral tilt of more than 6 degrees if it is of the type that has proved to give satisfactory service in the industry, or that has been specifically approved by the authority having jurisdiction. Otherwise, the provisions of 2.2.8.3 shall apply. In any event, adequate control measures shall be taken to prevent the rope from riding on the flanges or derailing from the terminal sheave and the tower sheaves on the nearest line tower.

2.2.8.5 Tows. The idler terminal sheave may be supported by a rigid structure or carried in a floating manner. The assembly shall not be subject to collapse in the event of detopement and the subsequent retaining of the rope by the structure or sheave mounting.

2.2.9 Counterweight and Tensioning Systems

2.2.9.1 Counterweights (Reversible Aerial Tramways, Aerial Lifts, and Surface Lifts). Counterweights or other suitable devices shall be provided to determine and regulate the tension of all haul ropes. Counterweights, when used, shall be arranged to move freely up and down. Enclosures for counterweights shall be provided where necessary to prevent snow or ice from accumulating under and around the counterweights and interfering with their free movement. When a counterweight is contained in a structural frame, guides shall be provided to protect the frame, and to ensure free movement of the counterweight. Where snow enclosures are not required, guardrails or enclosures shall be provided to prevent unauthorized persons from coming in contact with or passing under counterweights.

The counterweight, or other suitable device, shall have sufficient travel to take care of all normal operating changes in loading and temperature. Counterweights, if used, shall determine and regulate the tension during all operating periods. Where counterweights or other devices are used for track cables the same provisions shall apply.

2.2.9.2 Counterweight Ropes (All Classifications). Counterweight ropes shall have a minimum factor of safety of 6, when new. The factor of safety is equal to the nominal breaking strength of the rope (see 4.1.2) divided by the maximum static design tension. On arrangements involving rope reeving, the maximum design static tension, with sheave friction taken into account, shall be the basis for determining factor of safety.

Counterweight ropes shall be adjusted so that the counterweight will reach the end of its travel before the attached tension sheave carriage comes within 6 inches of the end of its travel.

See 2.1.7 for additional requirements.

2.2.9.3 Tensioning Devices (Wire Rope Tows). An approved mechanical or hydraulic tensioning system shall be provided to ensure that the haul rope tension does not exceed a value of one-fifth its nominal breaking strength under the most unfavorable accumulation of stress due to loading, operating, temperature, and like considerations. A visual means of verifying this restriction shall be provided.

2.2.9.4 Tensioning Devices (Fiber Rope Tows). All installations shall have provisions for adjusting rope tension. For installations using a bottom drive or others where the designer or authority having jurisdiction deem it necessary, an approved counterweight or other suitable device shall be installed to maintain proper tension.

2.2.10 Anchoring Devices (All Classifications). All anchoring end connections shall be above finished grade. Any portion of an anchorage below ground shall be protected against loss of strength due to corrosion.

Sections of wire ropes bent around thimbles, sheaves, or other anchorage devices not meeting the minimum diameters specified by Condition C in 2.2.7.3, or permanently deformed or damaged sections, shall not be relocated or reused as a part of the section under load.

Wire ropes, or strands, and their connections, used to anchor, tension, or otherwise secure terminal structures, shall be designed with a minimum factor of safety of 6. Where adjusting devices are used in the arrangement, the devices must be capable of being securely locked or removed during operation.

2.2.10.1 Counterweight Winches. Winches that are used for counterweight system take-up and remain a permanent part of the system shall have a factor of safety of 6 against their ultimate capacity. They shall have a positive lock against release. Where this factor of safety cannot be established by manufacturer's endorsement, a safety device shall be installed on the counterweight rope ahead of the winch that will keep

the tensioning system intact in the event of failure or release of the winch.

2.2.11 Manual and Automatic Stops (All Classifications). All stop circuits and switches shall conform to the requirements of 2.1.9.5.

2.2.11.1 Reversible Aerial Tramways

2.2.11.1.1 Manual Stops. The following manual stop switches shall be installed:

(1) A stop at each terminal platform

(2) A stop on the conductor's control console in each carrier when a conductor is required in the carrier (see 2.4.5.1.2(1))

(3) An operator's stop

2.2.11.1.2 Automatic Stops. The following automatic stop switches shall be installed:

(1) A stop that will be actuated in the event manual or automatic controls fail to reduce tramway speeds to design values at critical control points along the line.

(2) A stop that will stop the tramway before the carrier reaches its limit of travel. An adequate bumper system shall also be installed.

(3) Stops to stop the tramway before any counterweight or tension sheave carriage reaches either end of its travel.

(4) Stops that will be actuated by the application of a track cable brake. These stops shall activate both the service and emergency brakes.

2.2.11.2 Aerial Lifts — Fixed Grips

2.2.11.2.1 Manual Stops. Manual stop switches that will stop the prime mover and apply the service brake shall be installed in all attendants' and operators' stations, in machine rooms, and out-of-doors in close proximity to all loading and unloading areas.

2.2.11.2.2 Automatic Stops. The following automatic stop switches shall be installed:

(1) Stops beyond each unloading area. For actuating devices of the suspended type, the suspended portion shall be part of the safety circuit, and each side shall be detachable and shall interrupt the safety circuit when detached. The location of the automatic stop switch shall be in accordance with the following:

(a) Intermediate stations. Required only when traffic is not permitted beyond the intermediate station. The device shall automatically stop the lift in the event a passenger rides beyond the intended point of unloading.

(b) Terminal unloading areas. If danger to passengers or equipment would result in the event the passenger entered or passed around a terminal at full speed, the stop shall be so located that the distance from the stopping device to the first obstruction or tangent of the bull wheel, whichever is less, is 150% of the distance required to stop with the lift operating at maximum speed and the most unfavorable loading condition.

If no danger to passengers or equipment would result in the event the passenger entered or passed around the terminal at full speed, the stop shall be so located that the lift is stopped before the passenger passes beyond an unloading area on the opposite side of the lift from the normal unloading point and adjacent to the terminal, under conditions of maximum speed and the most unfavorable loading condition.

(2) Automatic stopping devices to stop the tramway if the rope leaves the bull wheel groove, or departs from its normal running position.

(3) Stops to stop the lift before any counterweight or tension sheave carriage reaches either end of its travel.

2.2.11.3 Aerial Lifts — Detachable Grips

2.2.11.3.1 Manual Stops. Manual stop switches that will stop the prime mover and apply the service brake shall be installed in all attendants' and operators' stations, in machine rooms, and out-of-doors in proximity to all loading and unloading areas.

2.2.11.3.2 Automatic Stops. The following automatic stop switches shall be installed:

(1) A stop, or stops, that will stop the lift in the event a carrier grip does not engage properly to the haul rope at every grip attachment point.

(2) A stop, or stops, that will stop the lift in the event a carrier does not disengage properly from the haul rope at every grip disengaging point. This stop shall actuate both the service brake and the emergency brake.

(3) Stops to stop the lift before any counterweight or tension sheave carriage reaches either end of its travel.

2.2.11.4 Surface Lifts and Tows

2.2.11.4.1 Manual Stops. Manual stop switches that will stop the prime mover and apply the service brake shall be installed in all attendants' and operators' stations, in machine rooms, and out-of-doors in close proximity to all loading and unloading areas.

2.2.11.4.2 Automatic Stops. The following automatic stop switches shall be installed:

(1) Stops beyond each unloading area. For actuating devices of the suspended type, the suspended portion shall be part of the safety circuit and each side shall be detachable and shall interrupt the safety circuit when detached. The location of the stop shall be in accordance with the following:

(a) Intermediate unloading stations. Required only when skiers are not permitted beyond the intermediate unloading station. The device shall automatically stop the lift in the event a skier or an untethered towing outfit passes beyond the intended point of unloading.

(b) Terminal unloading areas. Always required. The device shall automatically stop the lift in the event a skier or an untethered towing outfit passes beyond

the safety gate. The gate shall be so located that the distance from the stopping device to the first obstruction or point of reversal of direction of the towing outfits is 150% of the distance required to stop the empty lift operating at maximum speed.

A device shall be installed on the down side of surface lifts to stop the lift in the event a towing outfit fails to retract. This device shall be located as near to the upper terminal as practical, but in no event be further downhill than opposite to the unloading area.

(2) For surface lifts only, stops to stop the lift before any counterweight or tension sheave carriage reaches either end of its travel.

(3) For fiber rope tows, a device (safety gate) that actuates the automatic stop. This device shall encircle the up-going rope.

2.2.12 Wind Gages

2.2.12.1 **Reversible Aerial Tramways.** A wind gage shall be installed on the most exposed point along the tramway line unless an exception is made by the authority having jurisdiction. When there is a wind gage, a conspicuous warning device shall function to alert the operator when wind velocity reaches the established maximum. When wind conditions, as determined by such a device or by observation of an operator or attendant, make operations dangerous, the tramway shall be unloaded and the operations discontinued.

2.2.12.2 **Aerial Lifts.** A wind gage shall be installed on the most exposed point along the aerial lift line if required by the authority having jurisdiction. When there is a wind gage, a conspicuous warning device shall function to alert the operator when wind velocity reaches the established maximum. When wind conditions, as determined by such a device or by observation of an operator or attendant, make operations dangerous, the aerial lift shall be unloaded and the operations discontinued.

2.3 Line Structures

2.3.1 Towers

2.3.1.1 **Reversible Aerial Tramways, Aerial Lifts, and Surface Lifts.** The design of the tower structure and foundation shall be in accordance with the requirements of 2.1.6. Where guyed towers are used and guys intersect the ground within or near ski runs, the guys shall be marked for visibility, preferably with boards painted with black and yellow stripes.

Means shall be provided for ready access from the ground to all tower tops. This requirement will be fulfilled if the tower structure is such that it is safe to climb. Otherwise, means such as permanent or light, portable ladders shall be provided. The latter, if used, shall be in at least sufficient quantity to be available at each point where attendants are stationed.

Towers shall be identified with successive numbers clearly visible when looking up the tramway or lift line.

Where towers are designed to permit variations in rope height, sheave unit supports shall be guided and attached so as to prevent misalignment by rotation during normal operation.

2.3.1.2 **Trestles and Monorails.** The design of trestles and monorails shall satisfy the requirements of 2.1.6 and any further portions of 2.3.1.1 that may be relevant to the particular design.

Provision shall be made for expansion and contraction of the actual track (or rail). Facilities shall be provided for maintenance and emergency access to the trestle track deck from the ground at intervals not exceeding 800 feet, and to the monorail at any point.

Bents shall be clearly identified with successive numbers.

2.3.1.3 Tows

2.3.1.3.1 **Fiber Rope Tows.** The intermediate supports for return fiber rope sheaves shall be in accordance with the requirements of 2.1.6. When guys or braces are used, they shall be clearly marked and conform to the clearance requirements of 2.1.4.5.2 and 2.1.4.5.3.

There shall be no spikes, hooks, or other projections on the fiber haul rope side, or on the downhill side of the tower lower than 7 feet above the snow surface of the uphill track.

2.3.1.3.2 **Wire Rope Tows.** There shall be no intermediate line structures on a wire rope tow having towing devices attached to the rope. When towing devices are not permanently attached, line tower structures will be permitted between the loading and discharge points to carry the return rope only; provisions of 2.1.4.5.3(2) and 2.3.1.3.1 are applicable. No guyed towers shall be permitted.

2.3.2 Guards and Clearances

2.3.2.1 **Reversible Aerial Tramways.** Suitable guards shall be provided to prevent the carriers from contacting intermediate towers or other fixed objects.

On bicable tramways with track rope brakes, the guards shall be designed to limit swing to that permitted by the relationship between brake and saddle. If open windows are used on the tower side, a clearance of at least 18 inches shall be maintained at the window height when the carrier is swung inward the maximum amount permitted by the design.

On unattended carriers, windows on the tower side shall be kept closed or screened.

2.3.2.2 **Aerial Lifts.** All towers shall be equipped with guards to prevent contact of carriers or hangers with a tower structure or tower machinery except that such guards shall not be required if such contact does

not occur when the carrier is swung laterally 15 degrees from the vertical position.

In the absence of the guards described herein, the following minimum clearances shall prevail when the carrier is swung inward laterally 10 degrees from the vertical position:

(1) On chair lifts and monorail lifts:

(a) 18 inches between inside limit of passenger seat and tower clearance line or surface

(b) 12 inches between innermost point on chair structure and tower clearance line or surface

(2) On gondola lifts:

(a) With open windows on the tower side, 18 inches between innermost point on carrier and tower clearance line or surface

(b) With screened or closed windows on the tower side, 12 inches

Guards shall be so shaped and located that a 30 degree lateral swing from vertical shall not place any part of the loaded or empty carrier on the inner side of the guard.

On all towers, with or without guards, when a carrier is swung longitudinally by 15 degrees, there shall be no contact between any obstruction and any part of the carrier.

2.3.2.2.1 **Special Requirements for Chair Lifts.** The following clearance requirements shall be met to prevent entanglement of skis with tower structure. Clearance is here defined to mean the distance between inner limit of passenger seat and clearance line or surface of tower.

With the chair swinging in laterally 10 degrees from the vertical position, or to the limit permitted by the guards, if any, if clearance is less than 24 inches from any open frame tower or 18 inches from any closed tubular tower, guards shall be provided on the up going side to keep skis from being caught in the structure. Such guards shall be at least 72 inches in height, extending 36 inches above and 36 inches below average foot level.

A tubular tower with permanent ladder rungs shall be considered as an open frame tower, with the following exceptions:

(1) If the ladder rungs are on the uphill side and are covered by simple fascia boards or equivalent over the previously mentioned 72 inch range, the tower may be considered as a closed tubular tower with respect to uphill skier traffic.

(2) If it can be demonstrated that ski tips cannot be caught in the rungs of the ladder, the tower may be considered as a closed tubular tower.

2.3.2.3 **Surface Lifts.** A minimum clearance of 30 inches shall be maintained between the base of the tower and the vertical plane of the upward traveling cable. With respect to the downward traveling cable, a minimum clearance of 24 inches shall be provided between the towing outfit in its normal position and the tower. This paragraph is not to be construed as preventing the authority having jurisdiction from requiring larger minimum clearances, at its discretion. A definite need for additional clearance arises when it is proposed to transport more than two skiers per towing outfit.

2.3.2.4 **Tows.** Moving parts (other than the haul rope) that are less than 7 feet above the snow surface shall be guarded in such a manner as to prevent accidental contact by the public or skiers using the tow. Persons shall be prevented from passing under the counterweight, or contacting any attachments thereto, by fences or guards.

2.3.3 **Haul Rope Sheaves and Mounts.** The requirements in 2.3.3 and 2.3.3.1 through 2.3.3.3 apply generally to sheaves that support or hold down the haul rope at towers on a monocable system, but where applicable shall also apply to the haul rope of a bicable system. The angle of deflection of the haul rope per sheave is usually small.

The diameter of a haul rope sheave shall not be less than 10 times the nominal diameter of the haul rope for metallic sheaves or 8 times for sheaves with elastomer treads.

2.3.3.1 **Reversible Aerial Tramways, Aerial Lifts, and Surface Lifts.**

2.3.3.1.1 **Maximum Allowable Sheave Load.** The maximum allowable load per sheave should be determined by the tramway or lift designer.

2.3.3.1.2 **Sheave and Sheave Unit Design.** Sheave flanges shall be as deep as possible considering other features of the system. At the same time, rope grips shall be designed in relation to the sheave groove so as not to contact sheave flanges during normal operations, taking into consideration the anticipated amount of wear on the sheave grooves. Grips shall be allowed to contact sheave flanges adjacent to the haul rope when the carrier swings, provided that this is considered in the design of grips and sheaves. Furthermore, rope grips, sheave flanges, and hanger guides shall be designed so that hangers cannot be caught behind guides, and so that ropes and grips cannot be derailed from sheaves if the carrier is swung within design limits as it approaches or passes the tower.

Suitable guards shall be installed to prevent the rope from falling into a dangerous position within the tower structure.

The construction of the entire sheave unit shall be such that the rope cannot become entangled in the sheave unit in the event the rope leaves the sheave toward the outside.

On hold-down sheave units, rope catching devices

shall be installed to prevent the rope from moving upward in the event of deropement. On support sheaves, rope-catching devices shall be installed to prevent the rope from falling in the event of deropement. The device shall extend a minimum of two cable diameters beyond the sheave flange and be located less than one sheave diameter above or below the normal operating position of the rope. On both hold-down and support sheaves, suitable devices shall be installed and maintained that will stop the lift in case of deropement. The foregoing provisions shall apply to both hold-down and support sheaves on both sides of the tramway.

If the gage of the haul rope system is varied at any point along the line, the horizontal departure at any one tower shall be provided for in the design so that deropement cannot occur by virtue of such departure.

Sheave mounts or mounting frames shall be designed to be adjustable laterally and rotationally so that the sheave units can be aligned and held in the plane of the rope.

See also 2.1.4 for effect of tower height and location on sheave units.

2.3.3.1.3 **Haul Rope Retention.** Provisions shall be made to retain the haul rope in the line sheave groove under all anticipated conditions of loading. This criterion shall be deemed to have been met if any of the following conditions is fulfilled.

(1) Condition A. Under the most adverse design loading conditions (excluding dynamic effects) the minimum load of the haul rope on a group of support sheaves at a tower shall not be less than the largest of the following values: 100 pounds per sheave, or 300 pounds per tower group, or a value in pounds equal to two-thirds the sum of the adjacent span lengths expressed in feet of slope length.

When the tower top in question lies below the straight line joining the adjacent tower tops, the haul rope shall not leave the group of sheaves when the haul rope tension is 1.5 times its maximum design value at that point using unloaded carriers. On detachable systems, this criterion shall be met with the bare cable.

The minimum load of the haul rope on a group of hold-down sheaves at a tower, under the most adverse loading conditions, shall not be less than the larger of the following values: a value in pounds equal to the dead plus live load of the carrier, or a value in pounds equal to the sum of the adjacent span lengths expressed in feet of slope length. In no case shall this load be less than 225 pounds per passenger.

(2) Condition B. Combination sheave units that incorporate support and hold-down sheaves shall be designed with the retaining sheaves always in contact with the haul rope. When retaining sheaves are mounted to deflect to allow passage of a carrier grip, such deflection shall not occur until the sheave is loaded to one-half of the maximum design sheave loading. The retaining sheaves shall have the same maximum design loading as the other support or hold-down sheaves on the tower. If the design satisfies loading requirements in Condition A, nothing in this paragraph shall preclude the use of rollers or guides opposite the tower sheaves that do not necessarily contact the rope.

(3) Condition C. For line structures where the carrier is either wholly or partially supported on tracks or by other means, in lieu of retaining the haul rope in the sheave groove the following design criteria shall be fulfilled without exceeding the maximum allowable loads. Under the most adverse loading conditions the load of the carrier onto the track when fully engaged shall not be less than the largest of the following values: 450 pounds; or the design gross load per carrier; or a value in pounds equal to two-thirds of the sum of the adjacent span lengths expressed in feet of slope length.

The carrier shall not leave the track if the design cable tension is increased by 50% or decreased by 33%.

2.3.3.2 **Surface Lifts — Additional Requirements.** When single sheaves are used for other than guide sheaves, which normally carry no load other than the weight of the rope and carriers, the sheave diameter should not be less than 20 times the nominal rope diameter. The sheaves for the return rope shall be installed in a manner to prevent a passenger from contacting the rope or being hit by one of the returning towing outfits. All line sheaves shall be so guarded that towing devices or attachments cannot become entangled in the sheaves or sheave supports. If unloading is permitted ahead of any intermediate tower, the layout of the unloading area shall satisfy the requirements of 2.1.11.4, and the tower shall be so guarded as to prevent the released towing devices from becoming entangled with it.

2.3.3.3 **Tows.** The return rope sheaves shall be mounted high enough on the intermediate towers to hold the rope at least 7 feet above the snow surface of the tow path. The sheaves shall also be 7 feet clear above the snow surface of the tow. The sheave mountings shall be sufficiently strong to prevent failure under the most adverse design load conditions. If the vertical component of the rope tension is not sufficient to hold the rope in the sheave groove at all times, then an approved device shall be used to prevent deropement from the sheave. This applies to both sheaves supporting the rope and those holding it down. (See 2.3.1.3.2 for limitations for wire rope tows.)

2.3.4 **Track Cable Saddles and Mounts (All Classifications — Tracable Systems).** The radius of a track cable saddle shall be determined by the one of the following criteria that requires the largest radius:

(1) That it be large enough to minimize bending

stresses in the cable. In any event, the radius must be equal to at least 1200 times the largest dimension of the outer wire of the cable.

(2) That it be large enough to provide smooth transition of the carrier trucks from span to span.

(3) That it be large enough to reduce the bearing pressure to a value that will permit proper lubrication of the cable to facilitate sliding in the saddle groove.

(4) That it be large enough so that if the carrier trucks were to travel over the saddle at twice normal speed, the centrifugal force would not produce enough uplift to make the truck wheels lose contact.

The saddle shall be long enough to ensure that under maximum loading conditions the cable will not come into contact with the end of the saddle groove.

Saddles shall be designed so that the track cable brake, if any, may function at the time the carrier is passing the saddle without derailment of the trucks.

Saddles shall permit free passage of the carrier trucks even when the carrier is swinging laterally to its design limit as it approaches or passes the tower.

If the gage of the tramway is varied at any point along the line, horizontal departure at any one tower shall be kept to a minimum to avoid derailment of the carrier trucks as they pass over the saddle.

See also 2.1.4 for effect on saddles of height and location of towers.

2.4 Line Equipment

2.4.1 Haul Rope (All Classifications). See 2.1.7 for basic requirements for all wire haul ropes.

2.4.1.1 Factor of Safety. Haul ropes shall have a minimum static factor of safety of 5 when new. Static factor of safety is equal to the nominal breaking strength (see 4.1.2) divided by the computed maximum tension caused by design loads, including the effects of friction, but excluding dynamic loads, in the section of rope that is most highly stressed.

Where a spliced haul rope with an independent wire rope center is used, the nominal strength of an equivalent wire rope with a fiber core shall be used.

2.4.1.2 Special Requirements — Haul Ropes for Fiber Rope Tows. The haul rope shall be natural or synthetic fiber rope manufactured for ski tow use with a special lay or braid to minimize twist. Fiber ropes shall be reeled in a manner so as to minimize twist, and the manufacturer's instructions for unreeling and installation shall be followed.

Splices shall be made by qualified personnel in accordance with the manufacturer's recommendations. All splices shall be long or transmission splices.

Sheave adjustment or other means shall be provided to regulate rotation of the up-going rope and limit spiraling to one complete revolution in 200 feet of travel.

The minimum factor of safety shall be 5 based upon the manufacturer's catalog breaking strength of the new rope divided by the maximum full-load static tension in the haul rope.

2.4.2 Track Cable (All Classifications). See 2.1.7 for basic requirements for all track cables. Track cables consisting of one strand made up entirely of round wires (commonly called "Smooth Coil Track Strand") shall not be permitted. Wire rope, if used as track cables, shall have an independent wire rope or strand center (see 2.1.7.4.3).

2.4.2.1 Factor of Safety. Track cables shall have a minimum static factor of safety of 3 and a minimum dynamic factor of safety of 2.5 when new. Dynamic loads shall include that imposed upon the track cable due to application of track cable brakes.

2.4.3 Haul Rope Grip (All Classifications)

2.4.3.1 General (Fixed and Detachable). The rope grip shall be of a type that has been proved to give satisfactory service by the industry or that has been specifically approved by the authority having jurisdiction.

Haul rope grips are those devices by which carriers are attached to the haul rope. Fixed grips remain on the haul rope during normal operation; detachable grips are normally removed from the haul rope at stations or terminals during normal operation.

The rope grip shall be designed to pass smoothly over and under line sheaves that have flanges of adequate depth to discourage the haul rope from leaving the sheaves.

The design shall incorporate provisions to accommodate a 10% reduction in haul rope diameter. The designer's instructions shall provide details for the proper initial setting of the grip and a method to assure an operator or inspector that the grip has not reached an operational limit of the clamping components.

2.4.3.2 Slippage (Fixed and Detachable). The rope grip shall be designed and maintained during use so as to resist a force, tending to slide it along the haul rope, that is a minimum of 3 times the force required to move a carrier along the steepest incline of the haul rope under the most adverse conditions of carrier loading and with a properly lubricated haul rope. The grip shall automatically adjust to maintain this gripping force with a 3% reduction in haul rope diameter.

2.4.3.3 Strength (Fixed and Detachable). The strength of the grip shall be based upon the following criteria:

(1) A factor of safety of 6 shall exist in all parts of the grip wherein stress is proportional to the dead and live load of the carrier. This factor of safety is defined as follows: With the grip in its operating condition gripping the rope or equivalent, a load applied in the usual

direction (that is, downward when grip is in the operating position), equal to the dead load of the carrier plus 6 times the design live load, shall not cause any part of the grip to fail.

(2) Those parts whose stress is not changed by application of live load shall be designed on the basis of an allowable stress of not more than yield point divided by 3.0. In the design of springs, where used, the allowable stress may be increased if load tests are conducted by an approved testing laboratory to provide assurances that the fatigue life of the actual spring is more than ample for the various applied loads.

(3) For stresses caused by lateral loading, such as centrifugal force, the provisions of 2.4.5.2.2 shall apply.

(4) The material of which the grip is made shall be selected or selected and treated to obtain optimum impact resistance.

(5) Special attention shall be paid to fatigue considerations. A grip that has not been proved in service should be subjected to fatigue tests.

(6) Grips made up of cast parts shall be proof-loaded with forces equal to the gripping force and 3 times dead plus live load.

By inspection, using methods approved by the authority having jurisdiction, confirmation shall be obtained that the grip and its parts meet the foregoing criteria.

2.4.3.4 Maximum Loads (Fixed and Detachable). The maximum total vertical load on a single grip shall not exceed 1/14 of the minimum tension in the haul rope.

Where two grips are used for a single carrier, the foregoing requirement may be applied to each grip, provided that:

(1) The two grips are independent of each other (that is, there are two hangers articulated in such a manner that they are independently loaded).

(2) The clear length of haul rope between the two grips equals or exceeds one-half rope lay.

2.4.3.5 Detachable Grips — Additional Requirements.

2.4.3.5.1 Positive Attachment. A detachable grip shall be designed and constructed in such a manner that it grips the haul rope positively without damaging the haul rope and in such a manner that it cannot become accidentally uncoupled, even by rope vibrations.

2.4.3.5.2 Incorrect Attachment — Gondola and Chair Lifts. At each carrier launching position (any area where a grip is designed to attach to the haul rope), devices shall be installed that will stop the lift if any grips are incorrectly attached to the haul rope (see 2.2.11.3.2).

2.4.4 Track Cable Trucks — Bicable Systems (All Classifications).

2.4.4.1 Wheels. On bicable systems, the weight of the loaded carrier shall be so distributed over all truck wheels that the load per wheel shall not exceed that recommended by the track cable manufacturer or that permitted by the wheel liner material. The diameter of the wheels shall be selected on the basis of recommendations of the track cable manufacturer and of allowable bearing pressure of the wheel liner material. In no event shall the load per wheel exceed 1/80 of the minimum design tension in the track cable when track strand is used. When wire rope is used as a track cable, the load per wheel shall not exceed 1/40 of the minimum design tension in the track cable.

Wheels shall be designed to prevent them from leaving the track cable under all operating conditions.

2.4.4.2 Track Cable Brakes (Reversible Aerial Tramways Only). Each carrier on a reversible aerial tramway using the bicable system shall be equipped with a brake that will grip the track cable. The brake shall be capable of stopping and holding a fully loaded carrier at the point of maximum gradient of the track cables.

The brake shall function automatically in case of a haul rope failure. It shall be capable of being manually applied by the carrier conductor. The track cable brake shall provide smooth stops without damage to the track cable, carrier, or structures, under all design conditions, and shall conform to the requirements of 2.1.4.6.1. Application of the track cable brake shall automatically disconnect or stop the prime mover.

The track cable brake may be omitted if two or more haul ropes are used, or if the profile of the tramway is such that an uncontrolled carrier will not reach abnormal speeds or crash into a terminal.

2.4.5 Carriers.

2.4.5.1 Reversible Aerial Tramways and Gondola Lifts. The carrier and all components shall be designed by qualified engineers in accordance with accepted practices of design. If the design has not had prior successful use for passenger transportation, its adequacy shall be verified by test loadings, trial operations, and tests under repeated loadings.

2.4.5.1.1 Hanger. The hanger shall be securely attached to the track cable trucks or haul rope grip and to the cabin in such a manner that it cannot work loose.

The hanger shall be of sufficient length vertically that under the worst condition of longitudinal swing the top of the cabin cannot strike the haul rope, the track cables, or the bottom of a tower saddle. In any event, the carrier must be able to swing longitudinally, without interference, to an angle of 15 degrees from the vertical at the most adverse locations.

Sway damper. Sway dampers designed to reduce the longitudinal sway of the carriers shall be used if recommended by the tramway or lift designer. Such

ity having jurisdiction. Where used, they shall operate smoothly and without danger of deropement of the track cable trucks or the haul rope.

2.4.5.1.2 **Cabin (or Gondola).** Passenger cabins shall be enclosed and ventil. ted. They shall be equipped with doors that fill the entire entrance opening. Each door shall be provided with a lock located in such a manner that it cannot be unlocked except by authorized persons o: automatically by means approved by the authority having jurisdiction.

All windows shall be of shatterproof material.

Means of emergency evacuation of passengers shall be provided that are acceptable to the authority having jurisdiction. For cabins having a capacity of more than six passengers, the evacuation equipment shall be located in the carrier.

The maximum capacity of each cabin, both in pounds and number of passengers, shall be posted in a conspicuous place in each cabin.

(1) Conductor: Unless a greater capacity is specifically approved by the authority having jurisdiction, each carrier having a capacity of seven o. more passengers shall be served by a conductor.

(2) Reversible aerial tramways — additional requirements: Cabin floor space available to passengers shall not be less than 2.5 square feet per person for the first 15 passengers and 2.0 square feet per passenger thereafter.

A key shall be placed under glass, posted to prohibit use except under specified emergency conditions.

(3) Gondola lifts — additional requirements: All carriers shall be clearly identified with numbers located on each end of each carrier.

(4) Other configurations: Open and semiopen carriers shall be considered as special exceptions by the authority having jurisdiction, and the requirements of 1.2.2 are applicable.

2.4.5.2 **Chair Lifts**

2.4.5.2.1 **Vertical Loads.** With respect to vertical loads, chair lift carriers shall be designed to support a vertical load 4 times the design load without permanent deformations of the assembly or component parts.

2.4.5.2.2 **Horizontal Loads.** With respect to horizontal loads, such as centrifugal loads that stress the hangers as they pass around terminals, the parts of the assembly, including hangers and grips, shall be designed with a factor of safety of 3.0 with respect to the yield point of the material(s). For this purpose, the applied load is to be taken as the compo. t force, considered as a static load.

When safety stops are not provided to prevent the passage of loaded chairs around the bull wheels, lift components such as chairs, hangers, grips, bull wheels, guides, etc, shall be designed to withstand, with a factor of safety of 2 with respect to the yield point of the materials involved, the stresses developed when a loaded carrier passes around the bull wheel at full speed.

2.4.5.2.3 **Identification.** All carriers shall be clearly identified with successive numbers visible to the operator and attendant.

2.4.5.2.4 **Chair Safety Details.** Each chair shall be equipped with a railing at each side, to a height of not less than 4 inches above the seat for a distance of not less than 12 inches from the back of the seat.

Summer operation: For summer operation, each chair shall be equipped with a safety bar or belt that will not open under forward pressure.

2.4.5.3 **Skimobiles.** The relevant requirements of 2.4.5.2 apply, with the exception that, in determining ultimate load, the car shall be considered as being supported at the maximum grade existing on the line, and as being supported by its wh.els on the track as well as by the haul rope.

There shall be a shield (or dashboard) on the front of the car, an adequate step, and a handrail to facilitate embarking and disembarking. When operated for skiers, ski racks shall be pr vided.

2.4.5.4 **Surface Lifts**

2.4.5.4.1 **Loads.** With respect to vertical loads, the surface lift carriers shall be designed to support a vertical load 4 times the design load without permanent deformations of the assembly or component parts.

2.4.5.4.2 **Vertical Clearances.** When a towing outfit is swung longitudinally by 15 degrees from the vertical position, or when it is in its most extreme operating condition, whichever is more severe, there shall be clearance in the vertical plane between the towing outfit or hanger and any obstruction, such as sheaves, guards, etc.

2.4.5.4.3 **General.** The bar, platter, or other device in contact with the skier shall be so designed that the passenger can embark and disembark safely. Devices that envelop the passenger, such as a strap, are prohibited.

The length of the towing outfit shall be such as to permit the shortest passenger to remain in firm contact with the uphill track and to satisfy the requirements of 2.1.4.4.1.

2.4.5.4.4 **Retractable Towing Outfits — Additional Requirements.** Retraction of a towing outfit shall be so controlled that it may be released from a fully extended position without causing injury to passengers or damage to the towing outfit, or causing such violent oscillations as to expose any part of the towing outfit to entanglement with the haul rope, sheaves, other structures, or equipment.

2.4.5.5 Tows

2.4.5.5.1 **Fiber Rope Tows.** Towing outfits and rope grippers shall not be permitted except by specific approval by the authority having jurisdiction.

2.4.5.5.2 **Wire Rope Tows (with Fixed Towing Devices).** Provisions shall be made for attaching towing handles to the haul rope. Such devices shall be designed to prevent sliding along the haul rope when subject to twice the pull required to move a passenger along the ski track at the steepest point. The device shall be designed to preclude entangling gloves or clothing, or pinching fingers between the device and the haul rope. Attaching the device to the haul rope shall in no way impair the strength of the haul rope. The devices shall be relocated on the haul rope in accordance with the manufacturer's recommendations, but in no case less frequently than once annually.

2.5 Provisions for Operating Personnel (All Classifications). Operator and attendant stations shall be located to provide visual surveillance of the line and station. When enclosed, they shall be heated, ventilated, and lighted as required to perform the function of the station. They shall contain (1) the communications and controls required of the station, (2) operating instructions and emergency procedures, and (3) a fire extinguisher if required by the authority having jurisdiction. All enclosed stations shall be locked to prevent unauthorized entry.

2.5.1 **Reversible Aerial Tramways.** The operator shall be located where he can observe the tramway in operation. The operator's controls and communicating devices shall be within his reach without his leaving his position.

2.5.2 **Aerial Lifts and Surface Lifts.** The operator shall be located where he can observe the lift in operation. All primary lift controls and communications shall be immediately available to him. Loading and unloading areas shall have lift-stopping devices located so that they are available to the attendants assigned to those areas.

2.5.3 **Tows.** When the tow is operated by an operator without the use of other attendants, the operator shall be located where he can observe the full length of the tow, including loading and unloading. The operator shall have the primary tow controls immediately available to him.

When attendants are on duty on a tow, suitable means of communication between the operator and attendants shall be provided. Each attendant shall have a stopping device located so that it is available to him.

2.6 Operational and Maintenance Manuals.

2.6.1 **Operational Manual.** The designer of each tramway, lift, or tow shall prepare an operational manual for use with each installation. The manual shall describe the function and operation of the components, and instructions for the correct usage of the installation.

2.6.2 **Maintenance Manual.** The designer of each tramway, lift, or tow shall prepare a maintenance manual for each installation. The manual shall describe recommended maintenance procedures, including:

(1) Types of lubricants required and frequency of application

(2) Definitions and measurements to determine excessive we

(3) Recommended frequency of service to specific components, including relocation of fixed grips, if applicable

3. Operation and Maintenance

3.1 General. Section 3 of this standard is intended to encompass the requirements for operation and maintenance of all types of tramways, lifts, and tows. Many requirements are listed in the preceding sections since they also regulate installation and design. It is imperative that operating and maintenance personnel be familiar with applicable provisions of the entire standard.

3.1.1 **Personnel Safety.** Operation and maintenance of aerial tramway equipment can be dangerous to personnel performing these tasks. Procedures for performing these functions shall require precautionary measures necessary to assure the safety of the personnel involved. Implementation of the procedures intended for the protection of the public and operating and maintenance personnel is the responsibility of the owner, supervisor, and the individual workman.

3.2 Operation

3.2.1 **Personnel.** All facilities covered by this standard shall be operated by trained and competent personnel, and the owner shall be responsible for their supervision and training. One or more persons familiar with emergency procedures shall be on the site at all times when the facility is in regular operation.

3.2.1.1 **Supervision.** One individual shall be in responsible charge of all operating personnel and attendants. He shall be responsible for safe operation, and shall have the authority to deny access to the facilities to any person who in his opinion is not fit or competent to use the facilities without danger to himself, others, or to the equipment. He shall also have the authority to prohibit operation of the facilities under adverse weather or operational conditions. Although he may delegate authority to others, he has the final responsibility.

3.2.1.2 **Operators.** An operator shall be in charge of each tramway, lift, or tow. He shall be trained and

experienced in normal operational and emergency procedures.

3.2.1.3 **Attendants.** An attendant will be assigned to particular duties under direction of the operator. He shall be familiar with operational and emergency procedures pertaining to his assignment. His training shall include instruction for observation of any potentially dangerous operational or mechanical developments within his view.

3.2.1.4 **Conductors.** A conductor shall be trained for duty in connection with enclosed carriers, including loading and unloading procedures, communications, and the use of door locks and keys. He shall be familiar with load limits and applicable safety regulations, well versed in the use of any safety switches under his control, and thoroughly drilled in the use of emergency evacuation equipment and procedures.

3.2.1.5 **General Requirements.** All personnel shall practice good housekeeping, with particular emphasis on avoiding the development of any condition that might contribute to personal injury. Personnel shall comply with the operational rules and safety regulations of the specific tramway, lift, or tow.

3.2.1.6 **First Aid.** One or more persons trained to administer first aid shall be available at all times when a tramway, lift, or tow is operating and transporting passengers.

3.2.2 **Minimum Operating Personnel**

3.2.2.1 **Reversible Aerial Tramways.** The following regulations shall be observed:

(1) An operator shall be in charge of the tramway.

(2) One attendant shall be on duty at each loading/unloading platform or station.

(3) A conductor shall be in each carrier having a capacity of seven or more passengers (see 2.4.5.1.2(11)).

3.2.2.1.1 **Exceptions.** Upon specific approval of the authority having jurisdiction, a conductor may also act as a platform or station attendant.

3.2.2.2 **Aerial Lifts and Skimobiles.** The following regulations shall be observed:

(1) An operator shall be in charge of each aerial lift or skimobile.

(2) One attendant shall be on duty at each loading area.

(3) One attendant shall be on duty at each unloading area.

NOTE: An operator may serve concurrently as an operator and an attendant at a loading or unloading area that may be adjacent to the operator's station unless the duties of that area preclude his maintaining reasonable surveillance of the entire lift operation.

3.2.2.2.1 **Exceptions.** An intermediate station used for both loading and unloading may be manned by a single attendant at the loading area when both the loading and unloading can be kept under surveillance by the attendant.

3.2.2.2.2 **Detachable Grip Lifts – Additional Requirements.** Additional attendants shall be assigned to handle carriers at terminals and stations of aerial lifts with detachable grips as required by the specific design and installation.

3.2.2.3 **Surface Lifts.** The following regulations shall be observed:

(1) An operator shall be in charge of each surface lift.

(2) One attendant shall be on duty at each loading area.

(3) One attendant shall be on duty at each unloading area.

NOTE: An operator may serve concurrently as an operator and an attendant at a loading or unloading area that may be adjacent to the operator's station unless the duties of that area preclude his maintaining reasonable surveillance of the entire lift operation.

3.2.2.3.1 **Exceptions.** The authority having jurisdiction may permit surface lifts to be operated with a single operator at the loading station provided that the following conditions are met:

(1) The length of the lift, measured from the loading area to the safety gate, does not exceed 800 feet.

(2) Both terminal areas, loading and unloading areas, and the entire line are clearly visible to the operator.

(3) The lift has a clearly identified stop switch located at the unloading area, in addition to the required safety gate switch (see 2.2.11.4.2).

(4) The operator has all lift controls immediately available to him.

(5) Restarting of the lift following actuation of a safety or stopping device is impossible until clearance is assured and the safety or stopping device(s) has been reset by an authorized person.

3.2.2.4 **Tows.** A single operator may operate a tow provided that the following conditions are met:

(1) The length of the tow, measured from loading area to the safety gate, does not exceed 800 feet.

(2) Both terminal areas, loading and unloading areas, and the entire tow are clearly visible to the operator.

(3) The operator can start the tow while maintaining the surveillance required in (2).

If the foregoing criteria are not met, an additional attendant(s) is required. Each attendant shall be furnished with a stopping device and communication with the operator.

3.2.3 **Duties of Operating Personnel**

3.2.3.1 **Supervisor.** The duties of the supervisor shall be as follows:

(1) To determine that all tramways, lifts, or tows are operational and that all operating personnel are

trained, equipped, and fit to perform their duties

(2) To discontinue operations on any tramway, lift, or tow due to physical, weather, personnel, or other reasons

(3) To enforce operational, maintenance, and safety rules

3.2.3.2 Operator. The duties of the operator shall be as follows:

(1) To assume responsible charge of the tramway, lift, or tow

(2) To assign and supervise all attendants on his tramway, lift, or tow

(3) To maintain an operational log book as required in 3.5.1

(4) To advise the supervisor of any condition or occurrence that may adversely affect the safety of the operation

3.2.3.3 Attendant and Conductor. The duties of the attendant and conductor shall be as follows:

(1) To maintain orderly passenger traffic conditions within his area of jurisdiction

(2) To advise and assist passengers as required

(3) To maintain surveillance of his area of jurisdiction

The operator shall be advised of any unusual or improper occurrences. Should a condition develop in which continued operation might endanger a passenger, the attendant shall stop the tramway, lift, or tow immediately and advise the operator. The operator shall also be advised of changes in weather, ground, or snow surface conditions.

3.2.4 Operational Procedures. The required operational procedures as set forth in 3.2.4.1 through 3.2.4.3 shall be supplemented by specific requirements as specified in the designer's operational manual (see 2.6). Requirements and procedures may be modified, with the consent of the authority having jurisdiction, to meet specific circumstances.

3.2.4.1 General Requirements

3.2.4.1.1 Control of Passengers. Each tramway, lift, or tow shall have a definite method for marshaling passengers for safe loading and unloading. Fences and gates may be required to implement the system.

3.2.4.1.2 First Aid. There shall be ready access to first aid supplies and equipment, including provisions for transporting an injured person to an enclosed and, if required, heated shelter.

3.2.4.2 Daily Preoperational Inspection. Prior to transporting passengers, a daily inspection shall be conducted. As a minimum, the inspection shall consist of the following:

(1) A visual inspection of each terminal, station, and the entire length of the tramway, lift, or tow.

(2) Assurance that tension carriage, counterweights, or other tensioning devices are functional and have adequate travel with clearance at both ends of travel.

(3) Operation of all manual and automatic switches in terminals, stations, and loading and unloading areas.

(4) Operation of all braking systems.

(5) Operation of communication systems.

(6) Operation of the tramway, lift, or tow, including a visual inspection of all ropes and carriers.

For those tramways, lifts, and tows having internal-combustion engines, the fuel supply shall be determined. For primary power units, there shall be sufficient fuel to conduct the anticipated period of operation without refueling. For those installations having auxiliary internal combustion engines, the fuel supply shall be adequate to unload the tramway or lift. During refueling, power units shall be shut down.

Tramways and lifts having auxiliary power units shall have the auxiliary engine(s) checked during this inspection and operated at least once each week.

3.2.4.2.1 Reversible Aerial Tramways and Detachable Grip Aerial Lifts — Additional Requirements. Loading and unloading facilities shall be inspected and, if necessary, cleared of ice and snow to permit the safe ingress and egress of passengers. Mechanical features of the carriers shall be inspected and checked for correct operation.

3.2.4.2.2 Aerial Lifts — Additional Requirements. Loading and unloading areas shall be inspected and prepared for the safe ingress and egress of passengers. Carriers shall be cleared of ice to the extent necessary to permit safe operation, and mechanical features shall be inspected and checked.

3.2.4.2.3 Surface Lifts and Tows — Additional Requirements. Loading and unloading areas shall be inspected and prepared for the safe ingress and egress of passengers. The lift or tow track shall be inspected and, if necessary, tracks shall be established. Tracks shall be established beyond the safety gate for a distance necessary for passengers to stop should the passenger pass through the safety gate. The towing seats shall be cleared of ice to the extent necessary to permit safe operation. (See 2.1.3.1.1.)

3.2.4.3 Operational Requirements

3.2.4.3.1 General. The supervisor and operator of each tramway, lift, or tow shall review the requirements of Section 2 of this standard to ascertain that original design and installation conditions have not been altered in a manner such as to violate the requirements of the standard.

3.2.4.3.2 Starting. No tramway, lift, or tow shall be started except at the direction of or following clearance by the operator.

3.2.4.3.3 Stops. After any stop of a tramway, lift, or tow, the operator shall determine the cause of

the stop, and not restart until clearance has been obtained from all attended stations.

3.2.4.3.4 **Damage to Carriers.** Should any carrier become damaged or otherwise rendered unfit for passenger transportation during normal operations, it shall be clearly and distinctively marked, and not used for passengers until repaired or replaced. It shall be removed from the line, when feasible.

3.2.4.3.5 **Hazardous Conditions.** No tramway, lift, or tow shall be operated when wind or icing conditions may be such as to endanger passengers or equipment. No tramway, lift, or tow shall operate when there is an electrical storm in the immediate vicinity. Should such conditions develop while the tramway, lift, or tow is in operation, loading of passengers shall be terminated, and operation shall be continued only as long as necessary to discharge all passengers. When such shutdown has been caused by an electrical storm, grounding of control circuits and haul ropes that are used as conductors in communication systems is permissible. Such grounding shall be removed prior to resumption of passenger operations.

3.2.4.3.6 **Evacuation of Reversible Aerial Tramways and Aerial Lifts.** Provisions shall be made for the emergency evacuation of reversible aerial tramways and aerial lifts (see 2.1.1.3). These shall include a detailed plan of evacuation, equipment necessary for evacuation, and adequate training of personnel. Evacuation drills shall be conducted at established intervals not to exceed one each 12 calendar months, and such drills recorded in the operational log of each tramway or lift (see 3.5.1).

3.2.4.3.7 **Termination of Daily Operations.** Procedures shall be established and approved by the authority having jurisdiction for terminating daily operations in such a manner that passengers will not be left on the tramway, lift, or tow after it has been shut down. Loading ramps, as required, shall be closed and so marked.

3.2.4.3.8 **Operational Log.** A daily operation record shall be maintained as required under 3.5.1.

3.3 Maintenance

3.3.1 **General.** Foundations and all structural, mechanical, and electrical components shall be inspected regularly and kept in a state of good repair. The maintenance requirements of the designer (see 2.6) shall be followed. Maintenance records shall be kept (see 3.5.3).

A written schedule for systematic maintenance shall be developed and followed. The schedule shall establish specific frequencies for periodic lubrication, inspection, and adjustment. The schedule shall include, but not be limited to, the following:

(1) All wire ropes and cables (see 3.3.2)
(2) Line sheave units, sheaves, bearings, and liners
(3) Bull wheels, bearings, and liners
(4) Counterweight or tensioning systems
(5) Drive system, including bearings and couplings
(6) Braking systems
(7) Electrical control systems
(8) Communication systems
(9) Carriers

3.3.1.1 **Fixed Rope Grips – Additional Requirements.** The initial installation and each relocation of a clamp-type grip shall be field-checked by a method established by the designer to provide assurance that the requirement of the first sentence of 2.4.3.2 has been met. All fixed grips shall be moved at least once every 24 calendar months. The grips should be moved a uniform distance each time and in the same direction. The designer's instructions or the requirements of the authority having jurisdiction shall be followed if they are more restrictive than these requirements. Movements shall be recorded in the maintenance records (see 3.5.2 and 3.5.3).

As each grip is relocated, the haul rope shall be examined for deterioration at or near the grip location. The initial location and each subsequent relocation shall be marked by a spray paint or other marking on the rope to identify slippage. A movement of the clamp along the haul rope at a rate that would exceed 12 inches in 500 hours of operation shall be considered excessive and cause for adjustment or replacement of the grip.

3.3.1.2 **Detachable Rope Grips – Additional Requirements.** Detachable rope grips shall be disassembled for inspection, adjustment, and replacement of worn parts at intervals not to exceed those recommended by the designer.

3.3.2 **Wire Rope.** Wire rope maintenance shall include the following:

(1) Lubrication. Type and frequency as recommended by the rope manufacturer or designer. Ropes that have little or no motion, such as counterweight ropes and guys, require special consideration for protection against corrosion.

(2) Inspection. In addition to the required daily operational inspection, all ropes, including track cables, shall be subject to detailed inspections at regularly established intervals, not to exceed 1 year. Splices and fixed grip locations shall be given close attention in haul ropes. End connections and saddle areas of track cables require close attention.

3.3.2.1 **Replacement or Repair of Wire Rope.** If an inspection indicates that a rope is damaged so as to make it unsafe, the rope shall be repaired or replaced. Repair of wire rope shall conform to the requirements of 2.1.7.4.

No rope shall be permitted to remain in service if the number of broken wires in the length of one rope lay exceeds that listed in the following table. Snagged or nicked wires shall count as a broken wire.

	Maximum Number of Broken Wires	
Rope Type	*In One Strand*	*In All Strands*
6 X 7	2	4
6 X 19	4	6
6 X 37	6	10

In addition to broken wires, the following criteria shall be used by the inspector in deciding upon retirement or repair of the rope:

(1) More than one valley break in one lay. Breaks that occur in the valleys between strands indicate some abnormal condition, possibly fatigue and breakage of other wires not readily visible.

(2) Abrasion, scrubbing, or peening causing loss of more than one-third of the original diameter of the outside wires.

(3) Evidence of rope deterioration from corrosion.

(4) Severe kinking, severe crushing, or other damage resulting in distortion of the rope structure.

(5) Evidence of any heat damage. Sources could be a torch, or an arc caused by contact with electrical wires, or natural electrical charges.

(6) Reduction from nominal diameter to a diameter less than shown in Table 4. (This table is based on 94% of original nominal rope diameter.) For diameters of unlisted sizes, multiply the original nominal diameter by 0.94. This procedure includes wear of the outer wires.

(7) Evidence of pitting from corrosion, or development of any broken wires in the vicinity of attached fittings.

(8) Any significant increase in the lay length.

(9) Any significant increase in the overall stretch after original constructional stretch has been removed. This can be determined by records showing the movement of the tension carriage.

(10) The condition of the splices. At the time of inspection, all tucks of all splices must be located. The splice must be properly repaired or replaced if more than the allowable number of broken wires are found at the tucks, if there is any sign of slipping, if significant distortion of the rope at the tucks has occurred, or if horns have pulled apart and permitted the outside strands to distort.

If the rope damage is local, it is permissible to splice in a section of rope of the same size and construction. Fittings can be reattached. Splices often can be corrected by proper repair.

On an emergency basis, damage confined to a single rope strand may be repaired by replacement of the damaged strand to permit the rope to be continued in service. This type of repair is permitted only on an emergency basis and under the conditions specified in 2.1.7.4.2.

If operating equipment that contacts the rope is the cause of damage, it should be examined immediately and proper repairs should be made before a new rope is installed, or immediately if the safety of the lift is endangered.

All ropes shall be inspected for their full length. In the case of moving haul ropes, the inspection shall be made by slowly moving the rope past a fixed inspection station. Frequent stops shall be made to permit detailed inspection and make necessary measurements. The rope must be stopped to examine the splice in detail.

The inspector must be positioned sufficiently close to the rope to visually observe and physically examine it.

Retirement of a rope from service shall be decided on the basis of the foregoing criteria, general conditions, and the history of the rope. Regardless of these and other considerations, no rope shall be permitted to remain in service when, in the opinion of a qualified inspector (see 3.4.2), the strength has been reduced to less than 80% of the nominal breaking strength.

3.3.2.1.1 **Bicable Systems – Additional Requirements.** At an interval established by the tramway designer the track cable shall be moved so as to place a different section of cable over the saddles, and the cable shall be carefully checked for fatigue and other damage.

3.3.2.1.2 **Wire Rope Tow – Additional Requirements.** No haul rope shall be permitted to remain in service when broken wires are visible on the exterior portions of the strands.

The terminal sheaves shall be kept in adjustment to control rotation of the haul rope and towing devices.

3.3.3 **Fiber Rope.** No fiber rope tow shall be permitted to operate when the up-going rope rotates more than one revolution in 200 feet of travel.

Replacement of fiber ropes shall be in accordance with 2.4.1.2.

3.4 **Annual Inspections**

3.4.1 **General Inspection (Reversible Aerial Tramways, Aerial Lifts, and Surface Lifts).** Each tramway and lift shall be inspected annually by a specialist acceptable to the authority having jurisdiction. The inspection shall cover the requirements of this standard. A report shall be filed with the owner and the authority having jurisdiction. Any items of noncompliance with this standard shall be noted therein.

3.4.2 Wire Rope Inspection (Reversible Aerial Tramways, Aerial Lifts, Surface Lifts, and Wire Rope Tows). A detailed wire rope inspection shall be made upon a recommendation by the general inspection (see 3.4.1) or immediately after any accident affecting the possible integrity of the wire rope. The inspection shall be made by a qualified wire rope inspector, and a written report of the inspection shall be filed with the owner. A copy of this inspection shall be included in the wire rope log (see 3.5.2).

3.5 Records

3.5.1 Operational Log. A log book shall be maintained for each tramway, lift, or tow. Daily entries shall be made giving the following minimum information:

(1) Date

(2) Names and duty stations of operating personnel

(3) Operating hours and purpose of operations

(4) Temperature, wind, and weather conditions

(5) Record of compliance with daily operational inspection

(6) Position and condition of the tension carriage, counterweights, or other tensioning devices

(7) Accidents, malfunctions, or abnormal occurrences during operation

(8) Signature of operator

3.5.2 Wire Rope Log. A log book shall be maintained for each tramway, lift, or wire rope tow giving the following information on each rope

(1) Approved Specification

(2) Copy of certified test report

(3) Date installed

(4) Splicing certificate for each splice

(5) Record of lubrication, including type of lubricant and date applied

(6) Record of maintenance inspections (see 3.3.2(2))

(7) Report of wire rope inspection (see 3.4.2)

(8) Report of accidents or injury to rope

3.5.3 Maintenance Log. A signed complete log shall be maintained wherein the actual execution of maintenance work shall be recorded daily. The log shall state components serviced, and the condition of the components. A record shall be kept of replacement of components.

3.6 Passenger Conduct

3.6.1 Dexterity and Ability. A skier or foot passenger who uses a tramway, lift, or tow shall be presumed to have sufficient physical dexterity or skiing ability to negotiate the tramway, lift, or tow.

3.6.2 Embarkation and Disembarkation. A passenger shall get on and get off a tramway, lift, or tow at designated areas.

3.6.3 Riding. Passengers, while riding an aerial tramway or lift, shall not throw or expel therefrom any object, nor shall any passenger do any act or thing that shall interfere with the operation of the tramway or lift. Passengers shall not willfully engage in any type of conduct that may contribute to, or cause, injury to any other person.

Skiers, when using a surface lift or tow, shall not willfully place in an uphill track any object that can cause another skier to fall.

3.6.4 Downhill Skier. Each skier should maintain control of speed and course at all times.

4. Wire Rope and Strand Requirements

4.1 Dimensional Properties

4.1.1 Diameter Tolerances

4.1.1.1 Wire Rope. The diameter tolerances of wire rope shall be in compliance with Tables 3 and 4.

Table 3
Wire Rope Diameter Tolerances for New Rope

Nominal Diameter (inches)	Undersize (inch)	Oversize* (inch)
0 to 3/4	0	1/32
13/16 to 1-1/8	0	3/64
1-3/16 to 1-1/2	0	1/16
1-9/16 to 2-1/4	0	3/32
2-5/16 and larger	0	1/8

*A question may develop as to whether or not the wire rope complies with the oversize tolerance. In such cases, a tension of not less than 10% or more than 20% of nominal required breaking strength is applied to the rope and the rope again measured while under this tension.

Table 4
Minimum Acceptable Wire Rope Diameter in Service

Nominal Rope Diameter (inches)	Nominal Rope Diameter (mm)	Minimum Acceptable Diameter (inches)	Minimum Acceptable Diameter (mm)
1/4	6.350	0.235	5.969
3/8	9.525	0.352	8.954
1/2	12.700	0.470	11.938
9/16	14.288	0.529	13.431
5/8	15.875	0.588	14.922
3/4	19.050	0.705	17.907
7/8	22.225	0.822	20.892
1	25.400	0.940	22.876
1-1/8	28.575	1.058	26.861
1-1/4	31.750	1.175	29.845
1-3/8	34.925	1.293	32.830
1-1/2	38.100	1.410	35.814
1-5/8	41.275	1.469	38.798
1-3/4	44.450	1.645	41.783
1-7/8	47.625	1.762	44.768
2	50.800	1.880	47.752

Table 5
Bright (Uncoated) or Drawn Galvanized Wire Rope, Fiber Core,
Nominal Breaking Strength in Tons of 2000 Pounds

Nominal Diameter		Classification and Grade				
		6 × 7	6 × 19 (Any Operation) 6 × 37 (Single Operation)		6 × 37 (Multiple Operation)	
(inches)	(mm)	Improved Plow Steel	Improved Plow Steel	Extra-Improved Plow Steel	Improved Plow Steel	Extra-Improved Plow Steel
1/4	6.35	2.64	2.74	3.02	2.59	2.85
5/16	7.94	4.10	4.26	4.69	4.03	4.43
3/8	9.52	5.86	6.10	6.71	5.77	6.35
7/16	11.10	7.93	8.27	9.09	7.82	8.60
1/2	12.70	10.30	10.70	11.80	10.20	11.20
9/16	14.30	13.00	13.50	14.90	12.90	14.10
5/8	15.90	15.90	16.70	18.30	15.80	17.40
3/4	19.00	22.70	23.80	26.20	22.60	24.80
7/8	22.20	30.70	32.20	35.40	30.60	33.70
1	25.40	39.70	41.80	46.00	39.80	43.70
1-1/8	28.60	–	52.60	57.90	50.10	55.00
1-1/4	31.70	–	64.60	71.00	61.50	67.70
1-3/8	34.90	–	77.70	85.40	74.10	81.50
1-1/2	38.10	–	92.00	101.00	87.90	96.60
1-5/8	41.30	–	107.00	118.00	103.00	113.00
1-3/4	44.40	–	124.00	136.00	119.00	130.00
1-7/8	47.60	–	–	–	136.00	149.00
2	50.80	–	–	–	154.00	169.00
2 1/8	54.00	–	–	–	173.00	190.00
2 1/4	57.10	–	–	–	193.00	212.00

Measurements to determine diameter shall be in accordance with 4.2.1.2.

4.1.1.2 Track Strand. The diameter tolerances of track strand shall be as shown on the Approved Specification.

4.1.2 Nominal Breaking Strengths

4.1.2.1 Wire Rope. The strength of the wire rope on which the designer shall base the calculations for factor of safety shall not be more than the nominal breaking strength listed in 4.1.2.1.1, 4.1.2.1.2, and Tables 5 and 6, for the diameter, classification, and grade selected by the designer.

4.1.2.1.1 Bright (Uncoated) or Drawn Galvanized Wire Rope, Fiber Core (See Table 5). Nominal breaking strengths of galvanized ropes manufactured from wire galvanized at finished size shall be taken as 90% of the bright wire nominal breaking strengths shown in Table 5.

In a test, an acceptable rope shall not break under a tension less than 97-1/2% of its nominal breaking strength.

Certain types of tramways may require wire rope diameters other than the fractional sizes shown in Table 5, in order to be compatible with the equipment design. Nominal breaking strengths for ropes having nominal diameters between those listed in Table 5 shall be determined by the following formula.

$$NBS = \frac{nbs \times D^2}{d^2} \qquad \text{(Eq 2)}$$

where

NBS = Nominal breaking strength of size required
nbs = Nominal breaking strength of closest nominal size listed in Table 5
D = Nominal diameter of size required
d = Nominal diameter of closest nominal size listed in Table 5

The tolerances for ropes having nominal diameters between those listed in Table 5 shall be equal to the tolerances required for the closest nominal size listed.

4.1.2.1.2 Bright (Uncoated) or Drawn Galvanized Wire Rope, Independent Wire Rope Center (See Table 6). Nominal breaking strengths of ropes manufactured from wire galvanized at finished size shall be taken as 90% of the bright wire nominal breaking strengths shown in Table 6.

In a test, an acceptable rope shall not break under a tension less than 97-1/2% of its nominal breaking strength.

Table 6
Bright (Uncoated) or Drawn Galvanized Wire Rope,
Independent Wire Rope Center,
Nominal Breaking Strength in Tons of 2000 Pounds

Nominal Diameter		Classification and Grade			
		6 × 19 (Any Operation) 6 × 37 (Single Operation)		6 × 37 (Multiple Operation)	
(inches)	(mm)	Improved Plow Steel	Extra-Improved Plow Steel	Improved Plow Steel	Extra-Improved Plow Steel
1/4	6.35	2.94	3.40	2.78	3.20
5/16	7.94	4.58	5.27	4.33	4.98
3/8	9.52	6.56	7.55	6.20	7.14
7/16	11.10	8.89	10.20	8.41	9.67
1/2	12.70	11.50	13.30	11.00	12.60
9/16	14.30	14.50	16.80	13.90	15.90
5/8	15.90	17.90	20.60	17.00	19.60
3/4	19.00	25.60	29.40	24.30	27.90
7/8	22.20	34.60	39.80	32.90	37.80
1	25.40	44.90	51.70	42.80	49.10
1-1/8	28.60	56.50	65.00	53.90	61.90
1-1/4	31.70	69.40	79.90	66.10	76.10
1-3/8	34.90	83.50	96.00	79.70	91.70
1-1/2	38.10	98.90	114.00	94.50	108.00
1-5/8	41.30	115.00	132.00	111.00	127.00
1-3/4	44.40	133.00	153.00	128.00	146.00
1-7/8	47.60	—	—	146.00	168.00
2	50.80	—	—	165.00	190.00
2-1/8	54.00	—	—	186.00	214.00
2-1/4	57.10	—	—	207.00	239.00

Certain types of tramways may require wire rope diameters other than the fractional sizes shown in Table 6, in order to be compatible with the equipment design. Nominal breaking strengths for ropes having nominal diameters between those listed in Table 6 shall be determined by the following formula:

$$NBS = \frac{nbs \times D^2}{d^2} \qquad \text{(Eq 3)}$$

where

NBS = Nominal breaking strength of size required
nbs = Nominal breaking strength of closest nominal size listed in Table 6
D = Nominal diameter of size required
d = Nominal diameter of closest nominal size listed in Table 6

The tolerances for ropes having nominal diameters between those listed in Table 6 shall be equal to the tolerance required for the closest nominal size listed.

4.1.2.2 Track Strand. The strength of strand on which the designer shall base the calculations for factor of safety shall not be more than the nominal breaking strength shown on the Approved Specification. In a test, an acceptable strand shall not break under a tension less than 97-1/2% of its nominal breaking strength.

4.1.3 Tensile Strengths

4.1.3.1 Minimum Wire Tensile Strength for Main Rope Wires. This strength shall be as shown in Table 7. Main rope wires shall comply with this requirement.

Table 7
Tensile Strength Requirements
for Main Rope Wires

Wire Diameter (inch)	Tensile Strength (minimum), Bright or Drawn Galvanized Wire	
	Improved Plow Steel (psi)	Extra-Improved Plow Steel (psi)
0.000-0.030	244 000	268 000
0.031-0.060	238 000	262 000
0.061-0.100	230 000	253 000
0.101-0.140	225 000	248 000
0.141-0.190	218 000	240 000

Filler wires and wires of core strand or rope need not comply.

4.1.3.2 Minimum Wire Tensile Strength for Track Strand Wires. This strength shall be as shown on the Approved Specification.

4.1.4 Torsion Requirements

4.1.4.1 Wire Torsion Values for Wire Rope. Wire torsional value shall be determined by either of the two following methods:

(1) Wires shall be tested prior to fabrication into strand or rope.

(2) Wires shall be removed from a rope after fabrication and tested.

Whichever of these methods is used, the wires shall meet the applicable torsional values shown in Table 8. For galvanized wire, see Table 9.

Table 8
Torsion Values for Main Rope Wires

Wire Diameter (inch)	Revolutions in a Gage Length of 8 Inches*	
	Improved Plow Steel	Extra-Improved Plow Steel
Wires Tested prior to Fabrication of Rope		
0.000-0.079	$\frac{2.36}{d} - 2$	$\frac{2.20}{d} - 2$
0.080-0.159	$\frac{2.36}{d} - 2$	$\frac{1.92}{d} - 2$
Wires Removed from Rope after Fabrication		
All diameters	$\frac{2.24}{d} - 2$	$\frac{2.16}{d} - 8$

NOTE: d equals diameter of wire in inches

*To convert to torsions (revolutions) in 100d, multiply values by 12.5d.

Table 9
Torsion Value Reductions for Wire Galvanized at Finished Size

Wire Diameter (inch)	Torsions, as Percentage of Torsions of Bright or Drawn Galvanized Wire
0.039-0.079	50%
0.080-0.119	40%
0.120 and larger	30%

NOTES:

(1) These torsions are for wire galvanized at finished size unless the manufacturer is claiming bright strength, in which case torsions for bright wire shall apply.

(2) Wires of 0.039-inch diameter and smaller are normally drawn galvanized.

Unless specifically requested by the authority having jurisdiction, wire torsion tests are not required for counterweight ropes.

For a description of the ductility test for track strand wires see 4.2.1.5.3.

4.1.4.2 Wire Torsion Values for Track Strand. These values shall be as shown on the Approved Specification.

4.2 Testing

4.2.1 Testing Procedures. Before installation, a certified test report covering the tests required herein shall be provided from a testing laboratory in the United States acceptable to the authority having jurisdiction. Unless otherwise specified, the manufacturer of the wire rope or track strand is responsible for performance of all testing requirements in this standard.

4.2.1.1 Sampling – Wire Rope and Track Strand. A sample long enough to provide 9 feet of free length shall be cut from each manufactured length to be used for the rope breaking strength test and diameter measurement.

If tensile and torsion tests are to be performed on wires removed from the finished rope, a second sample 3 feet long shall be cut.

When wires are tested prior to fabrication, the same density of sampling shall be employed and adequate records shall be kept by the manufacturer to enable identification of such wires with the actual rope produced.

4.2.1.2 Examination of Diameter – Wire Rope and Track Strand. The diameter shall be measured on the long sample (9 feet) at the center of its length and 3 feet on each side of center. The average of these three measurements shall be the diameter of the wire rope or track strand being inspected.

4.2.1.3 Ultimate-Strength Tests. An ultimate-strength test shall be made on a complete rope or strand. The tests shall be made on the long sample (see 4.2.1.1).

4.2.1.4 Wire Tensile Tests. Samples for tensile tests may be obtained prior to or after fabrication. In either case the density of samples shall be equivalent to the following: not less than six wires of each size in the rope except for the center wires. At least two samples of the center wire will be required.

The free length of wire shall not be less than 10 inches. The speed of the head during the test shall not be more than 1 inch per minute. The tensile strength shall conform to Table 7.

For track strand the density and test parameters shall be negotiated with the manufacturer.

When wire tensile tests are performed on wires prior to fabrication, the same sample density shall be employed and adequate records shall be kept by the manu-

facturer to enable identification of such wires with the actual rope produced.

Unless specifically requested by the authority having jurisdiction, this test is not required for counterweight ropes.

4.2.1.5 Wire Torsion Tests. When wire torsion tests are performed on wires prior to fabrication, adequate records shall be kept by the manufacturer to enable identification of such wire with the actual rope produced.

Unless specifically requested by the authority having jurisdiction, wire torsion tests are not required for counterweight ropes.

4.2.1.5.1 Test Procedure. From each short sample, not less than one specimen of each size of main wires from each strand shall be taken. The total number of specimens shall be not less than 15% of the total number of main wires. Wires for the torsional test shall be hand straightened. The free length of wires in the testing machine before the test shall be 8 inches (± 1/16 inch). One clamp in the testing machine shall be movable parallel to the axis of the tested wire, and an axial tensile force in accordance with Table 10 shall be applied to keep the tested wire straight during the test. The tested wire shall be twisted by either of two methods. Both clamps may be rotated in opposite directions or one clamp may be rotated while the other is held stationary at a uniform rate of not more than 60 revolutions per minute. In either case, the total rotations will be counted.

Table 10
Tensile Force on Wires during Torsional Test

Wire Diameter		Tensile Force	
From (inch)	To (inch)	Minimum (pounds)	Maximum (pounds)
0.000	0.009	0.5	1.0
0.010	0.014	1.0	2.0
0.015	0.019	1.5	3.0
0.020	0.029	2.0	4.0
0.030	0.039	3.0	6.0
0.040	0.049	4.0	8.0
0.050	0.059	5.0	10.0
0.060	0.069	6.0	12.0
0.070	0.079	7.0	14.0
0.080	0.089	8.0	16.0
0.090	0.099	9.0	18.0
0.100	0.109	10.0	20.0
0.110	0.119	11.0	22.0
0.120	0.129	12.0	24.0
0.130	0.139	13.0	26.0
0.140	0.149	14.0	28.0
0.150	0.159	15.0	30.0
0.160	and up	16.0	32.0

4.2.1.5.2 Alternate Test Procedure. Because the number of revolutions in the torsional test is proportional to the free length, the inspector may approve a free length before the test of 4 inches (± 1/16 inch) for wires up to 0.040 inch in diameter or of 6 inches (± 1/16 inch) for wires not more than 0.060 inch in diameter. The wire specimens with a free length of 4 inches shall not break when twisted one-half the number of revolutions shown in Table 8. The wire specimens with a free length of 6 inches shall not break when twisted three-fourths the number of revolutions shown in Table 8. Testing shall be done in the same manner as described in 4.2.1.5.1.

4.2.1.5.3 Ductility Test for Track Strand Wires. Wires for track strand shall withstand one 90-degree bend over a round mandrel whose diameter is three times the largest dimension of the wire being tested. (For round wire this is equal to three times the wire diameter.) The wire shall be bent in the same plane as it will bend when in the rope. The test shall be performed prior to fabrication. The wire shall not split or crack when so tested.

4.2.2 Test Reports

4.2.2.1 Wire Rope. The test reports for wire rope shall include the following:

(1) Complete description of wire rope furnished for the test, including number and arrangement of wires, strength grade, type of core, and nominal breaking strength

(2) Actual rope diameter

(3) Actual breaking strength of complete rope

(4) Actual breaking strength and size of wires tested

(5) Actual torsions of wires tested

4.2.2.2 Track Strand. The test reports for track strand shall include the following:

(1) Complete description including number and arrangement of wires, strength grade, and nominal breaking strength

(2) Actual strand diameter

(3) Actual breaking strength of complete strand

(4) Actual tensile strengths and sizes of individual wires

4.2.3 Rejects and Retests

4.2.3.1 Rejects. If only one test sample is supplied from a manufactured length, and any test specimens taken from this sample fail to pass any specified tests, all reels or coils of strand or rope from that manufactured length shall be rejected.

If a separate test sample is furnished from each piece of strand or rope that is reeled or coiled for shipment, failure of any test specimens to pass any specified tests shall be cause for rejection of only the particular reel or coil from which the faulty specimens have been taken.

4.2.3.2 Retests. In tensile or torsion tests of

wires, one wire may fall below the requirement, but by not more than 20% below. In such a case, six additional wires of the same size shall be tested, all of which shall pass.

In tensile test of the wire rope or track strand, if the strength falls below the requirement, one retest shall be made on a sample from the same reel or coil and shall pass for acceptance.

Where the test specimen breaks in the jaws of the machine or at a terminal, the results may be discarded and another specimen tested without considering it a retest.

5. Revision of American National Standards Referred to in This Document

When the following standards referred to in this document are superseded by a revision approved by the American National Standards Institute, the revision shall apply:

American National Standard Safety Standard for Mechanical Power Transmission Apparatus, B15.1-1972

American National Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines, B176.1-1974 (NFPA No. 37-1970)

American National Standard National Electrical Code, C1-1975 (NFPA No. 70-1975)

American National Standard National Electrical Safety Code, C2 (1973 Edition), including C2.1-1971, C2.2-1960 and Supplement C2.2a-1965, C2.3-1973, and C2.4-1973

American National Standard for the Storage and Handling of Liquefied Petroleum Gases, Z106.1-1974 (NFPA No. 58-1974)

American National Standard Flammable and Combustible Liquids Code, Z288.1-1974 (NFPA No. 30-1973)

Index (Numbers refer to sections in this standard.)

This index is intended as a supplement to the Table of Contents to aid the reader in finding particular subjects or requirements described in this standard. It is not all-inclusive, but rather is directed to the most commonly encountered topics and most frequently used lift types. When a specific section is referenced, the subsections following should also be checked for possible additional requirements. Conversely, it is understood that when a subsection is referenced, the general requirements of its main section are applicable and should be considered.

For conciseness, the alphabetical listing of subjects is followed by only three categories of lift types: chair lifts, surface lifts, and tows. Sections referenced under chair lifts are equally applicable to gondola types unless followed by an asterisk (*), which indicates that additional or special requirements are applicable for gondola types. In the sections referenced under tows, a dagger (†) indicates the presence of additional or special information for wire rope tows.

Subject	*Chair Lifts*	*Surface Lifts*	*Tows*
A			
Acceleration	2.2.4.2	2.2.4.3	2.2.4.3
Acceptance tests			
general	2.1.14	2.1.14	2.1.14
specific	2.1.14.1	2.1.14.2	2.1.14.3
Anchorage requirements	–	–	2.1.6.3
Anchor bolts	2.1.6.1	2.1.6.1	2.1.6.1
Anchoring devices	2.2.10	2.2.10	2.2.10
Anemometers (see Wind gages)			
Antirollback (see Backstop brake)			
Attendants			
definition	1.8.9	1.8.9	1.8.9
duties of	3.2.3.3	3.2.3.3	3.2.3.3
intermediate station	3.2.2.2.1	–	–
regulations for	3.2.2.2	3.2.2.3	3.2.2.4
requirements for	3.2.1.3	3.2.1.3	3.2.1.3
Authority having jurisdiction	1.5	1.5	1.5
Auxiliary power	2.2.1.2*	2.2.1.3	2.2.1.3
B			
Backstop brake	2.2.5.2.3	2.2.5.3.1	2.2.5.4.1
Bicable systems, trucks for	2.4.4	–	–
Brakes			
backstop	2.2.5.2.3	2.2.5.3.1	2.2.5.4.1
emergency	2.2.5.2.2	–	–
general	2.2.5	2.2.5	2.2.5
requirements for	2.2.5..	2.2.5.3	2.2.5.4
service	2.2.5.2.1	2.2.5.3.2	2.2.5.4.2

*See additional information for gondola types

Subject	*Chair Lifts*	*Surface Lifts*	*Tows*
Brakes (Continued)			
stopping distance for	2.2.5.2.1	2.2.5.3.2	2.2.5.4.2
Bull wheels, definition	1.8.3.3.2	1.8.3.3.2	1.8.3.3.2
Bull wheel unloading	2.1.11.2.2	–	–

C

Cable catchers (see Rope-catching devices)			
Capacity			
definition	1.8.6	1.8.6	1.8.6
posting limitations	2.1.12.2	–	–
requirements for	2.1.5.2*	2.1.5.3	2.1.5.4
Carriages, tension sheave			
floating	2.2.8.3	2.2.8.4	2.2.8.5
rigid	2.2.8.2	2.2.8.2	2.2.8.5
Carriers			
design of	2.4.5.2*	2.4.5.4	2.4.5.5†
numbering of	2.4.5.2.3*	–	–
spacing of	2.1.5.2.2*	2.1.5.3	2.1.5.4
speed of	2.1.5.2.2*	2.1.5.3	2.1.5.4
Chairs (see also Carriers)			
hangers for	2.4.5.2.2	–	–
safety details for	2.4.5.2.4		
test loads for	2.1.14.1		
Clearances			
general	2.1.4	2.1.4	2.1.4
horizontal	2.1.4.2.2*		2.1.4.5.2
other			2.1.4.5.3†
tower			
general	2.3.2.2	2.3.2.3	
specific	2.3.2.2.1		
vertical	2.1.4.2.1*	2.1.4.4.1	2.1.4.5.1
Clearing, track width	2.1.3	2.1.3.1.1	2.1.3.2.1
Communications			
general	2.1.8	2.1.8	2.1.8
special		2.1.8.2	2.1.8.2
Counterweight			
automatic stops	2.2.11.2.2	2.2.11.4.2	
enclosures	2.2.9.1	2.2.9.1	2.2.2.4
ropes, travel of	2.2.9.2	2.2.9.2	2.2.9.2
sheaves, definition	1.8.3.4	1.8.3.4	1.8.3.4
system	2.2.9.1	2.2.9.1	
winches	2.2.10.1	2.2.10.1	2.2.10.1

*See additional information for gondola types.

†See additional information for wire rope tows.

Subject	Chair Lifts	Surface Lifts	Tows
Crossings, slope or trail	–	2.1.2.1.2	–
Cross slope	–	2.1.2.1.2	2.1.2.2.2
D			
Deropement switches	2.3.3.1.2	2.3.3.1.2	–
E			
Electrical			
control voltage	2.1.9.4	2.1.9.4	2.1.9.4
design and installation	2.1.9	2.1.9	2.1.9
stop circuits	2.1.9.5	2.1.9.5	2.1.9.5
Emergency repairs (patch)	2.1.7.4.2	2.1.7.4.2	2.1.7.4.2
Engineer, qualified, definition	1.8.7	1.8.7	1.8.7
Evacuation			
provision for	3.2.4.3.6	–	–
requirements for	2.1.13	–	–
Exhaust systems	2.1.10.2	2.1.10.2	2.1.10.2
Existing installations	1.2.4	1.2.4	1.2.4
F			
Fiber rope, specifications for	–	–	2.4.1.2
First aid	3.2.1.6	3.2.1.6	3.2.1.6
Foundations			
design of	2.1.6.2	2.1.6.2	2.1.6.2
factor of safety for	2.1.6.2.1	2.1.6.2.1	2.1.6.3.1
Fuel storage	2.1.10.1	2.1.10.1	2.1.10.1
Funiculars (see Tramway types, other classifications of)			
G			
Gear shifts	2.1.10.3	2.1.10.3	2.1.10.3
Gondola carriers	2.4.5.1	–	–
Gradient, st. track	–	2.1.2.1.1	2.1.2.2.1
Grandfather clause (see Existing installations)			
Grips			
checking	3.3.1.1	3.3.1.1	–

Subject	*Chair Lifts*	*Surface Lifts*	*Tows*
Grips (Continued)			
haul rope	2.4.3	2.4.3	–
detachable, additional requirements for	2.4.3.5	–	–
fixed, additional requirements for	3.3.1.1	3.3.1.1	–
general	2.4.3.1	2.4.3.1	–
incorrect attachment of	2.4.3.5.2	–	–
maximum loads for	2.4.3.4	2.4.3.4	–
relocation of	3.3.1.1	3.3.1.1	–
slippage requirements for	2.4.3.2	2.4.3.2	–
strength of	2.4.3.3	2.4.3.3	–
Grounding			
of structures	2.1.9.6	2.1.9.6	2.1.9.6
of wire rope	2.1.9.6	2.1.9.6	2.1.9.6†
Guards			
for machinery	2.2.6.1	2.2.6.1	2.3.2.4
for towers	2.3.2.2*	2.3.2.3	2.3.2.4
H			
Haul rope (see Wire rope or Fiber rope)			
Hazardous operating conditions	3.2.4.3.5	3.2.4.3.5	3.2.4.3.5
I			
Inspection			
daily preoperational	3.2.4.2	3.2.4.2	3.2.4.2
general	2.1.14	2.1.14	2.1.14
special preoperational	3.2.4.2.2*	3.2.4.2.3	3.2.4.2.3
specific	2.1.14.1	2.1.14.2	2.1.14.3
Intermediate stations	2.1.11.2	–	–
L			
Loading areas	2.1.11.2.1*	2.1.11.4	2.1.11.5
Location, requirements for	2.1.2	2.1.2	2.1.2
Log books	3.5	3.5	3.5
M			
Machinery, location of	2.2.6	2.2.6	2.2.6

*See additional information for gondola types.

†See additional information for wire rope tows.

Subject	*Chair Lifts*	*Surface Lifts*	*Tows*
Machinery, location of (Continued)			
housed	2.2.6.3	2.2.6.3	2.2.6.3
not housed	2.2.6.2	2.2.6.2	2.2.6.2
Maintenance			
log	3.5.3	3.5.3	3.5.3
requirements	3.3.1	3.3.1	3.3.1
Manuals	2.6	2.6	2.6
Motors (see Prime movers)			
N			
Night lighting	2.1.9.7	2.1.9.7	2.1.9.7
O			
Operating personnel			
duties of	3.2.3	3.2.3	3.2.3
number required	3.2.2.2	3.2.2.3	3.2.2.4
station			
general	2.5	2.5	2.5
specific	2.5.2	2.5.2	2.5.3
Operational log	3.5.1	3.5.1	3.5.1
Operational requirements	3.2.4.3	3.2.4.3	3.2.4.3
Operators			
at intermediate stations	3.2.2.2.1	–	–
definition	1.8.8	1.8.8	1.8.8
duties of	3.2.3.2	3.2.3.2	3.2.3.2
regulations for	3.2.2.2	3.2.2.3	3.2.2.4
requirements for	3.2.1.2	3.2.1.2	3.2.1.2
Overhauling loads	2.2.4.2	–	–
P			
Passenger conduct	3.6	3.6	3.6
Personnel safety			
procedures for	3.1.1	3.1.1	3.1.1
provision for	2.1.15	2.1.15	2.1.15
Portable tow (see Wire rope or Fiber rope)			
Prime movers	2.2.1	2.2.1	2.2.1
R			
Ramps, inclination of	2.1.11.2.2	2.1.11.4	2.1.11.5
Records (see Log books)			
Reduction systems (see Speed reducers)			

Subject	*Chair Lifts*	*Surface Lifts*	*Tows*
Repairs (see Emergency repairs)			
Rescue (see Evacuation)			
Retention, rope			
line	2.3.3.1.3	2.3.3.2	2.3.3.3
terminal	2.2.7.2.1	2.2.7.2.2	2.2.7.2.3
Rollers (see Sheaves)			
Rope (see Wire rope or Fiber rope)			
Rope-catching devices	2.3.3.1.2	2.3.3.1.2	
Rope grippers	—	—	2.4.5.5.1
Rope height adjustment	2.1.4.2.3	2.1.4.4.2	2.1.4.5†
S			
Safety			
maintenance personnel	2.1.15	2.1.15	2.1.15
personnel	3.1.1	3.1.1	3.1.1
Safety gates			
definition	1.8.5	1.8.5	1.8.5
requirements for	2.2.11.2.2	2.2.11.4.2	2.2.11.4.2
Sheaves			
counterweight			
definition	1.8.3.4	1.8.3.4	1.8.3.4
diameter	2.2.7.2	2.2.7.3	2.2.7.3
definition	1.8.3	1.8.3	1.8.3
drive			
coefficient of friction	2.2.7.2.1	2.2.7.2.2	2.2.7.2.2
diameter	2.2.7.2.1	2.2.7.2.1	2.2.7.2.3†
general	2.2.7.1	2.2.7.1	2.2.7.1
retention		2.2.7.2.2	2.2.7.2.3†
guide			
general	2.2.7.4	2.2.7.4	2.2.7.4
specific	2.2.7.4.1	2.2.7.4.2	2.2.7.4.3
line	2.2.7.4	2.2.7.4.2	2.2.7.4.3
combination	2.3.3.1.3		
design	2.3.3.1.2	2.3.3.1.2	
diameter	2.3.3	2.3.3	
load	2.3.3.1.1	2.3.3.1.1	
minimum load	2.3.3.1.3	2.3.3.1.3	
special		2.3.3.2	
return rope			2.3.3.3
tension			
floating	2.2.8.3	2.2.8.4	2.2.8.5
rigid	2.2.8.2	2.2.8.2	2.2.8.5
terminal (see Sheaves, drive or tension)			
Signs			
general	2.1.12.2	2.1.12.3	2.1.12.4
night operation of	2.1.12.5	2.1.12.5	2.1.12.5

†See additional information for wire rope tows

Subject	*Chair Lifts*	*Surface Lifts*	*Tows*
Ski tip guards	2.3.2.2.1	–	–
Ski track width	–	2.1.3.1.2	2.1.3.2.2
Speed			
control of	2.2.4.2	2.2.4.3	2.2.4.3
line or carrier	2.1.5.2.2*	2.1.5.3	2.1.5.4.2†
Speed reducers	2.2.2	2.2.2	2.2.2
Spiraling of rope	–	–	3.3.3
Splices (see Wire rope, splices)			
Standby power (see Auxiliary power)			
Stations (see Operating personnel)			
Stop circuits	2.1.9.5	2.1.9.5	2.1.9.5
Stops			
automatic			
detachable	2.2.11.3.2	2.2.11.4.2	2.2.11.4.2
fixed grip	2.2.11.2.2	2.2.11.4.2	2.2.11.4.2†
manual			
detachable	2.2.11.3.1	2.2.11.4.1	–
fixed grip	2.2.11.2	2.2.11.4.1	2.2.11.4.1
general	2.2.11	2.2.11	2.2.11
Structures, design of	2.1.6	2.1.6	2.1.6
T			
Takeup devices (see Tensioning devices or Counterweight system)			
Tensioning devices	–	–	2.2.9.4†
Tower guards (see Guards)			
Towers			
general	2.3.1.1	2.3.1.1	2.3.1.3
height adjustment	2.1.4.2.3	2.1.4.4.2	–
ladders for	2.3.1.1	2.3.1.1	2.3.1.3.1
numbering of	2.3.1.1	2.3.1.1	–
Tow grippers (see Rope grippers)			
Towing handles	–	–	2.4.5.5.2
Track cable	2.4.2	–	–
factor of safety for	2.4.2.1	–	–
Track width clearing	–	2.1.3.1.1	2.1.3.2.1
Track width, ski (see Ski track width)			
Tramway types			
definitions	1.6.2	1.6.3	1.6.4
other classifications of	1.2.1*	1.2.1	1.2.1
U			
Unloading areas	2.1.11.2.2	2.1.11.4	2.1.11.5

*See additional information for gondola types

†See additional information for wire rope tows

Subject	*Chair Lifts*	*Surface Lifts*	*Tows*
W			
Weight, passenger	2.1.1	2.1.1	2.1.1
Wheels (see Sheaves, line)			
Winches (see Counterweight winches)			
Wind gages	2.2.12.2	—	—
Wire rope			
counterweight	2.2.9.2	2.2.9.2	2.2.9.2
end connections	2.1.7.5	2.1.7.5	2.1.7.5
factor of safety for	2.4.1.1	2.4.1.1	2.4.1.2
inspection	3.4.2	3.4.2	3.4.2
log	3.5.2	3.5.2	3.5.2
maintenance of	3.3.2	3.3.2	3.3.2
replacement of	3.3.2.1	3.3.2.1	3.3.2.1.2
specifications for	2.1.7.1	2.1.7.1	2.1.7.1†
splices			
counterweight	2.1.7.4.3	2.1.7.4.3	2.1.7.4.3
emergency	2.1.7.4.2	2.1.7.4.2	2.1.7.4.2
haul rope	2.1.7.4.1	2.1.7.4.1	2.1.7.4.1
track cable	2.1.7.4.4	—	—
tests of	2.1.7.2	2.1.7.2	2.1.7.2

†See additional information for wire rope tows

American National Standards

The standard in this booklet is one of nearly 6500 standards approved to date by the American National Standards Institute.

The Standards Institute provides the machinery for creating voluntary standards. It serves to eliminate duplication of standards activities and to weld conflicting standards into single, nationally accepted standards under the designation "American National Standards."

Each standard represents general agreement among maker, seller, and user groups as to the best current practice with regard to some specific problem. Thus the completed standards cut across the whole fabric of production, distribution, and consumption of goods and services. American National Standards, by reason of Institute procedures, reflect a national consensus of manufacturers, consumers, and scientific, technical, and professional organizations, and governmental agencies. The completed standards are used widely by industry and commerce and often by municipal, state, and federal governments.

The Standards Institute, under whose auspices this work is being done, is the United States clearinghouse and coordinating body for voluntary standards activity on the national level. It is a federation of trade associations, technical societies, professional groups, and consumer organizations. Some 1000 companies are affiliated with the Institute as company members.

The American National Standards Institute is the United States member of the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC). Through these channels U.S. standards interests make their positions felt on the international level. American National Standards are on file in the libraries of the national standards bodies of more than 60 countries.

For a free list of all American National Standards, write:

American National Standards Institute, Inc
1430 Broadway
New York, N.Y. 10018

ALYESKA SAFETY AND OPERATION PLAN

ALYESKA SKI AREA

ANCHORAGE AREA OFFICE
CHUGACH NATIONAL FOREST
1979-80

ALYESKA SAFETY AND OPERATION PLAN

Prepared by _____ Date 11/16/79
Alyeska Hill Chief

Reviewed by _____ Date 11/14/79
Snow Ranger

Reviewed by _____ Date 11/14/79
R.M.A. Anchorage District

Recommended by _____ Date 11/13/79
Recreation Manager

Approved by _____ Date 11/14/79
Forest Supervisor

Alyeska Resort
Permittee by _____ Date _____
Vice President and
General Manager

TABLE OF CONTENTS

	Page
Objective	1
Responsibilities	2
Chart of Organization	5
Duties, General	8
Races, Ski School	9
Ski Touring and Climbing	10
Helicopter Use on Max's Mountain	10
Alyeska Sign Plan	11
Communications	13
Weather Reporting and Recording	14
First Aid and Rescue Operations	15
Emergency Care Procedures	16
Chairlift Evacuation Plan	18
General Sweep Procedures	20
Night Skiing Operation Plan	22
Avalanche Forecasting and Control	26
Avalanche Control Procedures	30
Artillery Control Procedures	31
Cornice Blasting	45
Helicopter Blasting	48
Avalanche Rescue Procedures	48
Avalanche Rescue Equipment	49
Avalanche Rescue General Alarm	51

TABLE OF CONTENTS

(Continued)

	Page
Instructions for Key Rescue Personnel.....	52
Important Numbers and Addresses.....	56
Avalanche Closure Violations.....	57
Ticket Removal Policy.....	58
Job Descriptions.....	60
Max Mountain Shot Points.....	61
Shadow's Shot Points.....	62
Headwall Shot Points.....	63
North Face Hand Control.....	64
Bowl Hand Control Routes.....	65

OBJECTIVES

A. The primary objective of this plan is to provide guidelines to insure maximum safety to the users of the lifts, slopes, and other facilities in the area. It is intended to be a coordinated plan for the safest possible winter operation of the entire area.

B. This plan is prepared pursuant to the October 17, 1973 revision of the Term Special Use Permit to Alyeska Resort, and the Forest Service manuals and handbooks covering ski area administration. This plan does not supercede or amend any articles of the Term Special Use Permit as reviesed October 17, 1973, or the Special Use Permit dated March 11, 1970, for the ski slopes, but acts as a supplement and guide for the permittee. All articles of safety in the Special Use Permit are automatically assumed by this plan.

C. The plan seeks to provide a designation of responsibilities and authorities for all individuals and groups involved in the administration, supervision, and operation of the area. Generally, these groups are the Alyeska Resort and its employees, the U.S. Forest Service and the National Ski Patrol System. It will further clarify what actions will be taken by the Forest Service Administrator (Snow Ranger), what action will be the responsibility of the permittee, and what areas will require coordination and cooperation.

Responsibilities U.S.F.S.

A. One of the many operational objectives of the Forest Service is making National Forest lands available for public recreational purposes. One of the prime objectives in winter sports administration is to prevent accidents related to ski lifts, tows, and avalanche hazards. The Snow Rangers will provide supervision and inspection of the Alyeska ski area so that the following operational functions are carried out to standards referred to in this plan:

1. Prevention of lift and tow accidents by pertinent inspections carried out by qualified Forest Service Engineers and/or Snow Rangers.

2. Assist and/or work cooperatively with permittee personnel in marking the ski area boundaries.

3. Insures that the public as well as the permittee maintains a high standard of safety.

4. Participate with ski area personnel in collecting and interpreting weather data and formulating avalanche hazard predictions.

5. Determine that the terms of the special Use Permits are being followed by means of periodic inspections.

Safety Program

Duties of the Snow Rangers will include but are not limited to the following:

1. To see that the terms of the Special Use Permit and stipulations of the safety plan are being followed by the Permittee with consideration given to existing circumstances.

2. Conducting inspections on all lifts located on National Forest in compliance with current American National Standard Safety Requirement for Aerial Passenger Tramways, hereafter referred to as ANSI requirements. Qualified Forest Service Engineers will conduct one annual inspection of lifts and facilities. The Snow Ranger and Engineer should be accompanied by the mountain manager or lift foreman, so that the inspection will fit and the permittee schedule arrangements should be made in advance.

3. Inspecting for various aspects of slope safety to see that reasonable care is taken to identify and mitigate hazards on primary ski slopes; slope hazards are discussed in greater depth through this plan.

4. That Permittee will make all reasonable efforts to recognize and minimize avalanche hazards within the designated ski area. The Snow Rangers will participate with Alyeska Avalanche Technician in collecting and interpreting weather data and formulating avalanche hazards predict' ns. Snow Rangers will also provide advice, as needed, to area ski patrol personnel so that plans can be formulated and executed.

5. Providing assistance in training personnel related to safety operation involving explosives, avalanches, and administrative subjects.

6. Provide training for Permittee's personnel (Hillchief Avalanche Tech.) in the use of avalanche control artillery.

7. Assuming the responsibilities that methods of proper storage, transportation, and handling of artillery ammunition is being followed.

8. Assisting the Permittee's personnel, as needed, with decision making as to whether or not area slopes are safe for skiing and whether the slopes should remain open or closed. Snow Ranger has full authority to close down lifts or ski runs on the basis of his experience, judgement and appraisal of avalanche or lift dangers and give specific reasons for action taken in advance to Permittee's management personnel, unless it is an emergency.

9. Inspecting and insuring (and participating on a time permitting basis) hazard reduction tasks carried out by Alyeska Ski patrolmen. Hazard reduction may involve preparing and throwing hand charges onto slide paths and skiing slopes to determine snow stability.

10. Forest Service personnel have the responsibility of seeing that records are kept on ammunition accountability. All duds will be located and recorded as to location and date of occurence. A diligent effort will be made by the Permittee to locate unexploded wareheads. Snow Rangers will perform the firing of the 75mm and 105mm rifle and will maintain daily Artillery Control records.

11. Directs the recording of all avalanche records and weather records on a daily basis, at the end of each month sends monthly summaries to Ft. Collins, Colorado.

12. Timekeeping for firing artillery is a function of the Alyeska Snow Ranger.

13. Be available to provide coordination, leadership, and technical assistance for the State Troopers in search and rescue in cases involving avalanche, missing or lost persons if requested.

14. Will issue Federal citations to Avalanche closed areas violators and will be required to make court appearances.

15. Represent the permittee in matters dealing with the U.S. Army concerning rifle storage, rifle maintenance, ammunition storage and procurement.

B. The Permittee will be notified as soon as possible by the Forest Service should a Snow Ranger not be able to be on duty. The Hill Chief and/or the Avalanche Tech. should be notified.

C. Permittee

1. Alyeska Resort is to prepare the Alyeska Operation and Safety Plan with the concurrance of the U.S. Forest Service. Annual review will be made at the beginning of each ski season.

2. The Permittee will make every reasonable effort to continue the safety programs outlined in this plan, whether using company employees, contractors, or persons working for other gratuities. Everyone concerned in the operation of the area should be familiar with this plan.

CHART OF ORGANIZATION -- Forest Service

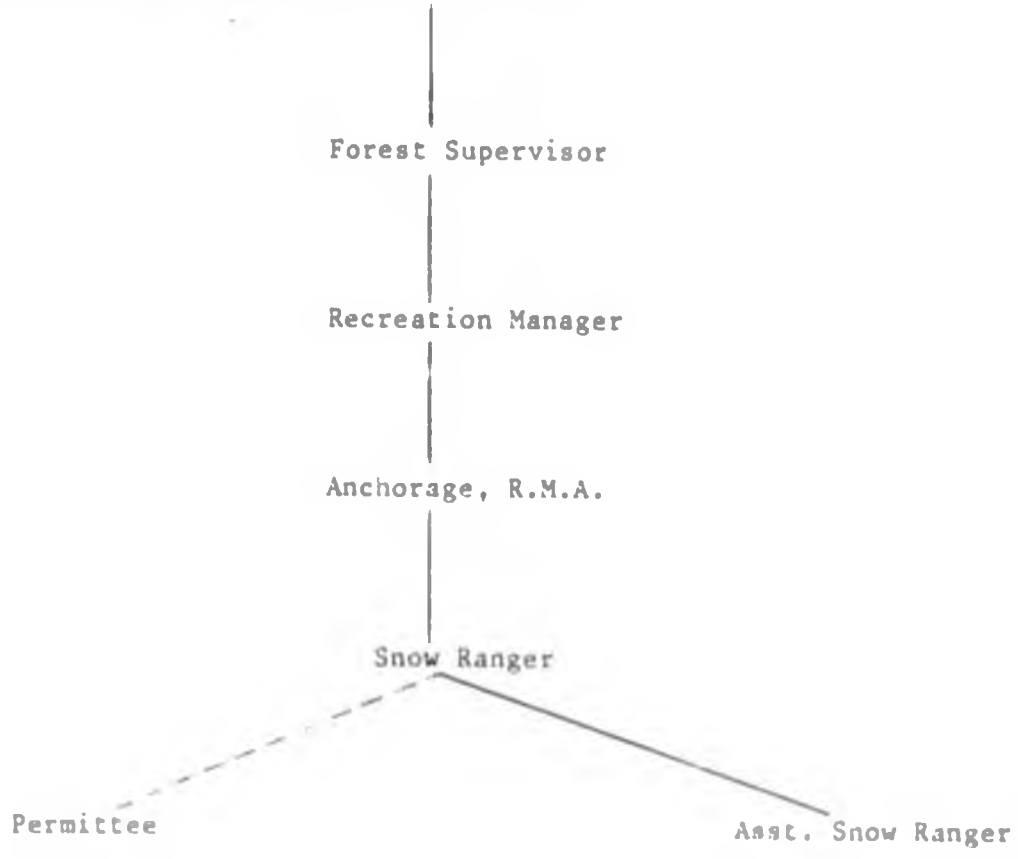
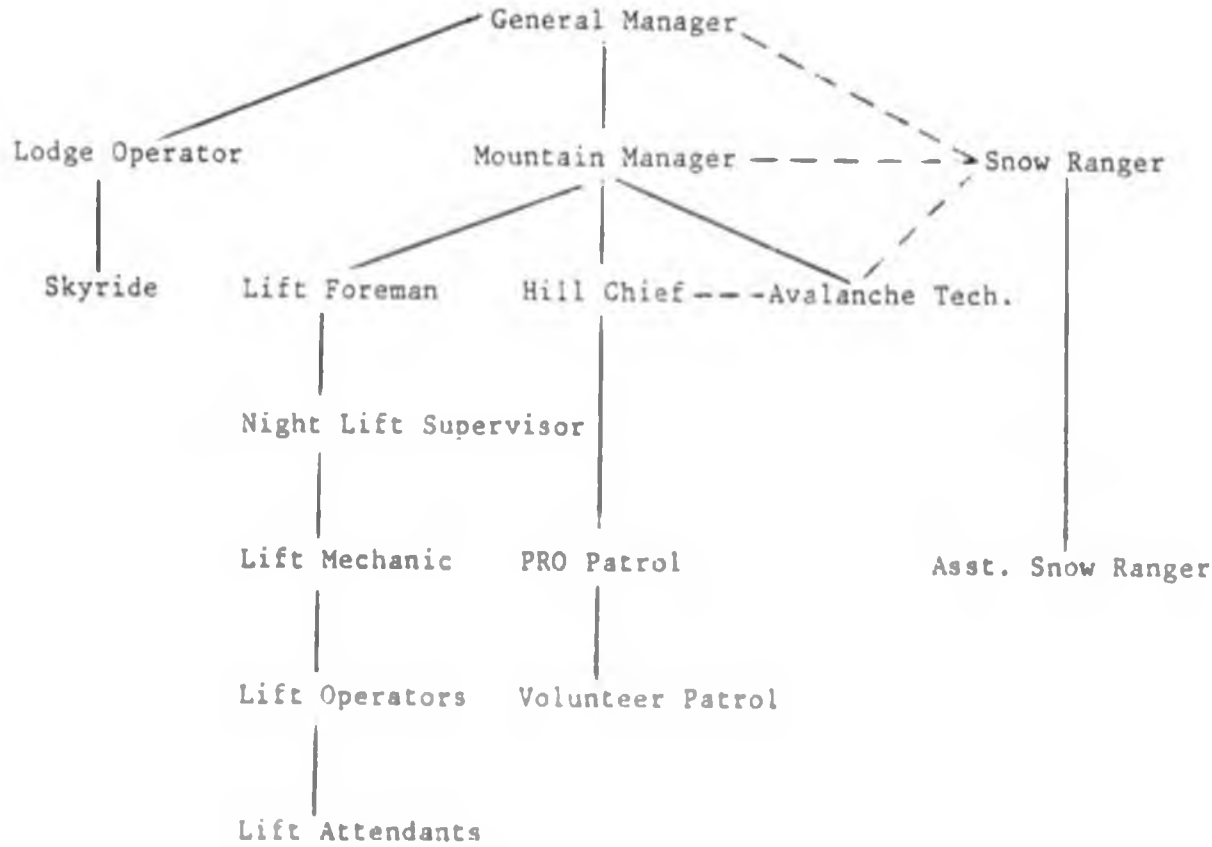


CHART OF ORGANIZATION (Permittee)



The permittee, when operating with lifts open, shall carry a crew as follows:

Area Administration:	General Manager	
	Mountain Manager	
	Lift Foreman	
	Hill Chief	
Avalanche Control	Avalanche Technician and six assistants	
Lift Operations:	Chairlift #1	4 attendants
	Chairlift #2	3 attendants
	Chairlift #3	3 attendants
	Chairlift #4	3 attendants
	Tanaka Lift	3 attendants
	Relief Crew	Lift Foreman, Mechanic
Hill Safety	At least the minimum number of patrolers required for lifts open as listed on page 15.	

In the absence of the General Manager, the Mountain Manager will assume authority. In the absence of the Mountain Manager, the Lift Foreman will assume authority.

DUTIES, GENERAL (See Appendix A for complete job descriptions).

A. General Manager: The General Manager or a designated representative will be available at all times for emergencies, accidents, etc. (See chart of organization, page 3).

B. Mountain Manager: The Mountain Manager will supervise all phases of mountain activity.

C. Hill Chief: The Hill Chief will direct the ski patrol and be responsible for all hill safety programs and first aid. (See Section A-3).

D. Avalanche Technician: The permittee shall provide a qualified Avalanche Technician, acceptable to the U.S. Forest Service. The Avalanche Technician will, with the concurrance of the Forest Service Snow Ranger, direct all weather recording and avalanche control with the exception of the firing of the recoiless rifles. (See Section A-4).

E. Pro-Patrol: Each member of the Professional Patrol will assist in first aid to the injured, avalanche hazard reduction, and other duties as assigned. (See Section A-9)

F. Volunteer Patrol: Each member of the Volunteer Ski Patrol will assist in the first aid to the injured and other prevention programs. (See Section A-10)

G. Lift Foreman: The Lift Foreman will oversee the entire lift operation including maintenance, and will supervise all lift operators and attendants. (See Section A-5)

H. Mecnanic: The Mechanic will assist in the maintenance and repair of all lifts and snow vehicles and machinery.

I. Night Lift Supervisor: Will supervise general skiing and lift operations. He will be a qualified lift mechanic.

J. Lift Operators: Each lift operator will be responsible for the operation and safety progrms of his assigned lift. (See Setion A-7)

K. Lift Attendants: Each Lift Attendant will assist the Lift Operator in the safe and efficient operation of his station. (See Section A-8)

L. Lodge Operator: The Skyride Lodge Operator will operate food service facilities to meet state and local health requirements. (See Section A-11).

PUBLIC INFORMATION AND EDUCATION PROGRAMS

A. General

The permittee will make a space available on a convenient wall in the lodge, to place a Forest Service pegboard for the purpose of providing handout material such as maps, ski tips, trails and snow condition reports, etc. The permittee also provides a pegboard in the business office for such materials.

B. Signing (Also see Alyeska Sign Plan) p.11

Information and regulation signs will be placed at lift stations, major trails and other convenient locations to aid the public and assist in safe use of the area and facilities.

C. Public Relations

All public contact shall be conducted in a courteous and helpful manner by both the permittee and U.S. Forest Service personnel.

RACES, SKI SCHOOLS AND OTHER SNOW ACTIVITIES

A. Races

1. To help prevent possible conflicts between races and other public skiing, certain areas of the mountain have been set aside for training and races. These areas include: the poma hill, lower race trail, silver tip, and the south edge. Race coaches must take a written request to the Hill Chief for use of these areas at least 48 hours in advance of use. Approval for use is subject to the use of some areas may be restricted from race practice. Prior to the ski season, the Mountain Manager, Hill Chief and Snow Ranger will agree on the areas to be used for rating activities.

2. Use of ski safety devices is not required of each racer while actually running a sactioned race. However, as soon as the racer leaves the course, he must have properly functioning ski stops or safety straps.

3. Removal of all poles, smoothing out of ruts, fencing off hazardous race areas and other safety measures will be the responsibility of the user. Failure to do so will result in loss of use privileges.

B. Ski School Activities

A. It will be the permittees responsibility to see that the use of slopes for instruction by ski schools will be regulated to prevent undue interference with public use.

2. Any special lift privileges, such as line cutting, will be granted subject to approval by the lift operator. All instructors using such privileges will do so in a courteous and professional manner.

C. Ski Touring and Climbing

1. Since most of Alyeska is surrounded by high, uncontrolled avalanche hazard areas, climbing outside the avalanche control area will be allowed on guided tours only. Each tour must be approved by the U.S. Forest Service Snow Ranger and Alyeska's Avalanche Technician. In the event the Snow Ranger cannot be reached, the Avalanche Technician has the authority to approve the tour.

D. Helicopter Use on Max's Mountain

On occasion, helicopters will be used at Alyeska and on Max's Mountain. Primarily they will be used for administrative use, avalanche control work, and servicing weather equipment on Max's Mountain. In the case of a special event, such as a guided ski tour down Max's Mountain or kite flying activities, approval from the Snow Ranger and permittees' Avalanche Technician must be received prior to the event.

E. Kite Flying

1. All requests for hang gilider flying within the ski area must be approved by the Alyeska General Manager.

2. Prior to flying, proof of purchase of a $100,000 liability insurance policy covering death and injury must be provided. The flyer must sign a waiver releasing Alyeska Resort and the U.S. Forest Service from any liability resulting from his flying activities.

3. Take offs and landings will be permitted from approved areas only. No flying will be permitted within 200 feet of lift cables.

F. Miscellaneous

No toboggans, snow machines, ski bobs or other such over-the-snow device will be allowed on ski slopes except for the official use of the permittee or the U.S. Forest Service.

ALYESKA SIGN PLAN

A. Lifts, Lift Stations and Ticket Offices

1. Each ticket office will have a sign indicating which lifts are open that day. Each ticket office, when operating, should also have any special warning or regulation signs necessary for special situations.

2. Chair #1
   a. Base
      1. Loading Instructions sign
      2. Avalanche Warning and Explanation sign

   b. Midway
      1. Do Not Unload Here
      2. Keep Ski Tips Up

   c. Top
      1. Keep Ski Tips Up
      2. Safety Gate
      3. Please Wait Here (on down loading steps)
      4. Unload Here

   d. Chair Lift Line
      1. Danger: Do Not Swing, Bounce, or Jump Out of Chairs (Tower #4)
      2. Prepare to Unload (Tower #13)

3. Chair #2

   a. Base
      1. Loading Instructions sign
      2. Avalanche Warning and Explanation sign

   b. Top
      1. Unload Here
      2. Safety Gate
      3. Keep Ski Tips Up

   c. Chair Lift Line
      1. Danger: Do Not Swing, Bounce, or Jump Out of Chairs (Tower #4)
      2. Prepare to Unload (Tower #30)

4. Chair #3

   a. Base
      1. Loading Instructions sign

b. Top
   1. Unload Here
   2. Safety Gate
   3. Keep Ski Tips Up

c. Chair Lift Line

   1. Danger: Do Not Swing, Bounce, or Jump out of Chairs (Tower #4)
   2. Prepare to Unload (Tower #6)

5. Chair #4

a. Base
   1. Loading Instructions sign
   2. Avalanche Warning and Explanation sign

b. Top
   1. Unload Here
   2. Safety Gate
   3. Keep Ski Tips Up

c. Midway #4

   1. Do Not Unload Here
   2. Keep Ski Tips Up

d. Chair Lift Line

   1. Danger: Do Not Swing, Bounce, or Jump Out of Chairs (Tower #4)
   2. Prepare to Unload (Tower #34)

B. Slope Regulation and Information Signs

1. The names of major runs should be posted at trail heads to allow the public to have points of reference. Signs should be placed so as not to obstruct normal traffic or create hazard.

2. Slope regulation signs should be placed wherever trails cross or congested area is present. Signs should be placed so as not to obstruct normal traffic or create hazard.

C. Avalanche and Closed Area Warning Signs

Avalanche and closed area warning signs approved by the U.S.F.S. and the permittee should be used to close avalanche and hazard areas. Signs should be placed close enough together to be easily seen from one sign to another. At all times when skiers are on the mountain there will be a closed area sign line from the top of Mitymite down to Lo Lo Leap along North Ridge and a sign line down Center Ridge marking the permanently closed area.

D. Responsibility for Signs

1. All avalanche closure warning signs will be supplied by the Forest Service. These signs will be mounted on posts, and maintained by the permittee. Placement or removal of avalanche warning signs must have the approval of the Forest Service Snow Ranger, except for normal maintenance.

2. All other signs will be supplied and maintained by the permittee.

COMMUNICATIONS

A. Chairlifts and Tows

1. Chairlift #1

Each terminal of chair #1 will have a low voltage, voice activated telephone. The base of Chair #1 will have a FM remote station transmitting thru aid room base station and a telephone extension.

2. Chair #2

The top and base terminals of chair #2 will have a low voltage, voice activated telephone. The base of chair #2 will also have FM remote station transmitting thru sun deck base station. The ski patroler at the top of chair #2 will maintain an open radio.

B. Ski Patrol Communications

1. The sundeck patrol room and ski patrol aid room will each have a 5 wall CB base station when volunteer ski patrolers are on duty. Each ski patroller on duty will carry a battery hand held CB radio. In the event there are more patrollers than radios available some patrollers may not be carrying a radio. The sundeck and aidroom will also have FM base stations and will be connected to the resort's regular telephone system.

2. To reduce radio traffic and promote clarity of communication, each patroller should use clear concise english. The following codes may be used when their use results in speedy and efficient communications.

Code 1 - Poor radio reception
Code 2 - Good radio reception
Code 3 - Radio transmitter check
Code 20 - Location or status
Code 33 - Accident
Code 99 - Major emergency
    Code 99A - Avalanche rescue
    Code 99B - Back injury
    Code 99C - Cardiac Arrest
    Code 99D - Disturbance

3. Telephones, instead of radios, should be used for confidential, personal, and nonessential communication and any such communications should be kept to a minimum.

WEATHER REPORTING AND RECORDING

A. It will be the responsibility of the permittee to take readings and maintain a daily weather log. Charts, log books, etc., will be supplied by the Forest Service.

B. A weather station will be maintained at midway (elevation about 1525 feet) and top of chair #2. In addition to a seven day thermograph, they should have a 24 hour storm and total snow stake, density measuring equipment and a snow thermometer.

C. A weather station will also be maintained at the base. This station should contain thermometers, 24 hour and total snow stakes, and a rain gauge.

D. A recording anemometer is maintained at ther sundeck to measure ridge crest wind speeds (elevation 2350 feet). The recorder for the anemometer is located in the aid room.

E. Weather reports will be filled out on resort, Forest Service, and Weather Bureau forms. Reports will be sent to the Forest Service and Weather Bureau on a scheduled basis.

FIRST AID RESCUE DURING DAY SKIING OPERATIONS

A. Ski Patrols, Professional and Volunteer

1. An organized, trained and adequately equipped ski patrol will be available during days of operation.

   a. A professional patrol, under the direction of the Hill Chief (see chart of organization), will be on duty during weekday operation. At least two pro-patrolers will be on duty weekend days to assist the Hill Chief (see section A-9).

   b. A volunteer ski patrol, meeting National Ski Patrol System requirements, will be on duty during weekends and holidays. Volunteers will be under the direction of a Duty Leader (see section A-10). Should there be an insufficient number of volunteers to cover the hill safely, professional patrolers will be called to work.

2. There will be a minimum of 12 patrollers, with a leader, during periods of full operation on weekends and legal holidays. On Monday and Tuesday, when chairs #1 and/or #4 and #2 are operating, there will be a minimum of 5 patrollers. If chair #3 is operating on Monday or Tuesday, no additional patroller will be required. On Wednesday, Thursday and Friday, when chair #1 and/or #4, #2 and #3 are operating, there will be a minimum of 6 patrollers required. When chair #' and/or #4 is operating, and both the bowl and and racing trail are open, 4 patrollers will be required. If skiing is from top #1 and/or top #4, two or 3 patrolmen are necessary. There will be 2 patrollers during night operations on chair #3. Four patrollers will be necessary if night skiing is in full operation (see night skiing plan).

B. Equipment, Rescue and First Aid

1. Rescue Equipment

a. The permittee will provide sleds specially to transport injured skiers over snow. Sleds should be placed as follows:

1) Sundeck: 4 sleds with splint and blankets
2) Top of Chair #2: 2 sleds with splint and blankets
3) Chair #3: 1 sled with splint and blankets
4) Additional sleds can be placed at the discretion of the Hill Chief.

b. Additional rescue equipment such as ropes, junars, slings, etc., should be on hand in case of emergency. Such items are usually stored at the Sundeck Avalanche Cache.

2. First Aid Equipment

a. Each patroler will carry the basic first aid supplies necessary to provide emergency care as outlined in the Emergency Care Standing Orders (see below).

b. Additional first aid supplies will be stocked in the ski patrol aid room and the Sundeck patrol room.

c. Special equipment such as back and traction splints will be located as follows:

1. Sundeck: The sundeck patrol room will have 2 long back splints, 1 short back splint, 1 traction splint, 1 shoulder support splint, portable oxygen tank, ambu bag and a cervical collar.

2. Top of Chair #2: The top of chair #2 will have a long back board, a traction splint and portable oxygen tank.

3. Aid Room: The ski patrol aid room will have a long back board, a traction splint and portable oxygen tank. A physicians code 99 kit will also be located in the aid room.

C. Emergency Care Procedures

1. Emergency care at Alyeska Resort by the Pro-Patrol will be based on the following:

   a. For those patrollers holding Advanced First Aid Cards only, care will be based on the American National Red Cross Advanced First and Emergency Care manual presently in print.

   b. For those patrollers holding Emergency Medical Technician certification, care will be based on the American Academy of Orthopedic Surgeons Emergency Care textbook currently in print.

2. Specific guidelines for Emergency Care and Transportation are as follows:

   a. Patrollers will contact either the Hill Chief or Aid Room Medical Technician if any questions arises as to first aid procedures to be followed in specific cases.

   b. All cases of actual or suspected spinal injury must be immobilized with a backboard.

   c. All cases of actual or suspected major long bone fractures will be stabilized with a traction splint.

   d. In cases of respiratory and cardiac failure, life support will be carried on in accordance with the American National Red Cross cardiopulmonary resusitation flow sheet to the level of the patroller's certification.

   e. IV fluids will be administered by qualified Emergency Medical Technicians in accordance with the guidelines established by the Medical Advisory Board for the Municipality of Anchorage's Emergency Medical Services, as found in their standing orders for EMT-A II, if a person so qualified is available.

   f. Transportation of the injured will be conducted in accordance with the following guidelines:

      1. Except with the approval of the Hill Chief or Aid Room Medical Technician, all patients will be transported to the Aid Room.

      2. All sleds with victims will be run by two patrollers, except when snow and terrain conditions allow for safe transportation by one patroller.

      3. No patient will be transported until stabilized, as outlined in the appropriate manual of reference.

g. Consultation of physicians in the clinic will be requested only on the approval of the Hill Chief or Aid Room Medical Technician. In such cases, the patient may be transported directly to the clinic, if requested by the physician. Only cases of spinal injury, major long bone fracture, severe head injury, severe internal injury, severe shock, and cardiac and/or respiratory arrest should warrant physician involvement.

h. An ambulance will be called only with the approval of the Hill Chief and Aid Room Medical Technician, with the patient's consent, or implied consent.

i. An ambulance will be called for any of the following emergencies:

1. Blood pressure crisis
2. Onset of sudden severe illness
3. Any spinal injury
4. Any trauma with potential of impending severe shock
5. Any compound fracture
6. Any femur fracture
7. Any severe head injury where brain damage is suspected
8. Anytime life or the quality of life will be endangered by the delay of transportation

i. In the event that such ambulance transportation may be delayed and such delay would increase the danger to life or quality of life, alternative transportation may be used.

j. Volunteer ski patrollers will give first aid and emergency care to the injured in accordance with procedures outlined in the American National Red Cross Advanced First Aid and Emergency Care manual, and within the guidelines established by the National Ski Patrol System, Inc.

k. It will be the responsibility of all patrollers on duty at Alyeska Resort to be completely familiar with the previously mentioned standard manuals and the above standing orders. In cases where doubt exists as to the correct and authorized technique, advice should be sought from the patroller's acting duty leader or the Aid Room Medical Technician. In an emergency situation when the duty leader or Aid Room Medical Technician cannot be contacted, patrollers must exercise the soundest judgement possible for the maximum benefit of the patient.

l. If a conflict exists between above standing orders and the mentioned reference manuals, the procedure as outlined in the reference manual will be followed.

CHAIRLIFT EVACUATION PLAN

A. General

Owing to the sometimes extreme wind and cold temperatures that the area experience, it is important that a fast, efficient method of chair evacuation be provided. Since power outages could necessitate having emergency means for clearing the chair lifts, auxiliary gasoline engines as standby power units are provided. In case of power failure, these units could be put into action within 10 minutes. Should, however, some mechanical failure occur, such as a cable derailment, manual evacuation of a chair lift would be necessary. The Hill Chief will make the final decision when a manual evacuation is necessary, and will be in charge.

B. Equipment

1. Chair #1: Chair #1 will have 4 canvas evacuation bags or T-bars complete with rope, throwing line and bean bag located as follows: 2 at the top terminal, 1 at midway and one at the base. In addition, 2 T-bars or bags (complete) will be located in the sundeck ski patrol room.

2. Chair #2: Chair #2 will have 3 canvas evacuation bags or T-bars (complete) located as follows: 2 at the top terminal and one at the base. In addition, the two units located at the sundeck patrol room could be used starting at the main street area.

3. Chair #3: Chair #3 will have 2 canvas evacuation bags or T-bars (complete) located as follows: 1 at the top terminal and one at the base. Evacuation equipment from the base of chairs #1 or #4 could also be used. During periods of night operation, lanterns and flares should be available in case of electrical lighting failure.

4. Chair #4: Chair #4 will have 6 canvas evacuation bags or T-bars (complete) located as follows: 2 at the top terminal, 2 at the base and 2 at Midway station. Evacuation equipment located on chairs #1 and #3 and equipment at the sundeck patrol room could also be used.

C. Training

The Sourdough Ski Patrol, the permittee, and the U.S. Forest Service will hold training sessions at the beginning of each season so that all those involved in conducting chair lift evacuations and other rescue operations are fully acquainted with the correct, safe procedures. Additional training sessions should be held during the winter. They are:

1. Skadi practice - 1 hr per mo.
2. Avalanche simulated rescue - 3 per season
3. 1 practice crevasse rescue

D. Action Plan

1. The Hill Chief or Volunteer Ski Patrol Leader, in that order, will take immediate charge of the evacuation operation. He will consult directly with the lift foreman and mountain manager to determine reason for stopage and length of time lift will be inoperative.

2. Evacuation leader will evaluate time against weather factors such as wind, temperature, and remaining daylight in order to decide on a course of action. A maximum of 1 hour, if weather conditions are ideal, will be allowed before evacuation is started.

3. Evacuation leader will notify the lift operator, lift foreman, mountain manager and area manager of any decision for manual evacuation. Once evacuation has begun, the chairlift may not be started until cleared by the evacuation leader.

4. All available ski patrollers and other trained persons should be alerted to go to the nearest lift station. One person should ski along the chairlift line to alert occupants that evacuation has started and not to attempt to jump from chairs.

5. Evacuation teams consisting of at least 2 people should procede as follows:

   a. Chair #1: 2 teams from the top working down, 1 team from midway working down, and 1 from the base working up.

   b. Chair #2: 2 teams from the top working down, 2 teams from the Sundeck working down and 1 team from the base working up.

   c. Chair #3: one team from the top and one from the base.

   d. Chair #4: Two teams from the top and one team up from the base and one team working down from tower 18.

6. On completion of the evacuation, the evacuation leader will take a complete report. Contents of the report will include:

   a. Time and reason stopage

   b. Time evacuation started and completed

   c. Number of people evacuated

   d. Accident reports for any injuries that occurred during the evacuation

   e. Recommendations

   Copies of the report should go to the Area General Manager and the Forest Service Snow Ranger.

GENERAL SWEEP PROCEDURES

A. General

1. The "Sweep" is designed to assure that no one remains on the mountain after closing. Each patroller must be certain that his assigned sweep area is clear. Patrollers must coordinate with each other to assure that all areas are covered.

2. A ski patroller should occupy the "last chair" on each lift. No public skiers will be allowed on the lifts after that time.

3. Sweep will be organized at the top of Chair #2 by the patrol leader or Hill Chief. He will notify operator at base of #1 (or #4) when sweep is complete. The Forest Service Snow Ranger may spot check the sweep procedures.

4. Patrolmen will check in at the aid room upon completion of their sweep procedures.

B. Action Plan

1 Bowl Sweep

a. Group 1

Stay high to Chilkoot Ridge then to Center Ridge, then to Gully. Split at the Gully and sweep to the High Traverse when open. Hold at the Knoll. Take the Easy Trail above the Waterfall and across to National. Take the Cat Track around the Poma to the base.

b. Group 2

Take the North Edge into Mighty Mite Ridge to the Sundeck. Hold an open radio at the Sundeck and wait until sweep is clear to Main Street. Then take a sled down Main Street into the Bowl.

c. Group 3

Hold on top until High Traverse is clear. Then go down Trapline to Main Street. Radio to Sundeck for Bowl Sled. Take Alpine and Eagle Rock slot and check the South Face. Check in with the base of #2, then stay next to the trees on the canyon side to the base.

d. Group 4

Take Prospector, then across Fairbanks Knoll to Wicks Knoll. Check the Champagne Gully and stay high. Sweep Silvertip and down through the trees to the Creek Crossing. Stay high on the Waterfall and traverse to the Poma Hill and in.

2. Race Trail Sweep

a. Group 1

Take the North Ridge and the Dogleg through the trees above Midway. Take Denali and the Meadow to Heidi, then down Sourdough. Take the Cat Track to Chair #3 to the base.

b. Group 2

Under the chair line to Mambo, to Midway and clear with the attendant at Midway. Take the North Edge of the Race Trail (hold sled until Steilhung Slot is clear), down Steilhung, and in.

c. Group 3

South Edge and check the South Face. Take the Bowl Crossover and join the bowl sweep.

d. Group 4

Take the South Edge high and Hogback to Midway. Take the south edge of the Race Trail and the Steilhung Slot (notify group 2 when clear). Take the canyon side of the Race Trail to the base.

Night Skiing Operation Plan

The purpose of this night skiing operaton plan is to establish practical and functional guidelines that will help provide reasonable safety for the skiing public during night skiing operations at Alyeska Resort. This plan represents a thoughtful and conscientious attempt on the part of Alyeska Resort and the Forest Service personnel, to identify night operational hazards and to establish methods of avoiding foreseeable injurious situations.

A. Lift operations

Chairs #1 and #4, and #3 will operate for night skiing. All lifts will be manned and operated by trained and competent personnel. This personnel will be thoroughly trained in all night lift operations, including night chair evacuation, night avalanche resuce, and night emergency lighting systems and procedures. The supervision of the night lift operation and personnel will be carried out by the night lift supervisor who will always be on duty during the night skiing operations. In addition either the Mountain Manager, Alyeska Lift Foreman, or a qualified lift mechanic will be on call within the Girdwood Valley during night operations. This person may be needed in the case of a lift mechanical difficulty, power outage, or other emergencies which may arise during night operation.

B. Night Skiing Terrain

Trails lighted and open for skiing during night operations will include the South Edge, Top to Midway, the Racing Trail, and all trails to the base of #3 lift from top #3. These trails will be patrolled and maintained for night skiing. All other trails on the mountain are closed to entry during night operations. This specifically means the Bowl and South Face are closed and will be signed accordingly.

C. Signs

A sign stating, "The South Face and Bowl are absolutely closed and not patrolled during night operation. Violators will lose skiing privileges" will be located at or near the top of lift #1 and #4. In addition a sign line with signs stating, AREA will be maintained CLOSED from the top of #4 lift down the South Edge to the top of the Racing Trail. These signs will be closely spaced and outlined with white reflector tape. Violators of these signs and witnessed skiing in the closed areas may lose their skiing privileges.

D. Ski Patrol and Areas of Responsibility

During night skiing operation one Alyeska pro-patroller will be in charge of ski patrol and related responsibilities on the mountain. He or she will be assisted by at least two qualified ski patrollers plus one other designated Alyeska employee. This person will be an expert skier, trained in tobaggan handling, night lift evacuation, avalanche rescue and have a thorough knowledge of the night skiing operations. He is not required to have first aid training and will not be administering first aid or handling accidents on the mountain. A list of qualified 4th persons will be maintained by the Hill Chief. All patrollers will carry headlamps at all times while on the mountain during night operations. If only chair #3 is operating for night skiing two ski patrollers are required.

The ski patrol will be responsible during night skiing operation but not limited to the following:

1. Administering first aid and the evacuation of the injured from the mountain
2. Lift evacuation
3. Maintaining warning and closure signs
4. Identifying and marking terrain hazards
5. Initiating avalanche resuce within ski area and notifying State Troopers and U.S. Forest Service.
6. Sweeping the mountain at close of night operation.

E. Sweep Procedures

The sweep procedure at the close of night skiing will include 4 patrollers. One patroller will ski with a headlamp through the bowl to the base of the mountain. He will have radio communications with race trail sweep. He will call out "sweep" as he skis to the bottom of the mountain.

The race trail sweep will consist of 3 patrollers skiing Top to Midway, the racing trail, and chair #3 trails as outlined under General Sweep Procedures, 2. Race Trail Sweep, page 22. Alyeska Snow Safety Plan.

F. Night Lift Evacuation

1. The pro-patroller in charge of ski patrol during night skiing will take immediate charge of the evacuation operation. He will consult directly with the night lift supervisor and mountain manager to determine reason for stopage and length of time lift will be inoperative.
2. Evacuation leader will evaluate time against weather factors such as wind, temperature, and the light situation in order to decide on a course of action. A maximum of 1 hour, if weather conditions are ideal, will be allowed before evacuation is started.
3. Evacuation leader will notify the night lift supervisor, lift operator, lift foreman, mountain manager, and area manager of any decision for manual evacuation. Once evacuation has begun, the chairlift may not be started until cleared by the evacuation leader.

4. All available ski patrollers and other trained persons should be alerted to go to the nearest lift station. One person should ski along the chairlift line to alert occupants that evacuation has started and not attempt to jump from chairs. If the night lights are out the bamboo poles with flares attached will be lit and placed under chairlift by this person. All patrollers should have headlamps and evacuation teams should acquire search beacon lamps from the rescue cache before proceeding with evacuation.

5. Evacuation teams consisting of at least 2 people should procede as follows:
   a. Chair #1: 1 team from the top working down, 1 team from midway working down, and 1 team from the base working up.
   b. Chair #3: 1 team from the top and 1 from the base.
   c. Chair #4: 1 team from the top and 1 team up from the base and 1 team working down from midway.
   d. After commencement of the lift evacuation, if the mountain manager or mechanic is able to repair the mechanical that shut down the lift while the majority of passengers are still on the chair, he shall contact the evacuation lieader and request that the patrollers will ski along the lift line and advise all evacuation teams to suspend manual evacuation. After the ski patrollers inform the evacuation leader that all parties have been notified, the evacuation leader will notify the mountain manager to start up the lift, to either continue regular operation or evacuate all passengers in that manner.

6. On completion of the evacuation, the evacuation leader will make a complete report. Contents of the report will include:
   a. Time and reason of stopage
   b. Time evacuation started and completed
   c. Number of people evacuated
   d. Accident reports for any injuries that occurred during the evacuation
   e. Recommendations

   Copies of the report should go to the Area General Manager and the Forest Service Snow Ranger.

G. Equipment

Due to the possibility of a power outage, additional emergency lighting equipment will be added to the rescue cache at the skyride. This will include:

1. 6 headlamps
2. 6 search beacon lamps
3. 12 20 minute flares
4. 100 bamboo poles with 30-45 minute flares attached
5. In addition, 8 search beacon lamps = 1 for each lift station on chairs #1, #3, and #4.
6. In addition, both the top and bottom stations on lifts #1, #4, and #3 will be equipped with an emergency/automatic lighting system.
7. Under normal operations, a snowcat equipped with a high powered search beacon will be stationed both on the upper mountain and lower mountain near the top and base terminals of the lifts during night operation. These snowcats could be used in emergency situations.

H. Rescue

In the event of an avalanche rescue follow the Avalanche Rescue Procedures p.48, and Avalanche Rescue General Alarm p.51, Alyeska Snow Safety Plan.

In the event of a missing person report during or after night skiing operations immediately notify State Troopers and receive instructions. The Alaska State Troopers are responsible for all rescue operations and will be notified immediately in the case of any rescue situation or operation.

Alaska State Trooper Phone No. 333-9548, or 911.

RESTRICTIONS ON CHAIR OPERATIONS AND TRAIL CROSSINGS

A. Excessive wind speeds could endanger chair lift operations. An anemometer has been installed behind the Sky Ride with readings recorded at the Aid Room. An additional anemometer will be installed and maintained at the top of #2 lift. The aid room attendant will watch the instrument and inform operators when winds become severe. In close cooperation with the Snow Ranger, either the Mountain Manager, Lift Foreman or the Hill Chief will decide when to shut down the lifts.

B. Severe weather or poor visibility could require trail restrictions. Severe winds, very low temperatures, poor visibility, insufficient snow cover or severe icing or crust conditions must be considered.

AVALANCHE FORECASTING AND CONTROL

A. General

1. The Avalancne Technician, in close cooperation with the Snow Ranger and Hill Chief, shall be in charge of all avalanche forecasting and control. He will determine when control work is necessary and will choose the methods and approach that will provide positive control to minimize risk to the public or personnel. (see section A-4).

2. Avalanche forecasting and control requires mature and sound judgement. Therefore, it is extremely important that the Snow Ranger and Avalanche Technician work closely together in the avalanche control work.

3. Closing areas and the enforcement of the closed area regulations will be the responsibility of the permittee. After consulting with Hill Chief and stating specific reasons, the Snow Ranger may require the closing of the areas.

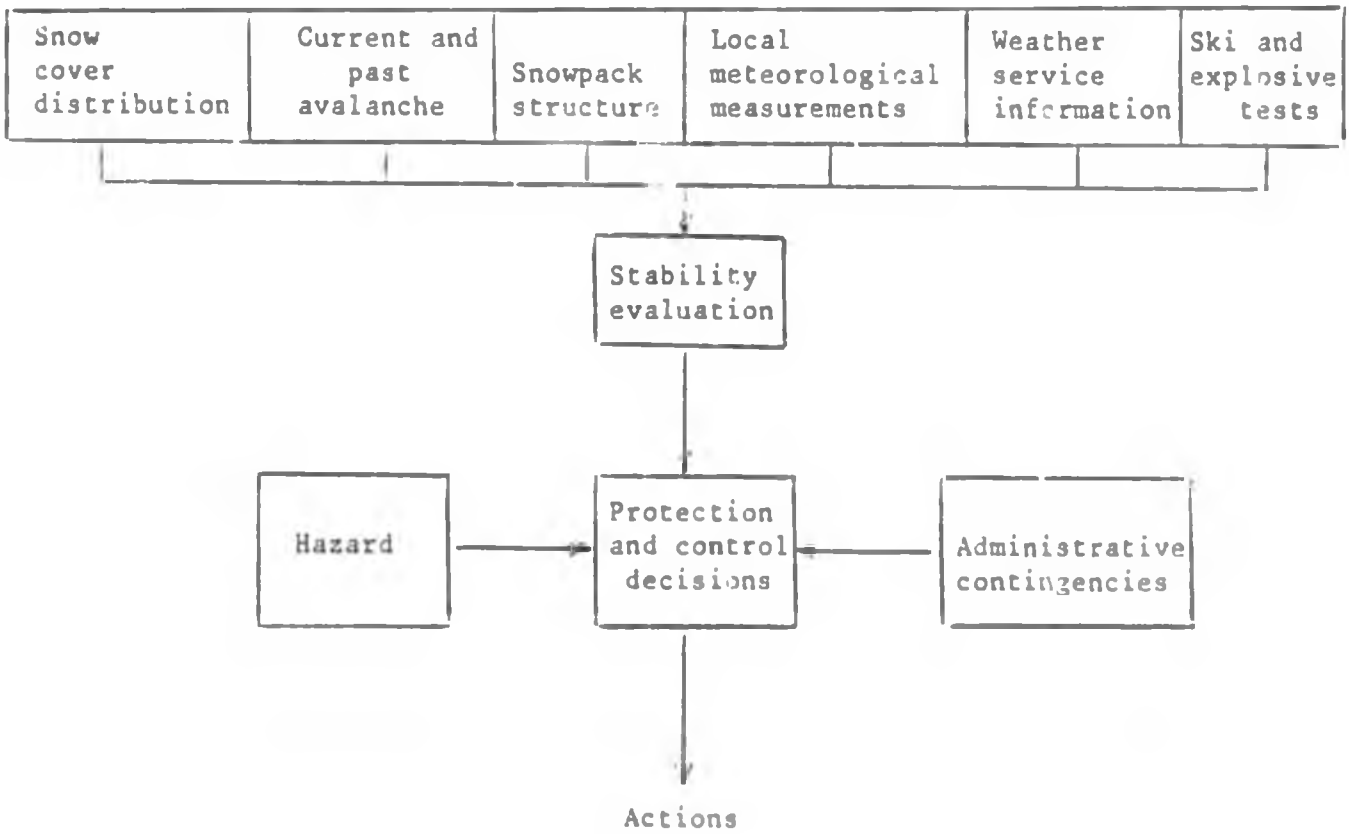
4. Control of avalanches with hand placed charges shall be done by the Avalanche Technician and Pro-Patrol as outlined below. Persons blasting will have received at least 16 hours of training from a qualified instructor within the past 24 months and show one year experience in snow blasting. In addition, a 4 hour explosive handling refresher is required on a yearly basis. Qualified volunteer ski patrollers will be permitted to assist in ski control work They will work directly with the Avalanche Technician, or qualified propatrolman.

5. The procurement of all equipment for the control of avalanches, such as explosives, fuse, igniter, etc., and their storage will be the responsibility of the permittee. The permittee is responsible for providing transportation and storage of the rifles and ammunition within the ski area boundaries. The Forest Service will transport the rifles and ammunition outside the ski area boundaries. All costs incurred by the Forest Service during transportation will be reimbursed by the permittee.

6. The 75mm and 105mm recoiless rifles are under the direct control of the U.S. Forest Service.

B. Avalanche Forecasting

1. Avalanche forecasting is a complex process involving a combination of factors as summarized on the next page:



Accurate records are essential to the control and forecasting programs. Extensive field observations are also required.

2. Weather data is necessary to assist in the forecasting of avalanches. Climate analysis will be given careful study by the Snow Ranger and Avalanche Technician. Weather data from the midway station and wind recordings from the top terminal should be compared with natural and artificial avalanche activity. Snow, weather and avalanche observations are the responsibility of the permittee.

3. Terrain and hazard analysis is used to help determine avalanche paths and safety zones. The following hazard classification photograph and accompanying charts have been prepared with the cooperation of the Forest Service and the permittee.

Area Classification	Hazard Class	Protective Measures
Area 1 (Race Trail)	Class 1	PS, U
Area 2 (Top-to-Mid)	Class 1	PS, U, E
Area 3 (Main Bowl Area)	Class 2	PS, U, E, TC
Area 4 (Silvertip)	Class 3	PS, U, E, TC, A
Area 5 (North Face)	Class 3	E, PC
Area 6 (Glacier)	Class 3	E, TC, A
Area 7 (Bowl Rim)	Class 3	A, PC
Area 8 (Lower Face)	Class 2	PS, U, TC, A

Hazard Classifications

Class 1 Minimum

Class 2 Low Intermittent

Class 3 High Intermittent (controlled)

Class 4 High Intermittent (uncontrolled)

Protective Measures Classification

PC Permanent Closure

TC Temporary Closure

PS Protective Skiing

U Use

A Artillery

E Explosives, Hand Placed

C. Avalanche Control Procedures

1. General

a. Avalanche control work is a highly specialized job. Avalanches are a dangerous and unpredictable force of nature. The releasing of this force involves considerable danger unless there is adherence to a strict safety plan. Special care must be taken at all times to insure the safety of the control team and the skiing public.

b. The methods used to reduce, or eliminate, hazards are determined by the degree of hazard and its location. Hazard classifications #1 and #2 may be managed by protective skiing only, especially for slide paths which can be approached from the top. This is especially true if there is a stable base with only a moderate amount of snow involved. Some of hazard #2, however, may require explosives. Hazard #3 will need both artillery and explosives.

c. All avalanche control programs are the responsibility of the permittee in cooperation with the Snow Ranger.

2. Qualifications of Personnel

a. Forest Service personnel engaged in avalanche control operations must be competent skiers and have basic knowledge of mountaineering. They must have a current U.S. Government avalanche blasters card, schooling in basic avalanche control procedures, and hold a current advanced first aid card. Those personnel firing artillery must be schooled in weapon procedure and firing every two years.

b. Permittee personnel engaged in avalanche control must hold a current first aid card and have special training in avalanche control work. Those personnel who use explosives must have 16 hours of specific explosives training within the past two years plus one year of snow blasting experience.

c. Volunteer Ski Patrollers may be used for assisting in the control program using explosives. This includes providing look-outs and communications for keeping areas clear while blasting operations are in progress. A special blasting school will be held for designated patrollers. The school will cover avalanche blasting techniques and general safety requirements as set forth in this manual and the Forest Service Health and Safety Code.

3. Artillery Control Procedures

a. General

The objective of the 75mm and 105mm recoilless rifles is to insure more positive control of the slopes of Alyeska beyond the limits of hand explosives and protective skiing. The U.S.F.S. Snow Ranger will be available to fire the rifles upon request from the permittee. The Snow Ranger or his assistant will fire, or supervise the firing of the rifles at all times. Although, in the event the Snow Ranger, Assistant Snow Ranger, Anchorage R.M.A., or Wally Watts, Forester, cannot be available to fire the rifles at the permittees request then:

1. The Permittee shall contact the Forest Supervisor, or the Recreation Manager and state the reason they desire to fire the rifles.

2. Upon approval, the permittee's trained and qualified gunner may take responsibility and fire the rifles. A coordinated plan for the safest method for firing will be followed.

b. Equipment location and control:

1. One 105mm rifle is located on the lower gun platform near chair #3.

2. One 105mm rifle is located at the upper gun platform just below the Sundeck.

3. One 75mm rifle is available to be placed where needed.

4. One 105mm rifle is located on jun platform on ridge behind top #2 lift.

5. A large ammunition storage cache is located near the top of chair #3.

6. Maintenance of all firing platforms and amunition caches.

7. The permittee will provide assistance as needed for transporting equipment and explosives.

c. Artillery Firing Procedures

1. Artillery fire will be conducted with Lifts 1, 2 and 4 unoccupied and people out of all anticipated runout zones. On the occasions that hazard to the Alyeska View Townhouse Complex is anticipated due to avalanche control activities, an alarm system, if provided by Alyeska View Townhouses, will be activated. Snow avalanches are a natural and often unpredictable phenomenon. Avalanche forecasting even when practiced with state of the art technology may not anticipate the occurance and extent of every avalanche.

2. Following is the firing manual for rifle firing and must be adhered to by everyone concerned.

For details on safety, firing procedures, malfunction, maintenance and cleaning, the following military references should be reviewed periodically:

1. 105mm recoilless rifle, M27

   a. Training and Maintenance Literature - 105mm Recoilless Refle, M27. Reproduction dated 30 September 1966 by the National Guard Bureau.

   b. T.M. 9-329 (105mm rifle, M27; 105mm rifle carriages; M22 and T47 modified and 105mm rifle mounts M75 and T143.

   c. F.M. 23-82 (106mm Recoilless Rifle, M40A1).

2. 75mm

   a. T.M. 9-3140

   b. F.M. 23-81

This manual is a supplement to the reference listed above and has been written to emphasize certain details which are peculiar to our use of the recoilless rifles in avalanche control or which are of particular importance for safety.

The procedures described below are to be used each time the weapons are fired, and this manual is to be reviewed each day the weapons are to be fired, prior to firing.

The procedures have been established for a trained Forest Service crew of two, "Gunner and Loader", firing a recoilless rifle from a fixed mount. The Gunner's duties are listed on the left and Loader's on the right. Where one duty involves both members of the crew, it is written across the entire page.

I. Firing Procedures

a. Prior to Firing

Gunner	Loader
1. Clean snow from tower and move necessary rounds, cleaning and si .ting equipment to firing platform.	
2. Remove breech and muzzle covers.	2. Prepare cleaning equipment.
3. Dry bore of rifle with ramer staff and clean cloth.	
4. Mount sight	4. Observe[1]
Gunner	**Loader**
5. Check bore sight when possible[2]	7. Assist with bore sighting devices
6. Remove safety railing to provide safe clearance for firing.	
7. Mount breechblock on rifle[2].	7. Observe

8. After breechblock is mounted, gunner remains on the left side of the rifle and loader on the right. Neither is to pass to the rear of the weapon, except for occasional ramming of the bore, when necessary. If it is necessary to get to the opposite side of the refle, pass in front of the mount and under the forward portion of the rifle.

9. Check function of breechblock without a round in the chamber:

a. Observe loader	a. Close and lock breech: Left hand, only, for 75mm; right hand, only, for 105mm.
b. Attempt to fire without releasing the safety. Firing pin should not release[2]. If it does, safety is not functioning and weapon must not be fired until corrections are made.	b. Observe gunner
c. Release safety and activate firing mechanism (press trigger on 75mm and turn firing handle on 105mm). Firing pin should release with a click.	c. Observe gunner
d. Open breech on 75mm (See photo #8.	d. Open breech on 105mm (complete breechblock check for 105mm).
e. Observe	e. Close and lock breech of 75mm.
Gunner	Loader
f. Attempt to open breach of 75mm without releasing firing mechanism. It should not open. If it does, corrections must be made before proceeding further[2].	f. Observe gunner
g. Observe loader	g. Release lock of closed breechblock on 75mm using "wire hook". Breech should open. (See photo #1).

1/ Whenever Gunner or Loader are asked to "Observe" in the manual procedure, they are to check each other for errors, unsafe actions or malfunctions.

2/ See T.M. for 75mm or 105mm rifle for detailed instructions.

10. If breech mechanism is operating properly, crew is ready to proceed.

11. From this point on, if the gunner, loader, or anyone observing firing sees any hazard which may endanger the gun crew, or anything to the front or rear of the weapon, he must announce "CEASE FIRE" in a loud, clear voice. Upon hearing "CEASE FIRE", the gun crew will stop what they are doing and clear the weapon, if necessary, until the hazardous conditions have been corrected.

12. Ear muff type ear protectors should be put on at this time in order to get accustomed to hearing with them on during dry fire.

B. Dry Fire - The crew goes through a practice fire mission without a live round using all of the required steps and voce commands listed below under Fire Mission. This is to be done daily prior to firing each weapon to assure that the crew uses the correct procedure.

C. Fire Mission

Gunner	Loader
1. Announces "ACTION and proceeds to lay weapon on first target.	
a. Using direct fire sight[2]	a.
(1) Lays weapon for deflection and checks to see that it agrees with blind fire data. (If free motion is used, gunner is to lock it prior to making final adjustments and announce "TRAVERSE LOCKED".)	Observes from loader's side to assure that weapon is properly laid for deflection.
Gunner	Loader
(2) Lays weapon for elevation (If free motion is used - 75mm only - gunner is to lock it before completing final adjustments and announce "ELEVATION LOCKED".)	(2) Observes from loader's side.

2/ See T.M. for 75mm or 105mm rifle for detailed instructions.

Gunner	Loader
	(3) Sets blind fire reading on quadrant and passes to gunner
(4) Reads setting on quadrant back to loader	
(5) Uses quadrant to assure that elevation agrees with blind fire data.	(5) Observes
b. Blind Firing	
(1) Lay for deflection using predetermined setting. (If free mot on is used, gunner is to lock it prior to making final adjustments and announce "TRAVERSE LOCKED").	(1) Check lay for deflection from loader's side.
	(2) Sets blind fire elevation reading on gunner's quadrant and passes to gunner
(3) Reads settin on quadrant back to loader	
(4) Elevates weapon using elevation adjustments on weapon and levels bubble of quadrant. (If free motion is used - 75mm only - gunner is to lock it prior to making final adjustments and announce "ELEVATION LOCKED".)	(4) Observes
2. Check clearance to front of weapon.	2. Check clearance of breech, bore, and area to rear of weapon.

Gunner	Loader
3. Assists loader in preparing round. Position at front of weapon under bore.	3. Prepares round[2]. Remove "U" ring from fuse, check round[3] and announce setting - "SUPER QUICK" or "DELAY".
4. Observe and assure that weapon is not knocked out of lay in loading.	4. Load weapon[2]. a. Close breech -Left hand, only, on 75mm (see photos, #2, 3,4, and 5). -Right hand on 105mm
5. 75mm. Place right hand on firing handle so that hand is extended over trigger to prevent accidental firing by an individual other than gunner. Leave hand in place until weapon is fired. 105mm - Observe	5. Face rear and take one step back parallel to rifle so as to be in gunner's view. (See photo #6 for relative position of gunner and loader). Tap gunner on shoulder and announce "UP". (Wave at gunner if position of gun does not allow you to tap him. See photo #7 for illustration.
6. Check area to front of weapon for clearance, and if clear announce, "CLEAR TO THE FRONT." (If for any reason the normal sequence of firing is broken after step 6, the operation is to be repeated from step 6 on).	6. Check area to rear and if clear announce "CLEAR TO THE REAR."
7. If clear to the front and clear to the rear, announce "ALL CLEAR".	7. Continues observation to rear of weapon.

2/ See T.M. for 75mm or 105mm rifle for detailed instructions

3/ Check round for:

a. Foil damage at point
b. Fuse setting
c. Damaged rotating band
d. Shell secure in casing
e. Sack in cartridge case not punctured and leaking
f. Dry shell - no discoloration or condensation
g. Primer not dented

Gunner	Loader
8. Continue observation to the front of the weapon and when ready, announce "READY TO FIRE".	8. Continues observation to rear of weapon.
9. Announces "FIRE" and fires. (If weapon fails to fire, gunner announcees "MISFIRE" and uses misfire procedures outlined in section E.	9. Continues observation to rear of weapon.
10. Open breech and eject spent cartridge case on 75mm. (See photo #8).	10. Open breech and eject spent cartridge case on 105mm. a. On 75mm look thru tub to check if it is clear of debris.

11. Observe impact of round and snow action.

12. Repeat steps #1 - #11 for each round to be fired during Firing Mission.

13. After completion of firing, set up safety railing.

14. Clean and cover weapon and store equiopment.

15. Record rounds fired, duds, and any malfunctions in gun book.

D. Care and Cleaning

1. Clean bore with brass brush and bore cleaner immediately after firing.

2. Swab out breech with bore cleane . (A toilet bowl brush is good for this operation).

3. Remove breechblock, tear down and clean with bore cleaner.

4. Periodic removal of the vent ring (after a maximum of 50 rounds) will allow easy removal when the vent ring must be replaced. Loosening or removal after each day's firing is advisable.

5. Bore, breach, and breechblock are to be cleaned with bore cleaner the day of firing and three consecutive days thereafter.

6. After last cleaning, lightly oil bore, breech, and breechblock.

2/ See T.M. for 75mm or 105mm rifle for detailed instructions.

7. Clean and oil weekly if not firing for up to 90 days. When the newer oils and water replacement compounds are used, a weekly inspection will determine if a weekly cleaning is necessary.

8. If weapon is not to be fired for over 90 day intervals, clean thoroughly, dry, oil tube, insert V.C.I. paper, or other recommended product, and seal breech and muzzle ends.

9. After the storage period, weapons should be cleaned with solvent, then lightly oiled.

10. The breechblock, vent ring, and rifle are all matched and must be kept together.

11. Each breechblock and vent ring are good for 500 rounds, and the tube is good for 2,000 rounds. Therefore, the breechblock and vent are changed four times for each tube.

12. Bore, breech, and vent parts should be closely checked for foreign particles after each round.

13. All parts should be checked continuously for wear and breakage.

14. Replacement of parts and repairs beyond our capability are to be made by Army Maintenance units.

15. Weapons should receive a maintenance inspection annually by Army Ordinance personnel.

E. Stoppages, Causes, and Immediate Action[2/]

1. 75mm

a. Failure to load - The pre-engraved rotating band fails to engage the rifling of the tube properly. It is most often caused by dirt in the tube from previous rounds or by a burred rotating band. Do not force the round into the tube. Clean the bore with a brass brush and/or file the burr from the rotating band.

b. Failure to cock - The reason for this may be a broken or worn cocking cam, broken or worn sear, or dirt accumulated in cocking mechanism. Inspect cocking mechanism for worn or broken parts or excess carbon. Clean or take to Army Ordinance for repairs, as necessary.

2/ See T.M. for 75mm or 105mm rifle for detailed instructions

c. Failure to fire - This may be caused by a defective primer, weak or broken firing pin spring, broken or worn firing pin, accumulation of carbon in firing mechanism. The procedure for handling a misfire is as follows:

(1) Assume that a misfire is a hang fire[3] and may cook off[4].

(2) Wait a minimum of two minutes before taking corrective action.

(3) Keep rifle trained on target.

(4) Stay clear of front and rear of weapon.

(5) After two-minute delay, loader will unlock the closed breech using tool #7305536 - "The Big Hook" - Caution: round may fire when breech lock is released. (See photo #1).

(6) Loader will recock rifle, being careful not to open the breech. Leave the threads of the vest bushing and breechblock partially engaged.

(7) Loader locks breech block.

(8) Gunner attempts to fire, using correct procedures.

(9) If another misfire occurs, repeat steps 2 through 5.

(10) Remove the round. To remove the round, elevate the muzzle approximately 5 degrees, and have loader hold hand behind round so it will not fall out of breech. If projectile separates from case, remove the powder from the chamber and place rags in breech for padding. Then screw bell rammer on staff, insert it in muzzle end of tube and slide gently up against the projectile. It may be necessary to tap the end of the staff, lightly, in order to break the round loose. Do not bang the bell against the projectile. Since the round has not been fired, it is not armed; but must be handled with care.

3/ Hang fire - A defect in the percussion element or igniter which results in a delay in ignition of the propelling charge.

4/ Cook off - If tube is hot (three rounds per minute for 20 minutes) and round is left in tube, it may cause the propellant, fuse, or projectile to explode in the tube. Normally, we will not be firing this fast. If caught in this situation, cool tube with snow or have crew move a safe distance from weapon until it cools.

11. If the primer is dented, the round is defective and should be destroyed the same as a dud.

12. If the primer is not dented, the problem is with the firing mechanism. Correct, if possible, and attempt to fire the round again.

2. 105mm - For details review T.M.

a. Failure to load - The reason for stoppage is the same as for the 75mm. There is one additional cause, and that is improper action of the indexing pins. Immediate action is same as for 75mm.

b. Failure to cock - Same as for 75mm.

c. Failure to fire - The same causes and immediate actions as for 75mm. One extra precaution is necessary where the misfire may be due to the breechblock not being rotated to the fully locked position. Do not rotate breechblock to closed position. First rotate to open position and cock the firing pin; then fully close the breechblcok and make another attempt to fire.

F. Dud - A round that does not dtonate on impact. If "S.Q." fuse malfunctions, the "Delay" fuse activates and should detonate round. However, in these cases there is a malfunction on both systems. It is unlikely that a dud can be located in the snow pack; however, the area around the dud should be flagged and the location recorded. Duds must be considered armed and dangerous; and a diligent search must be conducted as the snow melts. Once found, a dud must be destroyed immediately. Use one or two pounds of HDP, and, preferably, detonate with an electric cap to provide better control of detonation. Blaster should be a minimum of 400 yards from the blast area unless he can be in dedilade behind a large rock or some other protection. After detonation, return to make certain dud is destroyed.

QUANDRANT M1

Operational Checks and Adjustments

a. Set the left radial arm plunger pointer located in center of plunger plate against the zero graduation on the left 0-800 mile elevation scale.

b. Turn micrometer's knurled knob until the dial zero graduation line is alined with the vertical index line on the holder, and the horizontal index line on the radial arm plunger is alined with the horizontal line (mark zero) on holder.

c. Place the quadrant M1A1 with the horizontal frame shoes resting on the pads of the sighting equipment or breech shoes on the fire control equipment with the index arrow marked LINE OF FIRE pointing in the direction of the line of fire.

Note: Make certain that the surface on the pads of the sighting equipment or breech shoes on the fire control equipment is level and free of all foreign matter.

d. Manually elevate controls of the sighting equipment of the fire control equipment until the bubble in the level vial of level vial tube assembly on quadrant M1A1 is centered.

e. Turn quadrant M1A1 end for end with the index arrow LINE OF FIRE pointing in the opposite direction of line of fire. If the bubble recenters itself, the instrument is in perfect adjustment.

f. If the bubble does not recenter, try to center bubble by rotating the micrometer knob.

g. If the bubble recenters, the correction is plus (positive) and is equal to one half of the micrometer's dial indication.

h. Set the indication as shown in g above on the micrometer's dial. Verify the correction by repeating c through e above when elevating equipment to a given elevation, and add the correction to the given angle.

i. If the bubble does not recenter when the micrometer's know is rotated as indicated in f above, the correction is minus (negative) and the amount of correction is determined as shown in j through l below.

j. Set the pointer of the left radial arm plunger plate on -10 graduation (one graduation below zero) on the left 0-800 mile elevation scale.

k. Turn micrometer's know until the bubble in the level vial is centered. Subtract the micrometer's dial indication from 10 and divide by two. This indicates the amount of adjusted correction error.

l. Set the adjusted correction error indicated in k above on the micrometer's dial. Verify the correction by repeating c through e above.

m. When laying the equipment to a given elevation, subtract the correction from the given angle.

n. In the event the remainder so far obtained is less than zero, lower the left radial arm plunger plate pointer located in the center of the plate to -10 below zero graduation on the left 0-800 mile elevation scale. Subtract the remainder from 10 and index resultant on micrometer dial.

o. If the required correction exceeds plus (positive) or minus (negative) 0.4 mils, the quandrant M1A1 requires maintenance.

3. Additional Weapon Firing and Safety Points are:

(a) The firing area will be kept clear of all persons except those directly connected with the firing.

(b) Weapons must not be fired from any location or position where obstructions to the rear blast cone exists. Such obstructions may reflect the back blast sufficiently to injure the gun crew. The rear danger area, due to back blast and flying particles, is defined as a triangle whose apex is at the breech, with an extension of the line of the axis of the bore 130 feet to the rear, and a base line of 150 fe t. No one must be allowed in this area.

(c) Duds will be recorded and their positions marked.

(d) Everyone operating the rifle should be thoroughly familiar with the procedures to handle a misfire.

(e) On completion of the firing, the breach block will be taken from the gun, cleaned, and then stored in a locked cabinet in the base area.

(f) All weapons will be cleaned immediately after firing or the same day of firing. The gun will then be securely covered and protected from the weather. The gun will then be cleaned the following day to assure a rust-free condition.

(g) The shell and cartridge containers will be cleaned up and disposed of immediately after firing.

4. Handling and Disposal of Duds

(a) The Snow Ranger will keep track of all duds and misfires and report their occurance and location to the permittee. It will be the responsibility of the permittee to locate and mark all dud rounds.

(b) As duds are located, the Forest Service will be notified. They will arrange for the distruction of the dud rounds by the Army E.O.D. Detachment or other qualified personnel.

(c) When the number of duds exceeds 2% of the rounds fired of the same allotment, the information must be reported to the Military Ammunition Center. If the dud rate exceeds 5%, all remaining rounds of that allotment will be withdrawn from use and the military notified.

5. Hand Control and Protective Skiing

(a) Protective skiing will be done by qualified members of the Sourdough Ski Patrol and by the permittees professional ski patrol. All protective skiing will be directed by the safety regulations established in the U.S.D.A. Avalanche Handbook #489. Skiing teams will consist of not less than 2 patrollers who will each have a rescue beacon.

(b) Hand charging

(1) All hand charging will be directed by the permittees' Avalanche Technician. Blasting teams will consist of at least 2 patrollers who have experience in avalanche control and use of explosives.

(2) Each blasting party will be under the primary suprvision of a qualified blaster who has at least one year of snow blasting experience and who has attended and successfully completed a 24 hour blasting refresher course within the last year.

(c) Shots will be placed on avalanche slopes so as to achieve the best possible results. (See shot placement photographs).

(d) Hand charges will be prepared using techniques outlined in the Dupont Blasters Handbook.

6. Cornice Blasting

(a) Blasting the cornice is a potentially dangerous procedure which requires exact control and safe procedures. Past experience has shown that premature release of the cornice can be caused by the drilling of shot holes. Therefore, experience in blasting technique, winter mountaineering, and avalanche behavior are of extreme importance.

(The recommended steps on borehole blasting are as follows:

(1) The driller, belayed securely, steps into position on the safe side of the working line and drills a row of holes up to 1 m in depth, but no deeper than half the thickness of the roof. The boreholes should be as close as possible to the potential tensile fracture line of the cornice.

(2) The diameter of the holes should be such that the charges fit as tightly as possible. The holes should be spaced 2 m apart. Since cornice snow is normally quite hard, boring will require a soil auger of diameter approximate to the charge.

(3) After all holes are bored, the main line of detonating cord is strung out. To prevent loss of explosives in the event of a sudden cornice collapse, a free end of the main line should be secured to an anchor until he system is ready to be detonated.

(4) A charged laced with 2-m branch line is inserted into the first hole. The branch line is connected to the main line, and the hole is refilled with snow and stemmed (tamped) compactly.

(5) After all boreholes are prepared in a similar manner, a free end of the detonating cord is armed with cap and fuse. Firing takes place after the usual check with the posted guard.

Whereas surface blasting of cornices requires 1-kg charges, buried charges can be limited to about 0.5 kg per hole. All of the recommended explosives for slope control (see table 6) can be buried. Moreover, it is not necessary to penalize explosives for low detonation pressure in comparison to TNT, in fact some field evidence favors low-detonation-pressure explosive for buried-charge cornice blasting.

Because detonating cord plays an important role in cornice blasting, one should be acquainted with the basic techniques for working with high explosive. The following points should be kept in mind:

Use reinforced detonating cord. This gives an extra margin of safety by retaining the explosive system should the cornice fail during preparation.

Because of knot-tying problems, do not use detonating cord with an outside plastic sheath.

Kinks and sharp bends are to be avoided.

Special care should be taken in cold weather to avoid breaking or cracking the cord.

Detonating cord lines should be laid out as straight as possible but not stretched taut.

Main lines can be spliced with conventional square knots; the knots should be pulled tight. Leave 10 cm of free end. Splices should be kept to a minimum.

Branch lines should be connected to the main line with a girth hitch or clove hitch to achieve a 90° tie. Tighten up securely and leave a 10 cm free end.

Wet detonating cord loses sensitivity. Keep the cord as dry as possible during storage and handling. While blasting wet-snow cornices, take special precautions to keep the free end, where the cap is attached, as dry as possible.

Any number of branch lines can be connected to the main line; however, connections should not be made at a splice.

It should be clear that blasting massive cornices requires adequate manpower and special equipment. A typical blasting operation should include a minimum of four qualified avalanche workers plus the blaster-in-charge, who distributes and supervises the various jobs. The minimum equipment needed in massive cornice operations is quite impressive. The blaster-in-charge should be certain that the following equipment is taken.

Adequate clothing for ridgetop conditions (Hypothermia is a serious threat and can dull senses just when alertness is needed).

Adequate footwear (generally double mountaineering boots, rather than competition plastic ski boots).

The required explosives, caps, detonating cord, safety fuse, and igniters.

Flagging to identify the working line.

Auger, if charges are to be buried.

Belay rope (and slings and carabiners as required for anchor).

Snow pickets, if required for anchors.

Radios

Collapsible probes and avalanche transceivers (see chapter 8).

Blasting a massive cornice presents many technical problems as well as high costs. Serious thoughts should be given to the alternative, controlling the cornice with preventive structures installed near the ridgecrest.

(c) Access to the cornice will be attempted only in good weather conditions. A helicopter is the safest means of ascent.

(d) The blast will be conducted only when the hill is clear. Members of the public may be allowed to watch the shot from the Sundeck.

(e) The blast will be set and detonated using prime cord techniques described in the Dupont Blasters Handbook and the Avalanche Handbook #489.

(f) Control of the co nice by use of artillery

(1) The 105mm recoilless rifle may be fired to control the cornice. It has been found through experience that the most efficient shot point is approximately two-thirds up from the base of the cornice. Results from the shell are normally large chunks or pieces of cornice releasing in the area of impact. This method of controlling the cornice is sufficient as long as the upper glacier bowl is not open on a regular basis for skiing.

7. Helicopter Blasting

(a) The dropping of hand charges from a helicopter may be an effective means of avalanche control. Two blasters are necessary and the weather must be ideal.

(b) The charges are pre-armed on the ground with at least a three minute cap and fuse assembly. The charges are placed in a wooden box on the back seat of the machine.

(c) One blaster will be in the front seat with the pilot and select the spots for charging. The other blaster will attach the igniters, light the charges and throw them. The blaster throwing the charges must be secured to the machine by a climbing harness and safety rope.

AVALANCHE RESCUE PROCEDURES

A. General

Avalanche rescues will be conducted as outlined in "PLAN OF ACTION" below. This outline should be well known by everyone concerned with hill safety. A rapid, safe and efficient response is the victims best chance for recovery. Copies of this plan must be available at lift stations and ski patrol aid rooms.

B. Training

The U.S. Forest Service, National Ski Patrol and the permittee will conduct annual training sessions on Avalanche Rescue. Classroom and field exercises should be used to develop a well-trained and coordinated team for rescues. Other groups such as the Girdwood Mountain Rescue Group should be encouraged to attend these sessions. Successful rescue of the avalanche victim depends on well-trained personnel and efficient, fast response.

C. Equipment

1. The permittee will maintain 3 major avalanche rescue equipment caches. The Snow Ranger will also have some equipment available in the Snow Ranger's pickup. It will be the permittees responsibility to maintain the three caches in ready order.

2. The Sundeck Avalanche Cache will contain at least the following:

1....Hasty Search Pack, 5 man
- 1.....Instruction envelope for Hasty Search Leader
- 4.....Probes, sectional
- 3.....Shovels, collapsible
- 50....Markers, flag wand
- 2.....Flagging, survey, rolls
- 4.....Headlamsp, with batteries
- 4.....Flares, fifteen (15) minutes

1.....Avalanche Rescue Plan and Instruction Set
30....Probes, non-sectional
6.....Shovels, mounted 3 per pack frame
1.....Oxygen, with ambu bag on pack frame
150...Markers, flag wand
...Flagging, survey, rolls
2000 .Cord, nylon 1/8th inch, feet
15....Flares, fifteen minute
10....Headlamps with spare batteries
1.....Rope, climbing, nylon, 11mm, 120 ft.
4.....Skins, climbing, pair
1.....Blanket, space type, large
25....Vests, high visability orange

3. The ski patrol Aid Room Avalanche Cache will contain at least the following:

1....Hasty Search Pack, 5 man
- 1.....Instruction envelope for Hasty Search Leader
- 4.....Probes, sectional
- 3.....Shovels, collapsible
- 50....Markers, flag wand
- 2.....Flagging, survey, rolls
- 4.....Headlamps, with batteries
- 4.....Flares, fifteen (15) minutes

1.....Avalanche rescue plan and instruction set
40....Probes, non-sectional
12....Shovels, mounted on pack boards
100...Markers, flag wand
4.....Flagging, survey, rolls
32....Flares, fifteen (15) minutes
6.....Headlamps, with spare batteries
100...Bamboo poles with 45 min flares attached

4. The avalanche cache at the top of lift #2 will contain the following:

2....Hasty Search Pack, 5 man
1.....Instruction envelope for Hasty Search Leader
4.....Probes, sectional
3.....Shovels, collapsible
50....Markers, flag wand
2.....Flagging, survey, rolls
4.....Headlamps, with batteries
4.....Flares, fifteen (15) minutes

1....Avalanche rescue plan and instruction set
20....Probes, non-sectional
6.... Shovels, mounted 3 per pack frame
1.....Oxygen, with ambu bag on pack frame
150...Markers, flag wand
3.....Flagging, survey, rolls
200...Cord, ny on 1/8th inch, feet
1.....Rope, climbing, nylon, 11mm, 120 ft.
4.....Skins, climbing, pair
1.....Akia, packed on two pack frames, complete with padding sleeping bag, quickie splint, covers and handles.

5. Each Snow Ranger should carry at least the following:

1....Hasty Search Pack, 5 man
1....Instruction envelope for Hasty Search Leader
4.....Probes, sectional
3.....Shovels, collapsible
50....Markers, flag wand
2.....Flagging, survey, rolls
4.....Headlamps, with batteries
4.....Flares, fifteen (15) minutes

1....Rope, climbing, nylon, 11mm, 120 ft.
1....Skins, climbing, pair
1....Scoop shovel
2....Snow shoes, pair
3....Karibiners
25'..Sling
1....Ice ax

D. Plan of Action

1. Avalanche rescue often requires a large number of people working in a well-directed and coordinated team to give the best chance of live recovery. The following action plan is divided into sections of major responsibility, each of which must be coordinated by the rescue leader.

2. General Alarm

a. Any person who receives an avalanche report must do the following:

1. Hold the witness

2. Begin the rescue procedure by calling one of the following people (start at the top and work down until someone is reached):

SNOW RANGER********** TOM MILLER

ASST. SNOW RANGER********** JIM HACKETT

AVALANCHE TECHNICIAN********** DAVE HAMRE

HILL CHIEF********** JOHN SAMUELSON

VOLUNTEER PATROL LEADER ON DUTY

MOUNTAIN MANAGER********** LARRY DANIELS

GENERAL MANAGER********** CHRIS VON IMHOF

ANY PROFESSIONAL SKI PATROLLER

ANY VOLUNTEER SKI PATROLLER

3. The first person on this list to be contacted will assume the position of Rescue Leader until relieved.

3. Rescue Leader

a. The rescue leader will direct the rescue efforts until relieved.

b. The rescue leader will do the following and anything else possible to assure a successful rescue:

1. Notify Alaska State Troopers

2. Notify all lift stations to alert all rescue personnel and follow their Code 99A instructions (see page 55).

3. Get pertinent information from the witness quickly.

4. Appoint a hasty search leader and give him his instruction packet (see page 53). Hasty Search Leaders should be selected from those qualified U.S.F.S., U.S.P.S., or area personnel known to be capable of performing the tasks of Hasty Patrol Leader.

5. Appoint a s ribe and give him his instruction package. (see page 53).

6. Appoint column leaders as necessary and give each one an instruction package (see page 54).

7. Appoint an Accident Site Commander and give him his instruction packet (see page 52). The accident site commander must be chosen only from those known to be well qualified for the task.

8. Assign someone to get the resuscitation equipment and physicians code 99 kit from the hotel. Have this equipment taken to the accident site by one of the rescue teams. If possible a physician should accompany the group.

9. If the rescue appears lengthy, appoint a third stage leader and give him his instruc ion package (see page 54).

10. At all times, direct and coordinate manpower to assure a safe, efficient and rapid rescue operation.

11. Refer news media to Alyeska management or to the U.S. Forest Service.

c. A copy of these instructions will be kept, together with all other instructions, in a conspicuous location in each rescue cache.

4. Instructions for Rescue Leaders Scribe

a. Keep a list of all persons who leave or enter the search area. Get drivers licenses or other ID cards when possible.

b. Keep track of times which may be important, such as when column's leave for the site, when they arrive, etc.

c. Keep a list of equipment sent to or from the site, when it went out and who took it.

d. Assist the Rescue Leader with other tasks as directed.

5. Instructions for Accident Site Commander

a. Upon arrival at the accident site, assume command of the rescue operations until relieved.

b. Obtain a complete briefing from column leaders on their progress.

c. Redistribute personnel if necessary and be sure an avalanche guard is in position and an escape route well known.

d. Estaolish radio contact with rescue leader and report progress every 10 minutes. Use radio codes when necessary.

e. If rescue appears lengthy, have rescue leader arrange for additional third stage support.

f. Arrange to remove witness and tired rescuers from area safely. Report names of those leaving area to rescue leaders scribe.

g. Follow prescribed course probe procedures.

h. At conclusion of rescue operations, make sure all rescuers and equipment are accounted for. Dispatch rescuers in groups and instruct group leaders to give names to rescue leaders scribe.

6. Instructions for Hasty Search Leader

a. Select five rescuers who are physically fit and are good skiers. Have them record their names with the rescue leaders scribe.

b. Assign two members to get equipment from rescue cache. If available, give each member a scadie or pieps.

c. Get as much information from the witness as possible. Assign one member to keep track of the witness.

d. Select a safe route and flag it. Be sure to follow accepted procedures for hazardous area travel.

e. Evaluate avalanche hazard at the site and post an avalanche guard. Make an escape route known to all.

f. Make a quick, thorough search of the slide area and its perimeter. Flag the victims point of entry, last seen point, articles of clothing or equipment and the perimeter of the slide.

g. Determine the most likely burial region and begin coarse probe. Start new probe lines as additional help arrives. Use electronic search if possible.

h. Report progress to rescue leaders every 10 minutes. Brief column leaders as they arrive.

i. Remain in charge until relieved by the accident site commander.

7. Instructions for Column Leaders

a. Select only those rescuers who are physically fit and good skiers. Have them record their names with the Rescue Leaders scribe.

b. Distribute assigned equipment among rescuers. Equipment should include probes, shovels and a rescue pack.

c. Obtain a briefing from the rescue leader.

d. Follow the established route to the accident site. Use accepted procedures for travel to hazardous areas.

e. Upon arrival at the accident site, follow directions of the person in charge.

8. Instructions for Third Stage Leader

a. Get a complete briefing from the rescue leader.

b. Arrange for additional manpower or supplies to meet rescue needs through the Alaska State Troopers. Tel. 333-9548 or 911.

MANPOWER

1.	Girdwood Mountain Rescue Group	783-2211 or 783-2525
2.	Alaska Rescue Group	(AST)333-9548 or 783-2525
3.	Air Force Rescue Center	AST 333-9548
4.	Mountaineering Club of Alaska	AST 333-9548
5.	Nordic Ski Club	333-9548
6.	Sourdough Ski Patrol	333-9548
7.	Denali Ski Patrol	333-9548

EQUIPMENT

1.	Girdwood Mountain Rescue Group	783-2211 or 333-9548
2.	Alaska Rescue Group	(AST)333-9548 or 911
3.	Denali Ski Patrol	333-9548

COMMUNICATIONS

1.	Sourdough Ski Patrol	344-5373
2.	Denali Ski Patrol	333-9548
3.	49er Club	(AST) 333-9548

FOOD

1.	Alyeska Lodge	783-2222
2.	Crow Creek Mercantile	783-2195
3.	Double Muskie Inn	783-2822
4.	Girdwood Griddle	783-2554

OVER-SNOW VEHICLES

1.	Alaska State Troopers	(AST) 333-9548
2.	Alyeska Resort	783-2222
3.	Don Conrad	783-2936

HELICOPTERS

1.	Air Force Rescue Center	333-9548
2.	Alaska State Troopers	333-9548 or 783-2525 or 911
3.	Far North Ski Guides	783-2814
4.	ERA Helicopter Service	272-5422

LIGHTS

1.	Air Force Rescue Center	333-9548
2.	Alaska State Troopers	333-9548 or 783-2525

9. Instructions for Lift Operators and Attendants.

a. Alert all ski patrollers and other rescue personnel at your station.

b. Restrict uphill loading to rescue personnel only.

c. Await further instructions from the rescue leader.

IMPORTANT NUMBERS AND ADDRESSES

TITLE	NAME	HOME	OFFICE
Snow Ranger	Tom Miller	783-2605	279-5541 Ext. 215
Asst. Snow Ranger	Jim Hackett	783-2816	279-5541 Ext. 216
Forest Supervisor	Clay Beal	347-1703	279-5541
Recreation Manager	Lynn Mitchell	349-5778	279-5541
Forester	Victor Baer	349-3720	279-5541
General Manager	Chris von Imhof	783-2715	783-2222
Mtn. Manager	Larry Daniels	783-2740	783-2222
Lift Foreman	Dick Harris	783-2898	783-2222
Hill Chief	John Samuelson	783-2920	783-2222
Avalanche Technician	Dave Hamre		783-2222
Patrol Leader	Marty Sherman	243-4810	
Asst. Patrol Leader	Dick Lathrop	337-3485	
Avalanche Adviser	Wally Watts	344-8461	276-4246
State Troopers	Bill Hugues		783-2525
Air Force Rescue Ctr.	AST	333-9548	344-0420

AVALANCHE CLOSURE VIOLATIONS

The Forest Service is responsible for protecting the welfare and safety of the public. The permittee is responsible for taking action which is their responsibility in the area safety plan. Closing areas and enforcing avalanche closure notices requires close cooperation between the management and the Forest Service. The permittee has been requested to cooperate by repossessing lift tickets or refusing sale to any trespassers.

A. Violations of avalanche closures and closed areas which have been posted as such, will henceforth be dealt with in the following manner:

1. First Offense. The violator will be denied skiing privileges for one week and will receive an explanation of the avalanche closure policy by the Snow Ranger or Avalanche Technician. A written notice will be sent to Alyeska Resort of action taken, signed by the Snow Ranger or Avalanche Technician.

2. Second Offense. Suspension of skiing privileges for the remainder of the season.

3. It is further understood and made a part of this plan that upon willful violation of an avalanche closure, ski instructors, ski patrolmen, and other employees of the permittee may be subject to suspension under Clause 2 above for a first offense. Written notice will be sent to Alyeska Resort of action taken, signed by the Snow Ranger.

4. Snow Ranger on duty may write a federal citation under 36 CFR 261.50 (a) & (b) and 36 CFR 261.53 (e) for violation of avalanche and closed areas.

TICKET REMOVAL POLICY

AVALANCHE CLOSURE

1. 7 days off mountain
   Federal citation

2. Off mountain for season
   Federal citation

TRAIL CLOSURE

1. Warning
2. 7 days off mountain
3. Off moutain for season

RECKLESS SKIING

1. Warning
2. 1 day off mountain
3. 1 month off mountain

COLLISION (witnessed)
with violator clearly
at fault).

1. Warning
2. 1 day off mountain
3. 1 month off mountain

LINE CRASHING

1. Warning
2. 1 day off mountain
3 1 month off mountain

FRADULENT USE OF PASS OR TICKET

1. Confiscation of pass or ticket,
   1 month off mountain

UNLOADING FROM A MOVING LIFT
AT OTHER THAN A TERMINAL

1. 1 week off mountain
2. 1 month off mountain

When warning a ticket holder, tear a corner off the ticket. When warning a pass holder, record the pass number and name. All action taken must be recorded on a violation report. A complete explanation of violation policies should be given to each violator.

In cases of avalanche closure violations, the U.S. Forest Service Snow Ranger should be contacted so that a Federal citation can be issued. In order for a citation to be issued, the patroller must witness the violation and never lose direct visual contact. All tickets and passes removed from violators are to be turned in to the Hill Chief. Season passes will in turn be placed in the business office for safe keeping. It is imperative that all pulled tickets and passes be completely documented.

The permittee, in the interest of safe, enjoyable skiing, reserves the right to revoke the ticket or pass of any person creating a hazard to others, or otherwise detracting from others enjoyment of skiing. Such revocation will be done in as courteous and professional manner as possible, and will be completely documented.

APPENDIX A-3

JOB DESCRIPTION

HILL CHIEF

1. Execute duties as outlined in the Snow Safety Plan.

2. Help develop, review and revise the Snow Safety Plan and other resort operational safety plans.

3. Report directly to the mountain manager.

4. Assume the responsibilities of the mountain manager during his absence.

5. Be "on call" at all times and work when needed by the mountain manager.

6. Direct and supervise members of the Pro-Patrol.

7. See that Pro-Patrol members are well trained in emergency care, avalanche hazard detection and control, the safe and efficient use of explosives, lift safety and evacuation, and other areas of Pro-Patrol responsibility.

8. Have a current advanced first aid card or be a currently registered EMT.

9. See that information sign boards are in good repair and that information is current.

10. Maintain all trail and information signs.

11. Keep rescue and first aid equipment in good condition.

12. See that trails are checked regularly and that hazardous conditions are corrected.

13. Flag off or fence danger areas and see that all towers in skiing areas are padded.

14. Counsel ski patrol members at morning and evening briefing sessions.

15. Enact opening and closing times.

16. Provide daily hill condition and ski reports.

17. Represent the permittee in matters dealing with the volunteer ski patrols.

18. Assist the Forest Service in promoting safe skiing practices.

19. Take charge of all lift evacuations.

20. Direct the "sweep".

21. See that equipment issued to the Hill crew is kept in good order.

22. See that ski patrol rooms are clean and in good repair.

23. Assistant Hill Chief will be acting Hill Chief in the absence of Hill Chief.

APPENDIX A-4

JOB DESCRIPTION

AVALANCHE TECHNICIAN

1. Administer and execute duties as outlined in the Snow Safety Plan.

2. Report directly to the Mountain Manager.

3. Be "on call" at all times and work when needed by the mountain manager.

4. In close cooperation with the Snow Ranger, Mountain Manager and Hill Chief, be in charge of all avalanche forecasting and control, and determine when control work is necessary.

5. In close cooperation with the Snow Ranger, Avalanche Technician will control the opening and closing of avalanche areas and the enforcement of closed areas regulations.

6. Maintain daily weather and avalanche records.

7. Test and evaluate snow conditions regularly.

8. When necessary, assist the Snow Ranger in firing the recoilless rifles.

9. Oversee and direct all hand charging and test skiing.

10. Maintin gun firing platforms and supplies in a clean and ready condition.

11. Inventory and control the storage of hand explosives and supplies.

12. Maintain a sufficient ammunition and supplies inventory in the caches and gun mounts to meet potential needs.

13. Inventory ammunition storage twice weekly.

14. Maintain a sufficient hand explosives and supplies inventory to meet potential needs.

15. Procure all equipment and supplies for the control of avalanches.

16. Maintain all avalanche closures. Keep avalanche signs in good repair.

17. Keep avalanche rescue equipment in good condition and ready for use.

18. Assist in training Pro-Patrol and volunteer ski patrol members in avalanche control and rescue procedures.

19. Assist Snow Ranger in promoting safe skiing practices.

20. Have a current Advanced First id and Emergency Care card, or the equivalent.

21. After notifying Forest Supervisor or Recreation Manager the permittee's employers who are certified gunners will fire recoiless rifles when the Snow Rangers or other U.S.F.S. gunner cannot reach the area.

22. Be available at such times as there is an avalanche hazard.

23. In the absence of the Avalanche Technician, Hill Chief or a qualified designated assistant, acceptable to the Forest Service, will be acting Avalanche Technician.

24. Observe post control results.

25. Participation as a Forecaster in daily avalanche hazard forecast.

APPENDIX A-5

JOB DESCRIPTION

LIFT FOREMAN

The responsibilities of the Lift Foreman are as follows:

Establish and conduct weekly, monthly, and yearly maintenance and inspection schedules for each chairlift.

Maintain a thorough maintenance log for each chairlift and record all work done on the lift in the maintenance log.

Conduct daily lift maintenance as may be required throughout each operation day.

Maintain a good knowledge of the American National Standards Institute's "Safety requirements for aerial passenger tramways" and insure that the Alyeska Resort is operating within these guidelines.

Conduct a morning start-up of each lift that will be operated that day and visually inspect each lift's terminals, line machinery, cable and ramps.

Provide all lift personnel (new and returning) with a thorough orientation regarding the Alyeska Resort, its various departments, and its employee policies and procedures.

Establish and maintain a daily and weekly lift crew schedule, including daily lift station assignments, hours each crew member will work, and the days off each will have per week.

Instruct all lift personnel in the proper loading and unloading procedures for skiers and foot passengers.

Instruct all lift personnel in the proper use of all communications equipment at their disposal.

Instruct all lift personnel in the proper procedures to follow in the event that a manual chairlift evacuation becomes necessary. This will include a brief review of those procedures throughout the operating season.

Insure that all lift personnel are familiar with the Alyeska Ski Resort's Snow Safety Plan and the role they will be expected to play in the event an avalanche occurs during an operating day.

Instruct all lift personnel in the proper procedures for the lift station to which they are assigned. For each lift operator this will include a working knowledge of the following items:

1. Proper morning start-up procedures.
2. Proper use of all stop and toggle switches.
3. Proper use of communication equipme .
4. Proper application of service brak anti-rollback brake, and emergency brake.
5. Proper use of the lift's auxiliary mover
   a. Morning start-up.
   b. Connecting auxiliary motor to lift drive shaft.
   c. Engaging auxiliary motor and operating lift for unloading purposes.
6. Conduct morning inspection of all loading and unloading ramps.
7. Conduct morning inspection of the lift's terminals, all line machinery, cable, and chairs.
8. Conduct proper down-loading of foot passengers if applicable.
9. Supervision of lift attendants.

APPENDIX A-7

JOB DESCRIPTION

LIFT OPERATOR

General Requirements

Good physical condition. Must be 18 years of age and willing to work a changing schedule with varying hours. During peak periods, some overtime will be required. The operator must be well acquainted with the operation of the lift he is working on. The operator must be able to run the lift under normal situations and also know how to operate it under auxiliary power.

Duties

The operator is responsible for the day to day operation of his particular lift. The operator must be able to direct and motivate the two or more persons working with him on the lift. The operator should show by personal example the proper methods and attitudes of a lift crew person.

It is the operator's responsibility to make sure that the ramps are kept propely, thal all signs are in their proper location, and that his lift meets or exceeds all its basic operational requirements. Furthermore, it is the operator's responsibility to see that any abnormalities or problems with the lift, personal, or public be brought to the attention of the lift foreman.

The operator's primary responsibility is lift operation. However, from time to time the operator will be called on to assist other departments with certain tasks. These will be done willingly and without hesitation.

Training

The operator will have gone through the training that is given to each lift attendant. In addition, the operator will be taught the genera' function of his lift. He should know how all brakes function, how to adjust them, and know when they need to be adjusted. In general, the operator should become familiar enough with is lift that he can spot most any abnormality and either correct it and/or report it to the Lift Foreman.

APPENDIX A-8

JOB DESCRIPTION

LIFT ATTENDANT

General Requirements

Good physical condition. Must be 18 years of age and willing to work a changing schedule with varying hours. During peak periods, some overtime will be required

Duties

The lift attendant will assist the operator in the daily operation of the chairlift. He will either work the bottom end with the operator, or after a break-in period, will man the top station. The attendant will be required to be ready for work with all gear and clothes five minutes prior to punch-in time.

The attendant's primary job responsibility is to assist the public in loading and unloading. This includes keeping the ramps and loading platforms in good shape.

There will be other tasks that will be expected of the lift attendant. Although the attendant's primary job is dealing with the lift, the attendant will be expected to perform other jobs for other departments from time to time.

Training

Prior to the beginning of the season a one or two-day training session will be held. If the attendant is hired during mid-season, the new person will be assigned to a station with an experienced operator for on-the-job training.

Periodic crew meetings will be held throughout the season to discuss procedures and safety measures.

The attendant is expected to learn the general operation of the chair and the function of its components.

The attendant will take his directions from the Lift Foreman and/or the Mountain Manager.

APPENDIX A-9

JOB DESCRIPTION

PRO-PATROL

1. Administer and execute duties outlined in the Snow Safety Plan.
2. Report directly to the Hill Chief.
3. Have a current Advanced First Aid and Emergency Care Card, or be a currently registered E.M.T.
4. Have a current Circle A avalanche card or the equivalen .
5. Wear an area approved uniform and aid belt.
6. Administer first aid to the injured following area standing orders.
7. Transport the injured off the mountain to the aid room or clinic.
8. Assist the Snow Ranger, Avalanche Technician and Hill Chief in Avalanche Control.
9. Assist in avalanche rescue.
10. Assist in keeping avalanche rscue equipment in good and ready condition.
11. Assist in chairlift evacuation.
12. Assist in keeping lift evacuation equipment in a good and ready condition.
13. Assist in the search and rescue of lost skiers.
14. Check trail signs daily and straighten and reposition when necessary.
15. Check all fence lines daily and straighten and reposition when necessary.
16. Check all tower pads daily and raise when necessary.
17. Assist in setting out trail signs, fence lines and tower pads.
18. Check ski slopes and trails daily to determine hazards and danger areas.
19. Assist in marking, fencing r removing hazards.

20. Deep Sundeck porch, steps, and when necessary, roof clear of snow and ice.

21. Assist lodge operator in minor skyride maintenance when necessary.

22. Assist in removal of skyride sewage when necessary.

23. Keep skyride patrol room and storage areas in a neat and orderly condition.

24. Keep base aid room and storage areas in a neat and orderly condition.

25. Follow established area "bump" system.

26. Make trail "sweep" at closing.

27. Assist Mountain Manager in trail maintenance and minor lift maintenance when necessary.

28. Assist lift crews with lift ramp snow removal when necessary.

29. Help lift crew control lift lines when necessary.

30. Assist in policing the general public to prevent reckless speeding, out-of-control skiing or other hazardous situations.

31. Assist in lift operation in an emergency.

32. Assist the Snow Ranger, Hill Chief, and Avalanche Technician in Public Safety training and public relations.

33. Maintain good relations and cooperate with volunteer groups.

APPENDIX A-10

JOB DESCRIPTION

VOLUNTEER SKI PATROL

1. Report directly to Volunteer Patrol Duty Leader.

2. Administer and execute duties as outlined in Snow Safety Plan.

3. Have a current Advanced First Aid and Emergency Care Card or the equivalent.

4. Have a current Circle A avalanche card or the equivalent.

5. Wear an NSPS and area approved uniform and an Aid Belt when on duty.

6. Administer first aid to the injured according to Area Standing Orders.

7. Transport injured skiers off mountain to aid room or clinic.

8. Assist in the reduction of avalanche hazards under the immediate supervision of the Snow Ranger, Avalanche Technician or Hill Chief. Only qualified patrollers selected by the U.S. Forest Service and Alyeska Resort will be used.

9. Assist in avalanche rescue.

10. Assist in chairlift evacuation.

11. Assist in search and rescue of lost skiers.

12. Check ski trails and slopes daily to determine hazards.

13. Report hazardous conditions to the volunteer Patrol Duty Leader, Hill Chief, Avalanche Technician or Snow Ranger. In extreme emergency, the volunteer Patrol Duty Leader can close sections of the mountain in the event the Hill Chief, Avalanche Technician, Snow Ranger, or Mountain Manager cannot be contacted.

14. Assist in flagging, fencing, or closing hazardous areas.

15. Help place or remove avalanche closure signs, trail marking signs, and traffic control signs.

16. Report skiing violations to the volunteer Ski Patrol Duty Leader, Hill Chief, Avalanche Technician, or Snow Ranger.

17. Follow established "bump" system.

18. Assist in minor trail maintenance when necessary.

19. Assist in the control of lift lines when necessary.

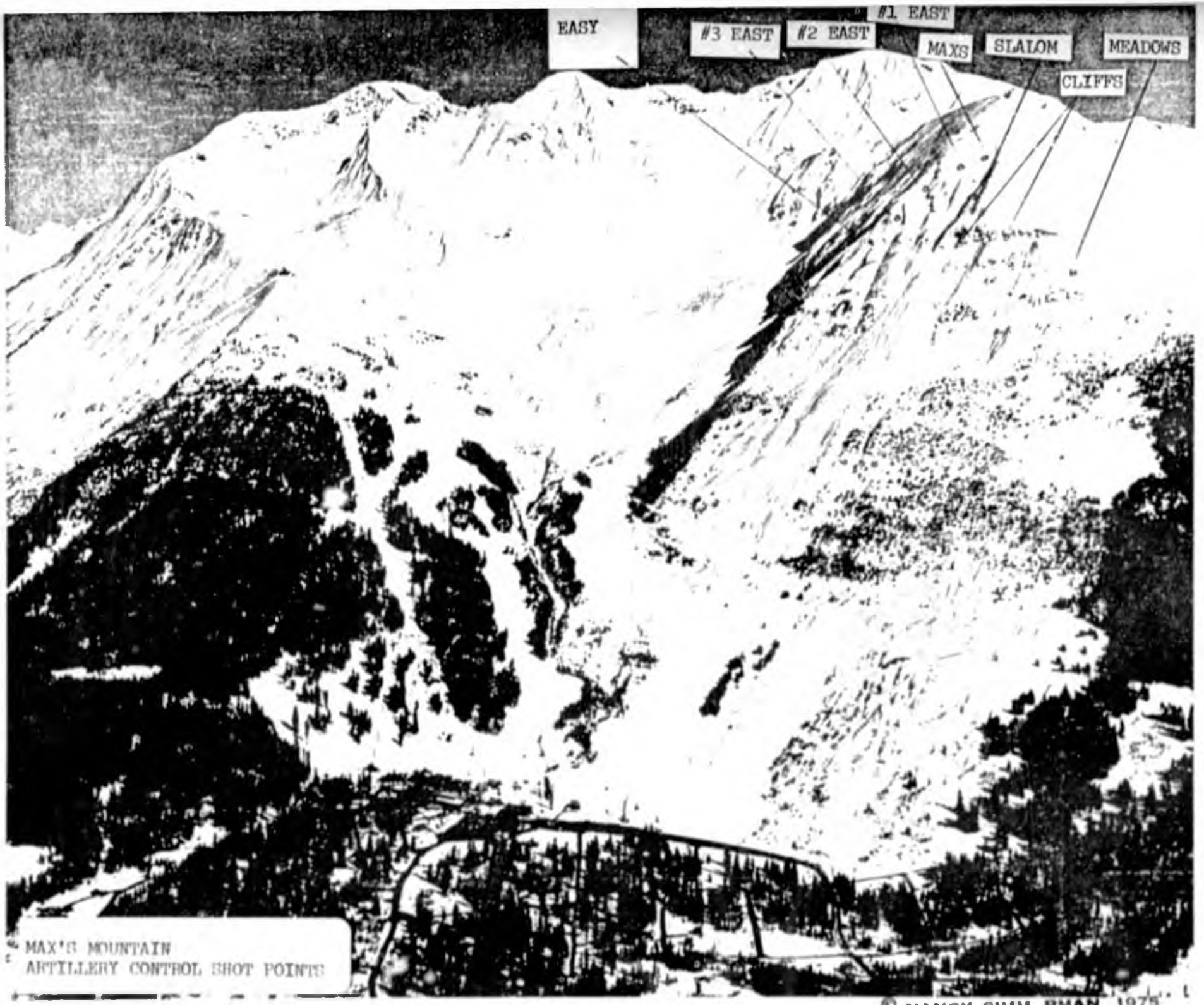
20. Keep skyride aid room in an orderly and neat condition.

21. Keep all patrol rescue equipment in a good and ready condition.

22. Check all patrol communications daily to assure good working condition.

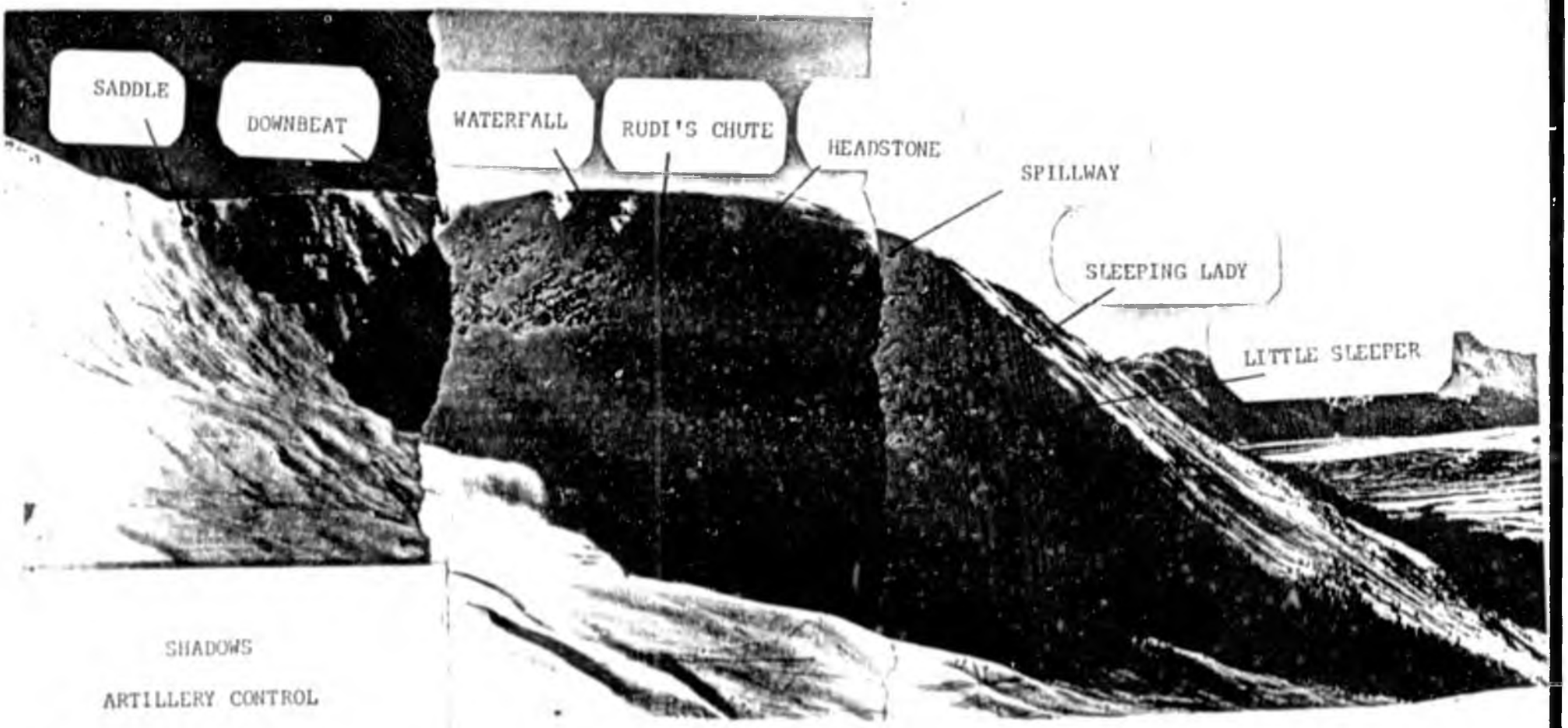
23. Assist in safety training and accident prevention programs.

24. Make "sweep" at closing.



MAX'S MOUNTAIN
ARTILLERY CONTROL SHOT POINTS

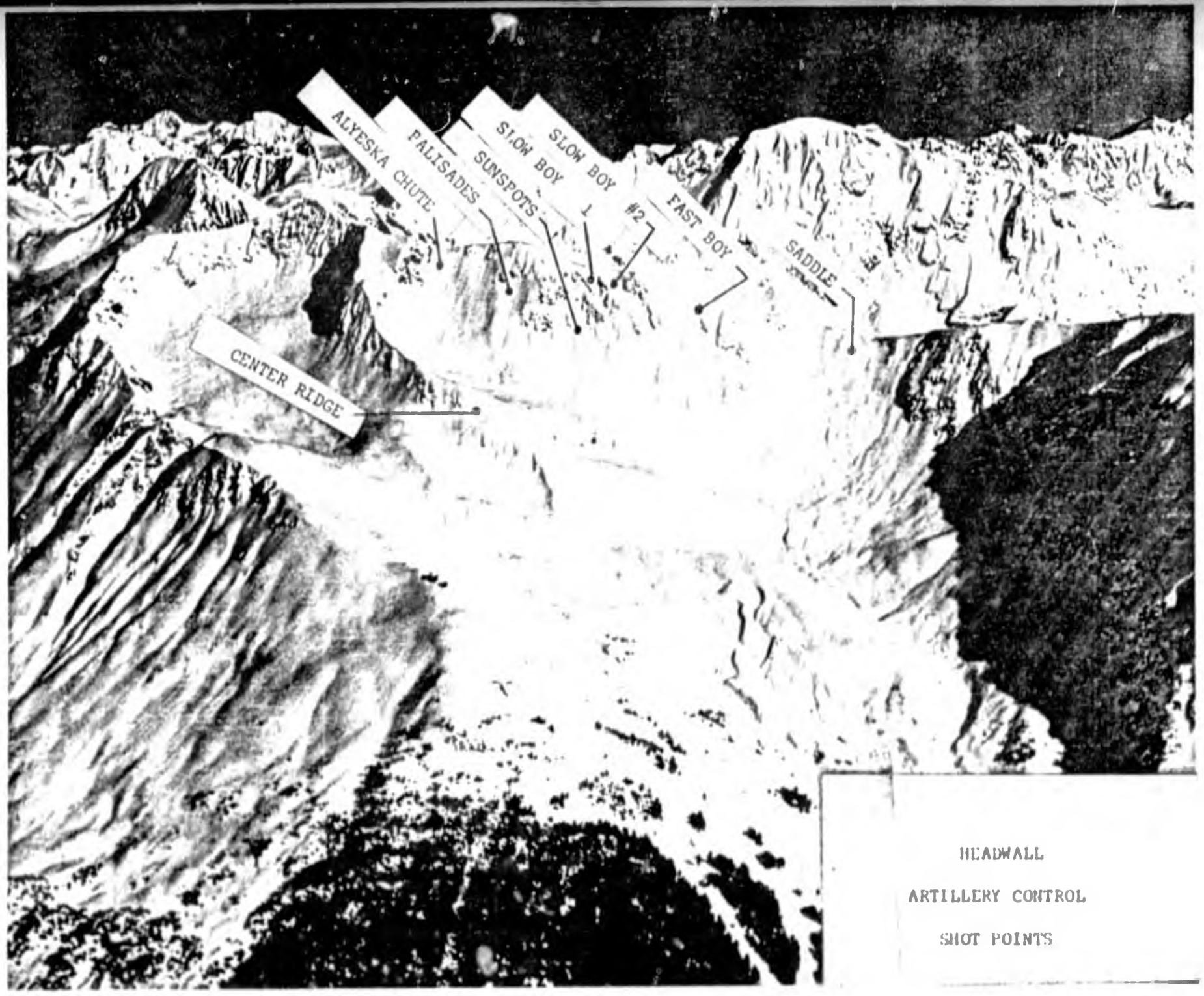
© NANCY SIMMERMAN, 1975

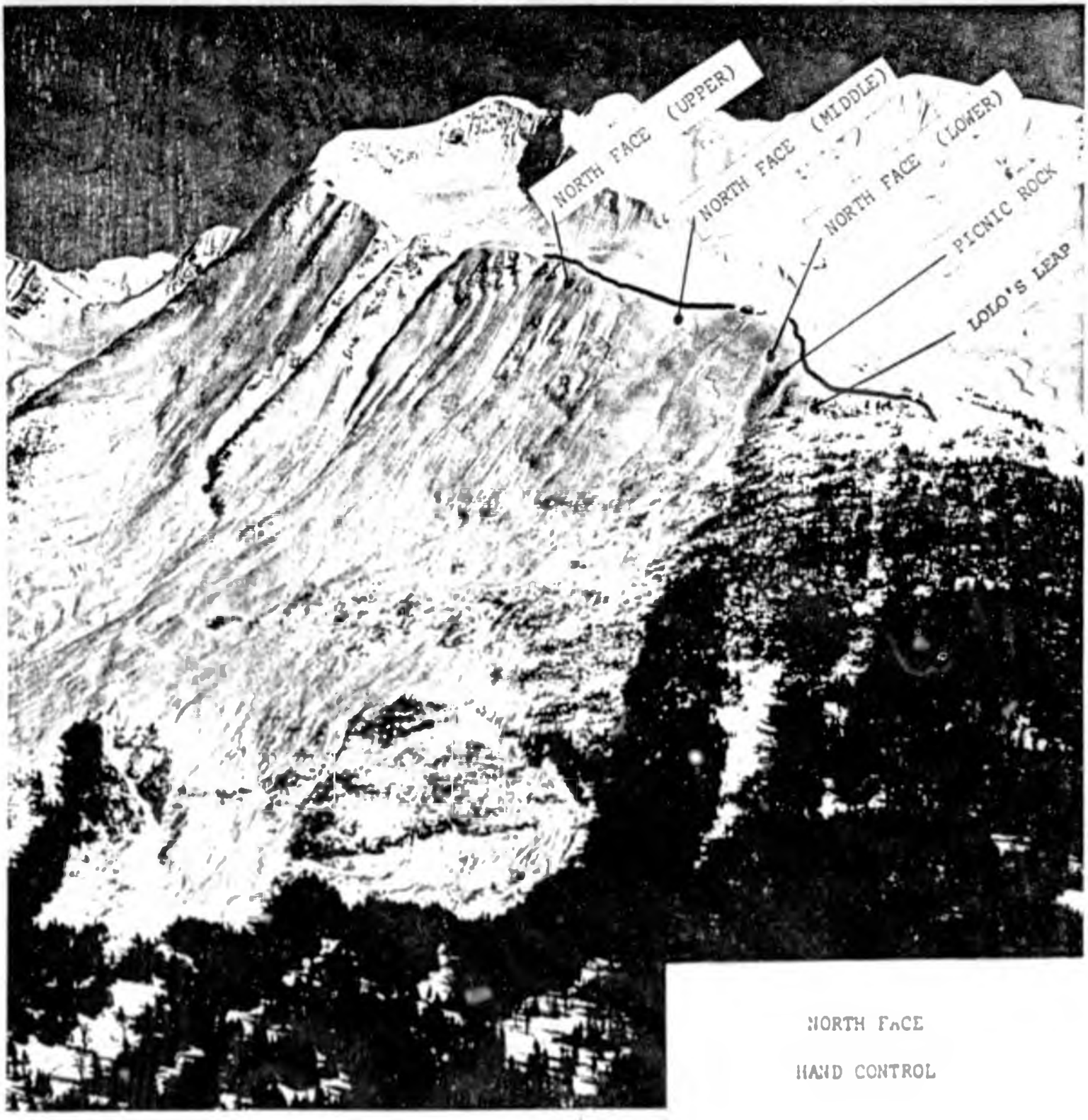


SHADOWS

ARTILLERY CONTROL

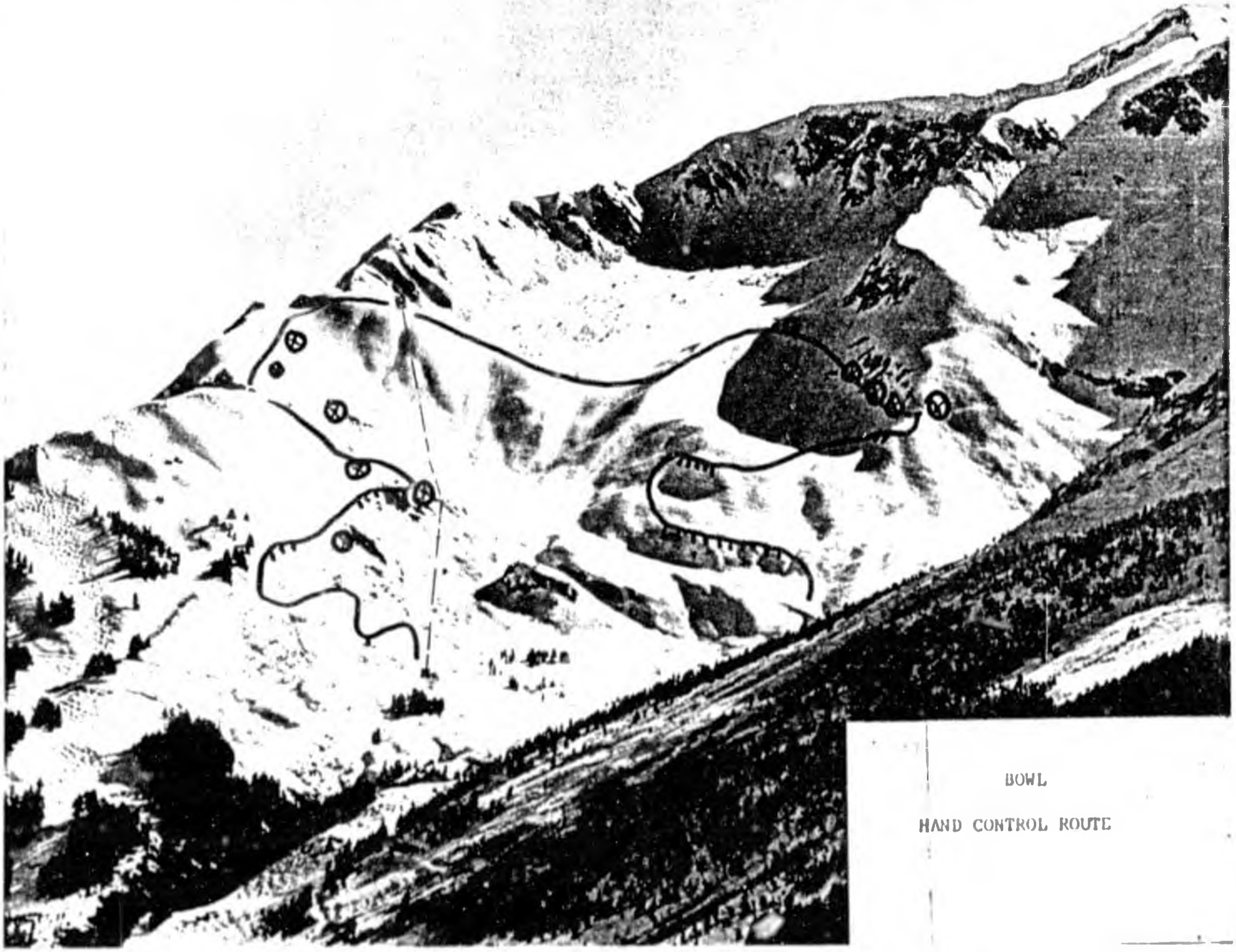
SHOT POINTS


ALYESKA CHUTE
PALISADES
SUNSPOTS
SLOW BOY
SLOW BOY
#1
#2
FAST BOY
SADDLE
CENTER RIDGE
HEADWALL
ARTILLERY CONTROL
SHOT POINTS



NORTH FACE

HAND CONTROL



BOWL

HAND CONTROL ROUTE

SCR

9

(7)

COMMITTEE REPORT

HOUSE

FURTHER:

March 17, 1979 Date: 4-12-79

Mr. Speaker:

The Committee on STATE AFFAIRS has had SCR 9

Requesting the Department of Transportation and Public Facilities to examine and report on the feasibility of construction of a road between Wales and Tin City.

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" [X] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

John Brubaker

Terry Martin

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____
CHAIRMAN

H 60 (Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SCR 9
Title Road from Wales to Tin City
Requested by Ferguson Date 2/13/79

II. FISCAL DETAIL
Agency Affected DOT/PF
Program Category Affected Design & Construction
Budget Request Unit(s) Affected Highway Design & Construction

EXPENDITURES (Thousands of Dollars)

		FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES		25				
200	TRAVEL		5				
300	CONTRACTUAL		10				
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND		40				
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The above should be sufficient to establish the feasibility and probable cost of the project.

IV. DATE 4/10/79 PREPARED BY Harry Keller
AGENCY DOT/PF
PHONE 364-212

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

33-001 (Rev. 10/78)

Mr. Chairman:

Tin City is the only active mine in District 22 other than gold mining operation in Nome that provides any jobs for the people in my area.

Mr. Richard Lee the owner has built and maintanined a haul road from Tin City to Goodwin Gulch, a distance of 3 miles.

This bill would provide monies for study of an extension of this road to the village of Wales, which is 7 miles.

I feel there is justification for this study for the following reasons:

1. Over half of our crew of 12 men are from Wales, who, along with the ersc of the two communities would use the road constantly. At present the means of contact between Tin City and Wales is by (1) foot, over the mountain, a tough, arduous and many times, dangerous route, (2) by boat during summer months, the only route being via Bering Sea around Cape Mountain, seldom usable because of the frequent south storms prevailing through the summer and (3) by Nome based airplane, which stringently limits the number of people who can travel or the payload they can utilize.

2. The BIA supply ship, Northstar III, which carries winter supplies and material to the various villages along the Arctic coast, almost every year, as it prepares discharge of supplies for Wales finds weather conditions adverse to unloading and is additionally thwarted by several sand bars between the ship's anchorage and the beach. There have been recent instances when the Northstar, due to severe weather and dangerous sand bars had to leave the area with all freight for Wales still aboard, discharge the freight at Nome, then airlift the freight to Wales.

3. The discharge area at Tin City is remarkably well suited for ship-to-shore discharge, has a good protected anchorage, deep water and an ideal beach and a landing area to which a good road is already built and in annual use by the military and civilians and freight lines serving the Tin City area. A road to Wales would enormously simplify the unloading efforts for this all-important requirement.

4. As mentioned before our own primary need for the road is make accessible our property at Boulder Creed and Granite Creed in the very near future. WE have an anticipated life of operation on Boulder Creed of from 12 to 15 years by dredging and on Goodwin Creed of approximately 7 years by dredging. In this enterprise a large local payroll would be generated creating a major economic up-lift to this area.

5. In conjunction with our placer operation we have concrete plans for development of our tin lode claims, the source of all the placer tin. This projection, we feel, has much merit and has the potential of many years of activity and the development of very substantial wealth in this area.

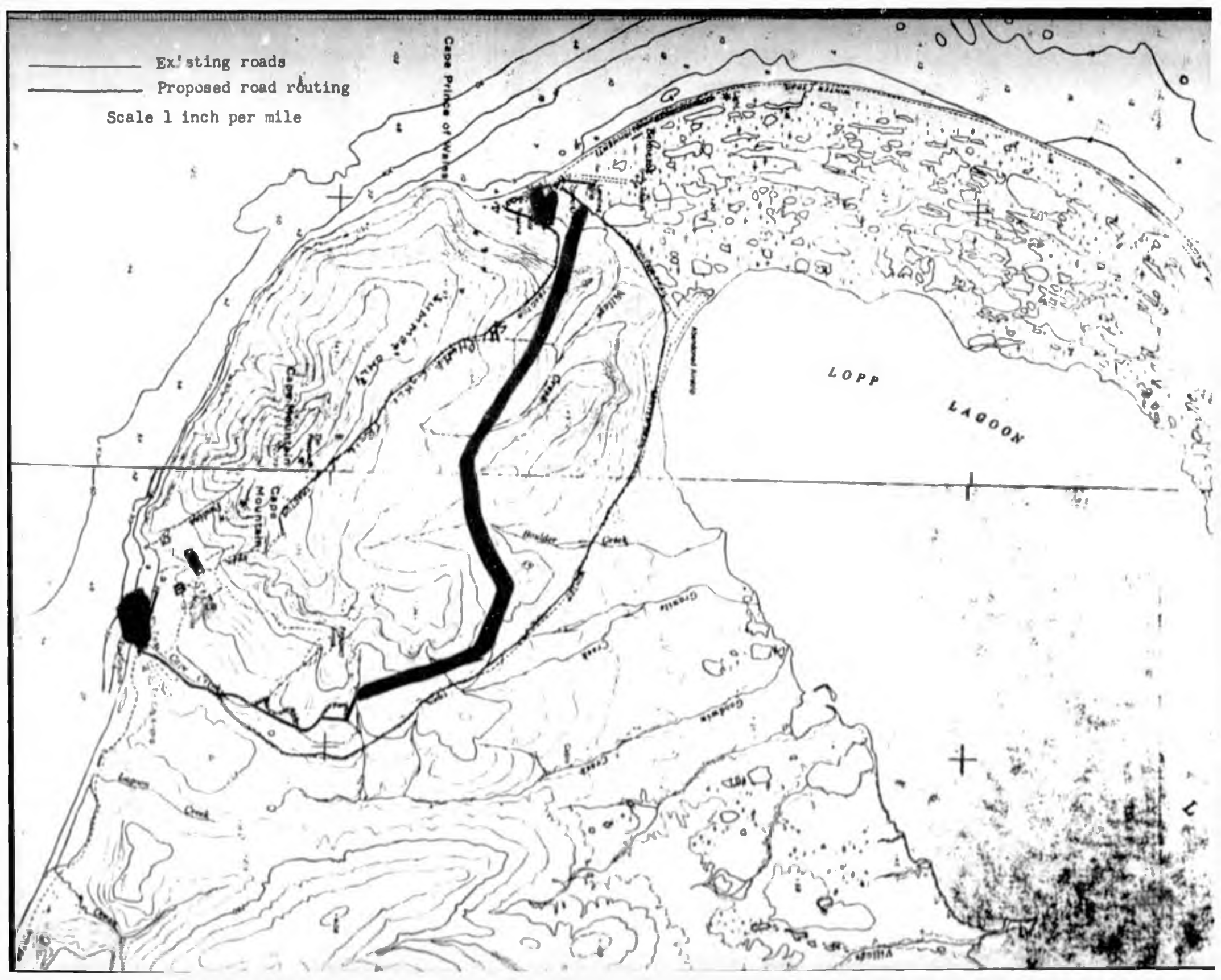
6. We also wish to point out that the Tin City Air Force Base, with a complement of approximately sixty people has a very direct association with Wales in several ways, socially and economically. Wales people are employed at the base, both seasonally and year round. The air base provides an outlet for a substantially large turn-over of Eskimo

carving and crafts. The connections by road between the Air Force Base at Tin City and the Navy Base at Wales is also of considerable value, militarily and economically.

7. The large general store at Tin City stocks and provides a major source of supplies, groceries, meat, clothing, hardware, gas and oil that the people of Wales are largely dependent on. The store also accepts ivory carvings and Eskimo crafts as a medium of exchange which other smaller stores in the area do not. The people of Wales unanimously urge and enthusiastically support a road tieing the communities together as being economically imperative. These people have been praying for a road for many years and many promises have been made by politicians and highway officials that they would be provided a road. Yet nothing has been done. Alaska is a growing State. This area should no longer be neglected and overlooked.

8. We cannot help but note that other areas of Alaska and Seward Peninsula with little or no population and no developed economy have been appropriated millions of dollars for construction of roads and bridges that have relatively little impact on the material development of the country and its people and whose overall usefulness in no way compares to the real need that is to be found with the people of Wales and Tin City.

9. Lastly, the road between Wales and Tin City is the beginning of the link-up of the highway to Nome and eventually with Fairbanks and the Outside, the length of the continent. It is truly a worthwhile and justifiable project that we urge for immediate consideration and implementation.


Existing roads
Proposed road routing
Scale 1 inch per mile
Cape Prince of Wales
LOPP
LAGOON
Cape Mountain

SCR

20

(7)

COMMITTEE REPORT

HOUSE

FURTHER:

April 3, 1979 Date: 4-12-79

Mr. Speaker:

The Committee on STATE AFFAIRS has had CSSCR 20

Relating to the construction of a road from Goose Bay to Point MacKenzie.

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

[X] 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" [X] New Fiscal Note

[ ] reports it back without recommendation

[X] referred to the Finance Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

INTRODUCTION

As a site for Alaskan industrial development, Point MacKenzie offers some substantial advantages. The Matanuska-Susitna Borough is growing rapidly, and its administrators and residents show an exceptional willingness to support large-scale industrial development.

The Borough is prepared to supply significant financial incentives to industrial developers. Low tax base land is available and low-interest financial assistance can be provided on short notice through the Borough's Power of Ports and other means. Planning and design efforts are now underway for extension of a road to the Point MacKenzie area, and long-term electrical power will be available on site due to hydroelectric projects planned for the Susitna River. Further, the Borough is in the process of preparing a comprehensive land-use planning document to assure compatibility of industrial development at the site with existing and future uses. The Point MacKenzie site is located about 50 road miles and less than 15 air miles from the major metropolitan city of Anchorage. This close proximity to the population center of the state provides additional economic advantages. Transportation costs are minimized, and all services and suppliers are readily accessible.

The location, together with the current trend toward development of attractive residential subdivisions in the area, enhances the overall desirability of the Matanuska-Susitna Borough as a location in which to settle. Residential settings offer full utilities and community services, as well as excellent access to recreational and cultural opportunities.

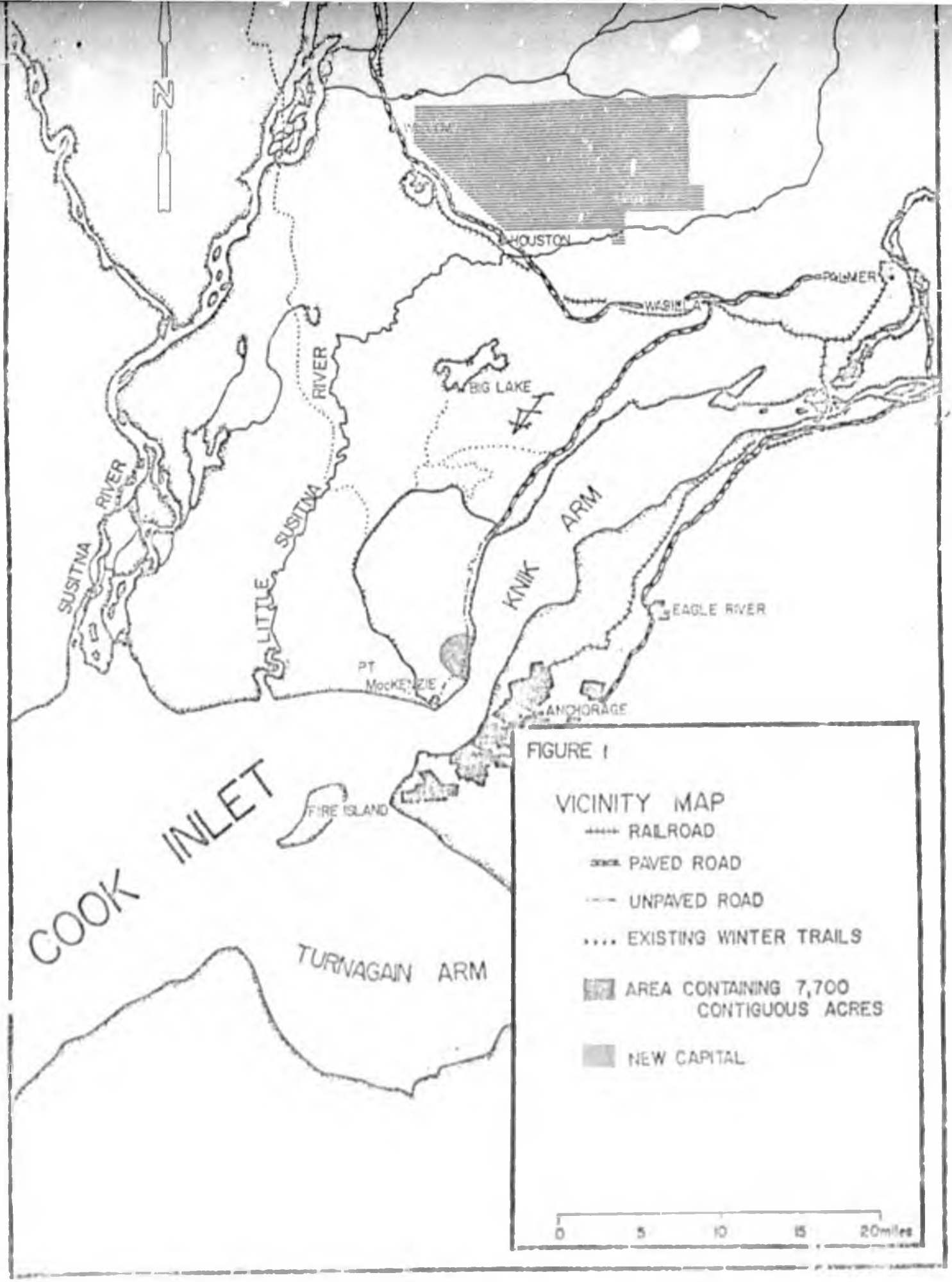
Physical features of the Point MacKenzie location, including climatic, geologic, and marine characteristics provide a site suitable for port development and large-scale industry. The following text describes in greater detail the character of the Point MacKenzie area and its natural and economic features.

For additional information regarding industrial development in the Matanuska-Susitna Borough, please contact the Borough offices in Palmer, Alaska. A list of contacts has been provided on page 26 for your convenience

Land Access

Existing highway, as well as railroad access to the Point MacKenzie area is good, and site specific access needs can be met within one construction season. Land access to the Point MacKenzie area is gained through utilization of the existing Goose Bay Road, which is a high-quality paved road extending from Wasilla to a point about 0.8 miles north of an airstrip shown on Figure 1.

Several alternatives exist for funding the extension of the road system to a given site in the Point MacKenzie area. These consist of: 1) providing a secondary road under the provisions for "pioneer access roads" approved by the Borough and the State, 2) seeking cooperative state/federal funding for design and construction of a secondary road, or 3) the Borough can provide a secondary road extending to the port area. Planning and design work for the road extension project is currently under contract with construction of a road due to be completed by the Borough in 1979. The third alternative, above, represents the most economic and expeditious means of supporting immediate access needs for construction of industrial facilities. This road can be upgraded at any time in the future. It is anticipated that the required type of road access can be provided within a given specified time insuring that industrial developers can achieve timely initiation of their projects.


N
HOUSTON
PALMER
WASILLA
BIG LAKE
SUSITNA RIVER
LITTLE SUSITNA RIVER
KNIK ARM
EAGLE RIVER
PT MacKENZIE
ANCHORAGE
FIRE ISLAND
COOK INLET
TURNAGAIN ARM
FIGURE 1
VICINITY MAP
RAILROAD
PAVED ROAD
UNPAVED ROAD
EXISTING WINTER TRAILS
AREA CONTAINING 7,700 CONTIGUOUS ACRES
NEW CAPITAL
0 5 10 15 20miles

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS SCR 20
Title Goose Bay to Point Mac Kenzie Road
Requested by Kerttula Date 3/30/79

II. FISCAL DETAIL
Agency Affected DOT/PF
Program Category Affected Design & Construction
Budget Request Unit(s) Affected Highway Design & Construction

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES		20				
200 TRAVEL		5				
300 CONTRACTUAL		1450				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND		1475				
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The above funds would be sufficient for the design only of this project. Total cost of the project would be $9,070,000 as indicated in the fiscal note for SB 230.

IV. DATE 4/9/79 PREPARED BY Harry Keller
AGENCY DOT/PF
PHONE 364-2121

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

33-001 (Rev. 10/78)

SCR

41

COMMITTEE REPORT

HOUSE

(7)

5/24

FURTHER: Rules

5/21/80

Date: 5-24-80

Mr. Speaker:

The Committee on STATE AFFAIRS has had CSSCR 41am

"Adopting a state policy for economic development and directing the Legislative Council to make a study of this policy."

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

[X] 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

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

Alaska State Legislature

SENATOR MIKE COLLETTA

SENATE MAJORITY LEADER

Senate

MEMORANDUM MAY 22, 1980

TO: REPRESENTATIVE MIKE MILLER, CHAIRMAN
HOUSE STATE AFFAIRS COMMITTEE

FROM: SENATOR MIKE COLLETTA

RE: SCR 41

Attached herewith are letters, notes and comments for this resolution.

Your consideration of this resolution is appreciated.

Attachments.

SRA, BOX 1469-R, ANCHORAGE, ALASKA 99501 • POUCH V, JUNEAU 99811

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS SCR 41 am
Title Adopting state policy for econ.develop.& directing Legis.Cncl to study thi
Requested by Senator Sackett Date 5-22-80 policy

II. FISCAL DETAIL
Agency Affected Legislative Council
Program Category Affected General Government
BRU, Program, or Subprogram(s) Affected Council & Subcommittees
(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						
200 TRAVEL						
300 CONTRACTUAL	-0-	150.0	-0-	-0-	-0-	-0-
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	150.0	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

IV. DATE 5/22/80 PREPARED BY Senator John C. Sackett
AGENCY
PHONE

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

33-001 (Rev. 12/79)

OFFICE OF THE MAYOR
POUCH 6-650
ANCHORAGE, ALASKA 99502

GEORGE M. SULLIVAN
MAYOR

December 7, 1979

Senator Mike Colletta
P. O. Box 3188
Anchorage, Alaska 99501

Dear Mike:

In response to your recent memorandum, I would like to advise you that I very strongly support the concept of the State implementing an economic development policy.

I presented it to the Assembly and after they postponed the matter twice, I am now told they want to work on some rewording.

Wish you the best over the coming holiday season.

Sincerely,

George M. Sullivan
Mayor

GMS:lh

Matanuska-Susitna Borough

BOX B, PALMER, ALASKA 99645 • PHONE 745-3246

BOROUGH ASSEMBLY

December 3, 1979

The Honorable Glenn Hackney
Alaska State Senate
1136 Sunset Drive
Fairbanks, AK 99701

Dear Mr. Hackney:

The attached Senate Concurrent Resolution drafted by Senator Mike Colletta regarding economic development, has been reviewed by the Matanuska-Susitna Borough Assembly. The Assembly strongly supports the draft resolution and has adopted an Assembly resolution endorsing it. (Attached).

We wish to congratulate Senator Colletta on his foresight in drafting this Senate Concurrent Resolution and strongly urge your support of it also.

Sincerely,

Ronald L. Larson
Mayor

RLL:kek
Attachments

Hi Mike —
That's a fine Resolution and I like your
to be a Co-sponsor if you don't object.
Glenn Hackney

KODIAK ISLAND BOROUGH

JAN 28 1980

Telephones 486-5736 - 486-5737 — Box 1246
KODIAK, ALASKA 99615

January 23, 1980

Senator Mike Colletta
Senate Floor Leader
POUCH V
Juneau, Alaska 99811

Dear Senator Colletta,

The Kodiak Island Borough Overall Economic Development Program Committee has reviewed the draft Senate Concurrent Resolution regarding the adoption of a State Policy for Economic Development as you transmitted to Mayor Wallin of the Kodiak Island Borough late last year.

This Committee fully supports the concept of a State Economic Development Policy. However, we feel that certain elements of your draft may not be in the best long term economic interests of all Alaskans. I refer here to your attempts at providing direct state subsidies for resource development and royalty share guidelines for instate processing. With these comments in mind I wish to reiterate our support of your efforts at developing a State Economic Development Policy.

Thank you very much for the opportunity to comment on your draft Resolution.

Sincerely,

Ann M. Moen

Ann M. Moen
O.E.D.P. Chairman

CC:
Mayor Wallin
O.E.D.P. Committee

City of Whittier

TELEPHONE (907) 472-2337
WHITTIER, ALASKA 99502

December 5, 1979

Sen. Mike Colletta
Alaska State Legislature
Juneau, AK

Dear Mike:

Your draft Senate Concurrent Resolution for economic development is fine. I believe it addresses the major points without getting bogged down in detail. Probably as essential for economic development as policy is a consistent response at the state level towards development. Are we actually doing things to fo ter development? The state has the manpower and resources to establish a plan that w'll genuinely carry out such a policy but is or has this been done? If not I would imagine that to be the very next step in terms of state response to economic development.

Whittier. too is in need of an economic development policy and plan. I took the liberty to "cut and paste" your policy making changes to fit Whittier's circumstances. I believe Alaska's future is very bright but to realize its best potential your efforts in approaching economic development will be most productive. That is, an organized and thought out approach will realize the best results and the policy statement is the first step. You are leading in that first step and we certainly support your proposal.

Sincerely,

Samuel D. Coxson

Samuel Coxson
City Manager

SLC/jh

OFFICE OF ADMINISTRATION
December 5, 1979

City of Valdez
Inc. 1901
Gateway to the Interior
Terminus of the Trans-
Alaska Pipeline

Senator Mike Colletta
P. O. Box 3188
Anchorage, Alaska 99501

Dear Senator Colletta:

At its regular meeting of December 3, 1979, the Valdez City Council voted unanimously to endorse the draft Senate Concurrent Resolution regarding the adoption of a State Policy for Economic Development.

After discussing this issue, one concern expressed by the council was, in fact, the impact upon the community and they suggested that the second "Be It Resolved" read:

(2) is environmentally sound and is wanted, if evidenced by positive indication of support, by local citizens most impacted by the development.

The council also suggested a change in the fifth "Be It Further Resolved" to have it read:

(5) establish a competitive position with other states and countries seeking to attract economic development and adopt various economic development incentives including tax incentives to attract various industries.

On behalf of the city council, I wish to express the City's appreciation for having been provided the opportunity of offering some preliminary input on this worthy resolution. Should you wish further participation by the City on other legislative matters, we would be happy to oblige you Thank you again.

Sincerely,

CITY OF VALDEZ, ALASKA

Mark Lewis
City Manager

CITY OF KOTZEBUE

P.O. BOX 46
KOTZEBUE, ALASKA 99752
907-442-3401

November 19, 1979

The Honorable Mike Colletta
Stat Senator
P.O. Box 3188
Anchorage, Ak. 99501

Dear Senator Colletta,

The City Council of Kotzebue has reviewed your proposed policy for economic development and agree with it in concept. However, the Council expressed great concern as to why the legislators are just beginning to address the problem.

There was concern expressed that the legislators and State Chamber of Commerce should be working together to develop the policy and that this time has long since past.

There was one nay vote. The above stated concerns resulted in the nay vote.

Sincerely,

Gene Moore
City Manager

cc: Senator Frank Ferguson

GFM/ss

Anchorage, January 4, 1980

The Honorable Mike Colletta
Box 3188
Anchorage, 99501

Re: State Policy for
Economic Development

Dear Mike:

I have been negligent in not responding to your invitation to comment on this subject. The difficulty for me has been trying to reconcile confidence in our own "great economic potentials" - if the State will just do something or other - with inherent and/or exceedingly costly disadvantages as to diversified production enterprises. Since seeing you at the Cattleman's in November I have been reviewing information and putting various facts on paper to see how or if they would fit together in ways leading to creating viable potentials.

I have had some experience in development, starting in 1949 on a homestead where we operated commercial gardens, hothouses and a small sawmill. As first K.P.B. mayor I worked with industry, chamber of commerce and city officials trying to stimulate diversified production enterprises that we supposed would progressively become viable by various stimuli out of the great oil boom. Instead, we got hotels, gas stations, air service to platforms and numerous other services activities, the support of which all originates from petroleum industry dollars.

The Kenai Peninsula Borough population increased about 6000 from 1960 to 1970 in the biggest boom to then. And the boom included building three large petroleum industry plants. As Borough Chairman I spend considerable time discouraging Anchorage enterprises from rushing down to the Peninsula to the "Alaskan industrial center". We didn't want them to lose their shirts and have to pick up after them them at boom's end.

In 1948 I talked with the executives of the San Francisco and Seattle Chambers of Commerce and was told the key to tapping the vast mineral wealth of Alaska was building a railroad to Alaska. When Walter Hickel became governor he wanted to "telescope time and get on with building the State". He created the North Commission "to devise transportation systems to open up the North Country to tap and bring its vast resources to market".

There is now a North Slope Road, built by industry when economically feasible to develop a resource. None of the "vast resources" between Fairbanks and the Arctic Ocean that might benefit from a road within reach are stirring toward development - and for one reason only: economics, not competitive on the world market.

Alaska is the highest cost area in the U.S. for living and doing business. Distance from supplies and markets, high cost of shipping manufactured consumer goods, high cost of construction and plant operation, higher labor costs than anywhere else ---. It is economic disadvantages such as these, and others, that make us largely non-competitive for diversified production for export or international use.

A case simply cannot be made for artificially supporting economic enterprise with subsidies of various kinds to make output competitive on markets outside or with the prices of goods imported from outside for our consumption. When a potential for profit exists, the initiative and ingenuity of private enterprise will seize it and a viable independent business will result - not one crippling along with a crutch.

Should the dairies in Anchorage be subsidized for the wage cost difference between $16.00/hr outside and $28.00/hr here so they could continue to sell products in competition with those imported from outside? Or should producing dairies in the Matanuska Valley be subsidized so they could deliver in Anchorage low enough to make up the wage disadvantage?

It is unlikely a prospective enterprise which cannot make both ends meet on its own, and requiring a subsidy, will be able to pay taxes above our present "normal" rates - unless the subsidy from the treasury is enough to cover any increase. In any event it should be remembered that every new person for which a new enterprise accounts costs the state more than $2000 per year in state expenditures above the average total collected in normal taxes - plus whatever subsidy is paid.

Of course all this can be dismissed if we are on our way towards reducing "normal" taxes to a token and living it up on the money from selling our oil - until it isn't enough anymore.

It is a myth that new enterprise will employ the unemployed - meaning that if we do enough in this direction we will achieve "full" employment for Alaskans. This could happen only if we were an independent country and could control immigration completely.

By Supreme Court decision employment cannot be by length of residence. Both public and private employment is on this basis. There is always a substantial number of job seekers regardless of new enterprise employment. Our experience is that a new supply of seekers takes the place of those newly employed. This is a feature of our population turnover.

Public investment in infrastructure may facilitate development and pay a good return. Example: a harbor and port development that no one enterprise could support but that several could use on a sound payout basis.

We are not on the downhill. National need ensures that for the next 15 or 20 years at least, there must be vigorous oil exploration and development. This will support a prosperous services society, growing at a moderate rate from the point we have reached now.

There will be a few large petroleum industry capital intensive enterprises. Because these will have very few workers the revenue return to the state will be large. Profitability can disappear, however, if an attempt is made to force the manufacturing process to the extent of producing diverse consumer products. The plant producing base ingredients for further manufacture outside would be quite different as to the economics of it from one producing consumer plastic products and employing ten or twenty times as many workers at twice the wages and far higher ratio of workers to invested capital.

Mirerals and other natural resources will develop as world demand pushes prices up to where production can make both ends meet and pay a profit and taxes. The extent of manufacture is readily determined by the economics of operation. We may never use our trees to manufacture furniture. We do have a requirement of "primary manufacture", which means cutting away four slabs, leaving a "square" log. The problem is that a purchaser may want the whole log in one piece, with the result that the slabs are cut to the last four inches, nailed down on the other end, so the purchaser can get what he wanted to buy in the first place.

The Native Corporations sell their logs round as their people benefit more from the substantially higher price and avoid the wasteful slabbing step, in preference to "buying" a few jobs in an uneconomic operation.

The foregoing suggests that we need a practical economic evaluation procedure to determine what makes good common sense on behalf of all the citizens in the long run. Otherwise we can dissipate an awful lot of money in various subsidy schemes in the name of "getting going in economic development" that by rational calculations is simply not cost effective.

Sincerely,

Harold E. Pomeroy

HEP/rsp

file ceded policy resolution

SOHIO PETROLEUM COMPANY
A Division of Sohio Natural Resources Company

3111 "C" STREET, ANCHORAGE, ALASKA

TELEPHONE (907) 265-0135

MAIL POUCH 6-612
ANCHORAGE, ALASKA 99502

SOHIO—BP ALASKA PRODUCTION DIVISION

KENNETH E. SHOWALTER
DIRECTOR ALASKA GOVERNMENT AFFAIRS

December 11, 1979

Senator Mike Colletta
Box 3188
Anchorage, Alaska 99501

Re: Proposed Resolution
Policy for Economic Development

Dear Mike:

We have reviewed your proposed resolution and wanted to get together and discuss our thoughts with you. However the schedules haven't meshed so I'll attempt to express our viewpoint in this letter.

The four "Whereas" clauses set out a very positive list of objectives and would, if the State followed through by implementing means to reach those objectives, encourage investors to seriously consider putting their money in Alaska.

We do have some problems with specific resolve clauses. I guess my first reaction was that the oil industry was left out of the resolution.

It seems to us that the problem spelled out in the paper submitted to the Future Frontiers Conference (copy enclosed) has to be solved, otherwise any investor looking at a large, long term commitment in Alaska will pause to wonder -- how is the government going to generate needed revenues after Prudhoe Bay? Will it be through higher taxes on my investment?

Some of our specific concerns with the resolve clauses are as follows:

(1) Since oil and gas investments will not diversify the economy does this imply that such investments will be discourged?

(2) The phrase "...is wanted by local citizens most impacted by the development;" would indicate, for instance, that since there is some local opposition the Beaufort Sea lease sale would be discouraged. Obviously local concerns must be considered in any development but there must also be a balance with State and National concerns.

(3) This resolve clause seems to have the same problem as (1), i.e., all the thrust is to diversification and it indicates that oil and gas development is not to be encouraged.

(6) This has our whole-hearted support!

(7) The requirement that all royalty be processed in the State might be impossible to accomplish in some specific cases. An objective of doing this when possible might be an approach.

In the "Further Resolved" clauses we have the following comments:

(5) We suggest that the State should first examine its competitive status as regards the current basic industry, oil and gas, if it is to solve the problem pointed out in our "Future Frontiers" paper.

(7) Fixed prices for the investment amortization period could result in unknown revenue losses in the future, e.g.,; with the recent run up in oil prices consider how the Alpetco project would look if their contract specified a fixed price.

Please do not take this as a criticism of your effort. Passage of a resolution along this line would be a big step in the right direction.

As you will note we are passing the resolution along to some others in Sohio and are asking them to comment.

I hope to be able to discuss this in greater detail with you later.

May you, Peggy and Mikey have a happy holiday season.

Sincerely,

K. E. Showalter

KES:kmo
Attachment

cc: R. M. Donaldson
W. J. Saint
C. R. Elder

A Look At Sen. Colletta's Economic Development Resolution

By Kelly Robinson, Realtor

Between the resource in the ground and the useable energy or product at the critical time and place, exists one of the most complex, best documented, least understood, most frustrating, most exciting processes the world has ever known. The process includes hardware, software, liveware, beware and more yet to be defined or invented wares. The process is both macro and micro, dynamic and static, political and non-political, fundamental and highly innocative all at the same time. It is a tangible pot of wealth at the end of an Alaskan rainbow — but there are risks as large as grizzlies and as numerous as mosquitoes. The process is as necessary as is it inevitable. The process is already underway and gaining momentum.

The process is Alaskan Economic Development.

There are no cookbooks nor road maps to follow. As in many other Alaskan endeavors, we are out in front and on our own. We have available the combined wisdom of the ages. However, it will challenge our knowledge, effectiveness, and Alaskan resolve to apply this existing wisdom to our current situation.

A major stride toward defining the parameters of our Economic Development Philosophy has been taken by Sen. Mike Colleta. Sen. Colleta has prepared a resolution for the second session of the 11th Alaskan State Legislature adopting an Alaskan policy for economic development. I believe this resolution documents a development philosophy acceptable to responsible Alaskans, while at the same time, it will serve to meet the critical energy and resource needs of our nation. However, the document will speak for itself:

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

WHEREAS the State of Alaska firmly supports and encourages responsible economic development that will develop, strengthen and diversify its economic base by utilizing its human and natural resources in an effective manner; and

WHEREAS the use of the manifold natural resources of Alaska which most benefits Alaskans is for development of jobs in the state with expansion and diversification of the state's economic base through processing the resources in the state to the maximum amount feasible; and

WHEREAS adoption of an economic development policy that clearly expresses the state goals of achieving a sound, healthy and growing economy for Alaska would clearly communicate to the business community the basis on which the state encourages responsible investors; and

WHEREAS a clearly communicated economic development policy would aid in establishing a sound working relationship with industry so that investors will be encouraged to develop further economic opportunities within the state that can proceed in the common interest of the state and the investors;

BE IT RESOLVED that the Alaska State Legislature adopts the following policy which is intended to clearly communicate to the business community the basis on which the state encourages responsible investors to come to Alaska and determine if various industrial projects are in our common interest; the state should encourage economic development that

(1) offers long-term benefits and increased employment to Alaskans through strengthening and diversification of the state's economy;

(2) is environmentally sound and is wanted by local citizens most impacted by the development;

(3) diversifies the state's revenue, increases average personal income and reduces the cost of living by creating economic activity in economic sectors that do not presently exist or are not presently fully developed;

(4) has a positive effect on the revenue needs and fiscal conditions of the state and local communities and does not impose additional governmental costs in excess of this positive effect;

(5) has a positive effect on power and energy availability for present and future needs;

(6) promotes tax and revenue stability within the state;

(7) processes in the state the maximum feasible amount of any natural resource derived in the state with, as a minimum, processing in the state of that amount of any derived in the state equal to the state's royalty share of that resource; and be it

FURTHER RESOLVED that the state should actively undetake activities to attract investment within these criteria to take advantage of the investment opportunities afforded by Alaska's abundant resources, and use its powers and resources as a catalyst for responsible economic development of the state in the interests of its citizens; the state should:

(1) be aware of the many advantages and disadvantages to the state that will result from the development of various industries and, through its various agencies, identify and evaluate these factors and make information available to investors and to governmental officials to aid in their evaluation of potential industrial projects;

(2) provide necessary leadership to aid potential investors to acquire or develop necessary information which is unique to the state and required for their evaluation;

(3) with cooperation from investors, seek to identify the many constraints to economic development of the state imposed by the federal government and work with the federal government through the state congressional delegation to resolve the problems created by these constraints;

(4) identify how the economy will change as a result of normal growth and evolution of the possible basic industries and evaluate proposals based on the criteria adopted;

(5) establish a competitive position with other areas seeking to attract economic development and adopt various economic development incentives including tax incentives to attract various industries;

(6) provide necessary assistance to responsible investors to aid in the determination of whether proposed development is in the interest of the investor and the state;

(7) provide a stable economic environment by sale of natural resources owned by the state to processors of the resource at a fixed price for a period necessary for amortization of capital investment by the processor.

Senator Colletta has continually worked to bring the state closer to the business community. He feels a clearly communicated economic development policy is critical to attract industry and investors.

Your comments concerning the resolution should be directed to Senator Mike Colletta at 1016 West 6th Ave., Suite 435, Anchorage 99501 or you may call Sen. Colletta's Anchorage office at 274-8351.

Kelly Robinson is the broker for Century 21 Northwind, Realtors, 2518 East Tudor Road.

Ms. Relo Likes The Job, The Name

NO MONEY FOR MONUMENTS... WE HOPE

Senator Ted Stevens joined with other members of the Senate Interior Appropriations Committee to cut off funding for the administration of the 57 million acres of national monuments which were created last December. The committee also recommended that $1 million be deleted from the Carter Administration's budget request for fiscal 1980 to manage Alaskan wildlife refuges.

Regarding the legitimacy of presidentially established withdrawals, the committee's report was succinct in its view:

"The Committee cannot agree--nor does it feel that it has the authority to agree--to funding established parks and wildlife areas in Alaska without full congressional review and approval."

Furthermore:

"The protection and conservation of Alaska's vast natural resources pivot on important national policy decisions of the scope that are reserved for Congress."

With this strong opposition it will be interesting to see where the Carter Administration finds the money to manage the newly-created monuments in Alaska.

SENATOR COLLETTA ADDRESSES RDC

Senator Mike Colletta delivered some upbeat words to a packed house at the Council's October 24 meeting. Discussing a natural gas liquids line and potential for petrochemicals development, Colletta warned strong, aggressive action was needed to make such development a reality.

The senator reported on his recent meetings with petrochemicals industry officials. He was obviously excited by their interest in Alaska's natural gas feedstocks, and some officials, he said, would even consider building a small diameter line to the facility. "The interest is out there. They will pay the wellhead price, they will build the pipeline and they will build the plant," he said.

Colletta also expressed optimism that the Northwest pipeline project would proceed quickly, with or without state financial participation. In his opinion, a petrochemicals industry was possible regardless of whether the conditioning plant were located at Prudhoe Bay or Fairbanks. And, he said, the outlook for gas-based petrochemicals industry had brightened considerably over the past year from previous gloomy forecasts.

Colletta also discussed the lack of stability in Alaska's economic environment. Citing statements made to him by Outside industry officials, Colletta said they told him repeatedly that Alaska should formulate a stable development attitude or there would be reduced investment in the state. Taxes for the oil companies, he noted, has risen 12 times in 11 years. He warned that if this trend was not reversed--and quickly, many businessmen would be hesitant to invest in Alaska. To promote a stable development environment, Colletta introduced a resolution which he intends to put before the legislature in January. He said it was time for Alaskans to act in the best interests of the state's economy. The administration is not "moving fast enough" and if the pace did not speed up, the legislature would have to "take the lead" in stabilizing the business climate. Colletta's 14-point resolution included the following selected points:

That the Alaska State Legislature adopts the following policy which is intended to clearly communicate to the business community the basis on which the state encourages responsible investors to come to Alaska and determine if various industrial projects are in our common interest, the state should encourage economic development that

3) diversifies the state's revenues, increases average personal income and reduces the cost of living by creating economic activity in economic sectors that do not presently exist or are not presently fully developed;

5) has a positive effect on power and energy availability for present and future needs; and

6) Promotes tax and revenue stability within the state.

Furthermore, the state should actively undertake activities to attract investment and to take advantage of the investment opportunities afforded by Alaska's abundant resources. The state should also use its powers and resources as a "catalyst for responsible economic development of the state."

In conclusion, Colletta asked Council members to work with him on the markup of the resolution. Copies of the proposed resolution are available at Council offices.

FRESH-WATER PRAWNS AND ENERGY, TOO

In Pilgrim Hot Springs, some 50 miles north of Nome, the State Division of Energy and Power Development and the University of Alaska are conducting a research program to see if the springs can be used for heating, electric generation, agriculture and aquaculture.

Don Markle, energy project coordinator

Continued next page

MEMORANDUM

November 14, 1979

TO: Gordon DeWitt

FROM: Senator Mike Colletta

I wanted to let you know that I received your message and appreciate your expressing support for a strong economic development policy for the State. I am hopeful that you will speak in a positive manner to all concerned about your support of the proposed resolution. Again, many thanks for your support.

mailing address:

P. O. Box 47
Eagle River, Alaska 99577

276-0619

Proposed Resolution for the 1980
Alaska Legislature

Prepared by the COMMONWEALTH NORTH GAS PIPELINE STUDY COMMITTEE,
Millett Keller, Chairman

WHEREAS the State of Alaska firmly supports and encourages responsible development that will strengthen and diversify the economy through the utilization of the human and natural resources of Alaska in an effective manner; and

WHEREAS adoption of a State Economic Development Policy that clearly sets forth the goals of achieving a healthy and growing economy would establish a sound working relationship with industry; and

WHEREAS an economic development policy would establish a basis upon which critical planning decisions could be made and alternatives could be evaluated;

BE IT THEREFORE RESOLVED that the Alaska Legislature adopts the following policy which sets forth the conditions and expectations under which the state will encourage economic development:

(1) offers long term employment opportunities to Alaskans

(2) improves the productivity of the existing economy

(3) contributes to the economy through capital investment

(4) increases energy availability for present and future needs

(5) does not cause a substantial adverse impact on the environment

(6) provides in-state processing of natural resources derived in the state in an amount equal to or greater than the State's royalty share of the resource;

BE IT FURTHER RESOLVED that the state should undertake activities to attract investment within these criteria to take advantage of the opportunities afforded by Alaska's abundant resources, and use its powers and resources as a catalyst for economic development. The Alaska Legislature therefore ordains that the state should:

(1) identify the many constraints to economic development imposed by the federal, state and local governments and work to eliminate unreasonable constraints as well as resolve the problems created by these constraints;

(2) establish a competitive position with other areas seeking to attract economic development and adopt incentives to attract industry

(3) provide a stable economic environment for the sale of natural resources owned by the state to processors of the resource.

MEMO TO FILE

SENATE RESOLUTION ON POLICY STATEMENT FOR ECONOMIC DEVELOPMENT

FROM: Marcie
1/14/80

Many people have commented and suggested the following amendment:

Page 2 line 1 : Delete the following:

"and is wanted by local citizens
most impacted by the development;"

SENATE RESOURCES COMMITTEE
HEARING
on

SENATE CONCURRENT RESOLUTION 41

"Adopting a state policy for economic development"

Friday, February 15, 1980

Court Building
303 K Street, Room 422
10 a.m.

Senator Jay Kerttula called the hearing to order. Also present was Senator Ed Dankworth and the panel was later joined by Senator Mike Colletta.

These individuals expressed the following comments:

KELLY WALLER, Tanana Chiefs Conference

SUGGESTION: The following changes be made: page 1, lines 7 - 10, should also include that such economic development will insure protection of the environment and lifestyles of rural Alaska.
page 2, line 24 expressed concern with "investors" -- who?
page 2, line 2 asked that "local citizens" be defined

WILLIAM WOOD, Mayor City of Fairbanks

Commented that the resolution does not address the state's developmental tasks. SUGGESTION: In a "whereas" clause, there should be a statement that any economic development should wisely utilize our resource base as an outlet for the human talent that the state already has.

PAM SMITH, Alaska Industry Support Alliance

Spoke on behalf of the A.S.I.A. who suggests that the legislature examine the purposes of taxation and its possible constraint to economic development.

HAROLD POMEROY

It is inexcusable the drag that regulations and requirments have on inhibiting and discouraging economic development. The state does not use the people and information it already has here, instead it brings in others from Outside to provide the expertise that is already available. The state should exercise caution against giving tax exemptions to businesses who without the exemption, would not

survive -- that's bad business. SUGGESTION: page 2, lines 7 - 9 questions what is intended by the statement; page 2, lines 13 - 16, suggests that this is not economically practical; page 3, lines 8 - 10, he can't justify a subsidy in order to establish a competitiveve position. Suggests the state utilize a practical economic evaluation procedure to determine what is cost effective.

LEE FISHER, People Against State Income Tax

Suggests that the abolition of individual and corporate taxes will be the best incentive to economic development.

DAVE HARBOUR, ARCO

Suggests that the state do a comparison of its investment climate to that of other states. Concerned that the resolution does not enumerate the constraints to economic development which are spelled out in last session's SCR 27. Suggests the House and Senate Resource Committee members, Department of Commerce and Economic Development and industry people get together to develop a consensus plan.

BUD DYE, Resource Development Council

States that the legislature is going to need to do more than simply pass a resolution. SUGGESTION: that the state:
-- implement the economic development program put together last year by Commerce and Economic Development;
-- determine why there is an adversary tax relationship between the state and oil industry;
-- make a statement that there will be "no more" taxes on the oil industry;
-- study the prohibitive effect of regulations on industry with the hope that regulation reform will decrease the cost of government (Resource Development Council is presently doing such a study). The end result of the above suggestions will be a predictable investment climate. Also suggests that a tax credit be established for any money made from specified projects that is re-invested into other specified projects.

KEN SHOWALTER, SOHIO

Concerned that the resolution only pertains to future businesses and does not address present businesses such as the oil industry. SUGGESTION: submitted a revised resolution which is contained in the committee's records as well as a copy of his comments.

PAULA EASLEY, Resource Development Council

The state desperately needs a clear-cut economic development policy and without one, the private sector is unable to

grow. SUGGESTION: The authority and responsibility of fullfilling the resolution's needs should be the responsibility of the Department of Commerce and Economic Development. On page 2, line 21, add to "the state should, under the direction of the Department of Commerce and Economic Development; page 2, lines 1 - 2, unanimously opposed to present wording; page 2, lines 7 - 9, is a problem of defining "excess" -- something may be excessive now but on a long term basis, it may be best; page 2, lines 10 - 11, concerned that an industry that is energy intensive may be discouraged; page 2, lines 13-- 16, eliminate the minimum requirement; page 3, lines 1 - 4, suggests adopting Showalter's suggestion; page 3, lines 14 - 17, questioned if the resolution would permit the state's royalty oil to be sold for less than the market price, if it is shown that such a sale would be beneficial to Alaskans.

BII

DON LYON, Overall Economic Development Program, Mat-Su Borough

Investment incentives are needed. The state also needs to look beyond initial investment incentives (which often are viewed as subsidies) and instead, must examine the long-term benefits. Regulation reform, which can serve as a catalyst for development, should be a key part of economic development. Once the resolution is adopted, he hopes the necessary money follows in order to carry it out.

BOB DEMPSEY, Fairbanks Chamber of Commerce

The Fairbanks Chamber of Commerce will be submitting written testimony at a later time. Asks that there be avaialble government funding for projects that are to be undertaken by the private sector. Also urged that money be available to implement the intent of the resolution.

MYRON IGLANTOC, Tlingit and Haida of Anchorage

Energy efficient projects should be a priority and the long-term benefits of any project must be taken into consideration. Expressed concern about the high energy costs in Southeast and the fact that lines have not been extended to villages because it is not economically feasible. Also stressed that the state should take a look at utilizing natural gas in the northern areas.

WRITTEN COMMENTS

The following individuals and organizations submitted written comments:

-- C. W. Baer, General Manager, Greater Fairbanks Chamber of Commerce

-- Malcolm B. Roberts, Executive Director, Commonwealth North

-- Alfred R. Ketzler, Executive Director, Community Enterprise Development Corporation of Alaska

-- Arthur R. Hauver, Attorney-at-Law

-- Charles F. Becker, Economic Development Director, Municipality of Anchorage

-- Eddie J. Turner, President and Managing Officer, Peninsula Savings and Loan Association

Copies of the above comments follow.

THOSE ATTENDING HEARING

Mr. Bob Dempsey
Fairbanks Chamber of Commerce
550 First
Fairbanks, Alaska 99701

Mr. Paul A. Dunham
Machinists, Local 601
825 East 8th
Anchorage, Alaska 99501

Mr. Bud Dye
2301 Loussac
Anchorage, Alaska 99503

Mr. Wayne L. Fincher
Painters Union, Local 1140
1818 Northern Lights Boulevard
Anchorage, Alaska 99503

Mr. Lee E. Fisher, C.P.A.
430 West 7th Avenue
Anchorage, Alaska 99501

Mr. Dave Harbour
SRA Box 62-R
Anchorage, Alaska 99507

Mr. Martin Hoskins
Post Office Box 288
Anchorage, Alaska 99510

Mr. Ken Hume
225 Cordova, Building B
Anchorage, Alaska 99501

Mr. Myron B. Igtanloc
2201 West 48th Avenue
Anchorage, Alaska 99503

Mr. Dick Kloep
IUOE, Local 302
2510 Arctic Boulevard
Anchorage, Alaska 99503

THOSE ATTENDING HEARING

Mr. Don Lyon
Overall Economic Development Program
Matanuska-Susitna Borough
SR Box 5011
Wasilla, Alaska 99687

Mr. Ken Peavyhouse
FAA-AAL-4C
Box 14
Anchorage, Alaska 99513

Ms. Jennie Day Peterson
Public Employees, Local 71
Post Office Box 4-241
Anchorage, Alaska 99509

Mr. Harold Pomeroy
4048 Wright Street
Anchorage Alaska 99504

Mr. Ken Showalter
Pouch 6-612
Anchorage, Alaska 99502

Mr Patrick J. Smutz
HRDI
213 West 6th
Anchorage, Alaska 99501

Mr. Rudy J. Trosclair
Painters Union, Local 1140
1818 Northern Lights Boulevard
Anchorage, Alaska 99503

Mr. Frank N. Van Zant
Pouch 6607 H-280
Anchorage, Alaska 99502

Mr. Kelly Waller
Tanana Chiefs Conference
First and Hall Streets
Fairbanks, Alaska 99701

Dr. William R. Wood, Mayor
City of Fairbanks
619 Eleventh Avenue
Fairbanks, Alaska 99701

Greater Fairbanks
CHAMBER OF COMMERCE

Member
U. S. Chamber of Commerce
Alaska State Chamber of Commerce

(907) 452-1105 550 First Avenue
FAIRBANKS
ALASKA 99701

February 14, 1980

Senator Bill Sumner, Chairman
Senate Resources Committee
Pouch V
Juneau, Alaska 99811

Re: Senate Concurrent Resolution No. 41

The Greater Fairbanks Chamber of Commerce is greatly encouraged by, and is in firm support of, the proposals contained in Senate Resolution No. 41 to adopt a state policy for economic development.

Adoption and implementation of such a policy will provide the basic structure for the orderly development of Alaskan resources through a partnership of government and private industry.

Toward this end I would urge that a framework be developed as a part of this resolution that would make possible governmental funding assistance for needed projects undertaken by the private sector. Such a provision would greatly facilitate joint development of worthwhile projects.

Further comment on these matters, on behalf of the Greater Fairbanks Chamber of Commerce will be provided by Bob Dempsey, Chairman of the Chamber's Economic Development Committee.

Sincerely,

C. W. Baer

C. W. Baer, General Manager
Greater Fairbanks Chamber of Commerce

CWB/sh

COMMONWEALTH
NORTH

February 18, 1980

Senator Bill Sumner
Pouch V
Juneau, AK 99811

Dear Bill:

Thank you for letting us know about the hearings last Fridav and Saturday.

Enclosed is a copy of a letter to Senator Kerttula regarding the state policy on economic development.

Everywhere, I find great enthusiasm for the benefits the Susitna Project can mean to the entire railbelt. Although I was unable to attend that hearing, I believe it is fair to say that most of the Board and membership of Commonwealth North are 100% behind those who will make this project move, and move quickly.

With best regards.

Sincerely,

Malcolm B. Roberts
Executive Director

MBR/cds

Encl.

935 West Third Avenue / Anchorage, Alaska 99501 / 907-276-1414

COMMONWEALTH
NORTH

February 18, 1980

Senator Jalmar M. Kerttula
Pouch V
Juneau, AK 99811

Dear Senator Kerttula:

I am sorry I had to leave your hearings last Friday before I had a chance to testify.

We support Senate concurrent Resolution 41, adopting a state policy for economic development.

The current debate over the feasibility of a petrochemical industry being established as part of the natural gas pipeline project focused the need for such a state policy. Industry across America and elsewhere in the world has received mixed signals as to what Alaska really wants.

Our committee studying the gas pipeline recommended a shorter version. Please see attached. But we have no problem with the intent or wording of the resolution as it stands, with the one suggestion that on page 3 line 15 the author probably meant "fixed terms" rather than "fixed price." The way the cost of resources is skyrocketing, fixed price contracts may prove to be very unwise in the decades ahead.

With best regards.

Sincerely,

Malcolm B. Roberts
Executive Director

cc: Senator E. Dankworth
Senator M. Colletta

Governor William A. Egan, Co-Chairman • Governor Walter J. Hickel, Co-Chairman
Max Hoskel, President • Helen Fischer, Vice President • Morris Thompson, Vice President • William Sheffield, Vice President
Robert Harris, Secretary • Millett Keller, Treasurer • Carl Brady, Sr. • Larry Carr • Henry Hedberg • Loren Lounsbury • Dr. Glenn Olds
Glenn Simpson • William J. Tobin
Malcolm B. Roberts, Executive Director

935 West Third Avenue / Anchorage, Alaska 99501 / 907-276-1414

Recommended Resolution for the 1980
Alaska Legislature
Proposed by the COMMONWEALTH NORTH GAS PIPELINE STUDY COMMITTEE
Approved by the Commonwealth North Board of Directors, Nov. 20, 1979

WHEREAS the State of Alaska firmly supports and encourages responsible development that will strengthen and diversify the economy through the utilization of the human and natural resources of Alaska in an effective manner; and

WHEREAS adoption of a State Economic Development Policy that clearly sets forth the goals of achieving a healthy and growing economy would establish a sound working relationship with industry; and

WHEREAS an economic development policy would establish a basis upon which critical planning decisions could be made and alternatives could be evaluated;

BE IT THEREFORE RESOLVED that the Alaska Legislature adopts the following policy which sets forth the conditions and expectations under which the state will encourage economic development:

(1) offers long term employment opportunities to Alaskans
(2) improves the productivity of the existing economy
(3) contributes to the economy through capital investment
(4) increases energy availability for present and future needs
(5) does not cause a substantial adverse impact on the environment
(6) provides in-state processing of natural resources derived in the state in an amount equal to or greater than the State's royalty share of the resource;

BE IT FURTHER RESOLVED that the state should undertake activities to attract investment within these criteria to take advantage of the opportunities afforded by Alaska's abundant resources and use its powers and resources as a catalyst for economic development. The Alaska Legislature therefore ordains that the state should:

(1) identify the many constraints to economic development imposed by the federal, state and local governments and work to eliminate unreasonable constraints as well as resolve the problems created by these constraints;

(2) establish a competitive position with other areas seeking to attract economic development and adopt incentives to attract industry

(3) provide a stable economic environment through the sale of natural resources owned by the state to those firms which will process those resources within Alaska.

February 13, 1980

The Honorable Bill Sumner
Chairman
Senate Committee on Resources
Alaska State Legislature
Pouch V
Juneau, Alaska 99801

Dear Senator Sumner:

With reference to SCR 41 which establishes the guidelines for a State policy on economic development, I would like to offer the following comments.

In rural Alaska one of the most expensive aspects of economic development is compliance with state and federal environmental laws. The main reason is existing fresh water systems, sewage treatment facilities and local electrical utilities are not capable of meeting the needs of major industrial activity. In fact, many communities have no utilities, no fresh water system and the sewage disposal systems are very crude.

Any kind of economic development in these areas must bear the additional cost of infrastructure development in order to acquire necessary licences and permits. Hotels, lodges, fish processing facilities and other activities requiring large amounts of power and fresh potable water are especially victimized by the high cost of infrastructure development.

Part of the state policy on economic development as outlined in SCR 41 should include a statement number 8 to be added on line 18 of page 3 which reads:

> "Provide utility infrastructure development funds to rural communities located within the unorganized borough to facilitate otherwise unfeasible projects that promote the general economic development goals of the State of Alaska."

CEDC

Community Enterprise Development Corporation of Alaska
1011 E. Tudor Road, Suite 210/Anchorage, Alaska 99503. 907-279-4551

State assistance is infrastructural development as outlined would generally lend itself to promoting resource based industries and ensuring local support and proper facilities to aid profitable business development.

Sincerely,

COMMUNITY ENTERPRISE DEVELOPMENT
CORPORATION OF ALASKA

Alfred R Ketzler

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February 20, 1980

The Honorable Bill Sumner
Alaska State Senator
Chairman, Senate Resources Committee
Pouch V
Juneau, AK 99811

Dear Senator Sumner:

Thanks very much for your letter of February 6 and your invitation to attend the hearings on SCR 41 in Anchorage. Unfortunately, all of my efforts at setting the morning aside for that activity were in vain due to a number of matters which my clients classified as emergencies.

I have, in fact, reviewed Senate Concurrent Resolution No. 41 in detail. The proposal is, in my view, worthy of the Committee's attention and of its support.

Any critique will have to come from someone other than myself. I find it most difficult to find any problems with the Resolution at all. Perhaps my only change would be to underline numbered paragraphs (5) and (6) on page 3 as being particularly germane to the infrastructure and support systems -- such as the transportation system -- upon which new enterprises will depend for their long term existence. You are undoubtedly aware of the enormous economic hardship suffered by the Alaskan motor carrier industry in the last few years and the continuing losses which the railroad has suffered. While no single factor is the sole cause of the sundry liquidations, insolvencies, and bankruptcies, high costs of operation, poor management planning, and a dramatic diminution of traffic all were contributing factors. But, perhaps the most compelling force of all has been the widespread inadequate capitalization of these enterprises. While a few firms are beginning to emerge with substantial financial strength, the battle is far from over in this arena of essential support services and the State's efforts, both financial and regulatory, are essential to the maintenance and growth of a sound and stable system.

If the Legislature follows the light that has been illuminated by your Committee's Resolution, this will be an extraordinary session, indeed.

Respectfully,

Arthur R. Hauber

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PENINSULA SAVINGS AND LOAN ASSOCIATION

Eddie J. Turner
President
and Managing Officer

February 19, 1980

The Honorable Bill Sumner
Senate Committee on Resources
Pouch V
State Capital
Juneau, Alaska 99811

RE: SCR 41 - A state policy for economic development
Senate Bill No. 294

Dear Senator Sumner:

It was with regret that my schedule prevented attendance to the public testimony on Friday, February 15th in Anchorage.

SCR 41 is a very sound and basic policy which could benefit all of the residents of Alaska and enhance the development of our natural resources. I therefore support this resolution.

While the Susitna River hydroelectric project is outside my area of expertise, it is my opinion that the state as a whole will greatly benefit from such a project. The ever increasing need for energy demands that alternative sources be developed. Costs continue to soar, therefore it would appear such a project should be pursued with the greatest expediency.

The state presently has the fortunate opportunity to promote, through skillful leadership and proper funding, the beginning of a new era in the development of our abundant resources. It is always my pleasure to provide any input which might prove beneficial to these goals.

Sincerely,

Eddie J. Turner

EJT/jt

cc: Senator Coiletta
Senator Hackney
File

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Soldotna, Alaska 99669
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Testimony of

K. E. Showalter, Director Alaska Government Affairs

SOHIO ALASKA PETROLEUM COMPANY

Before the Senate [illegible]rces Committee

Anchorage, Alaska

February 15, 1980

Mr. Chairman and Committee members:

I am K. E. Showalter, Director Alaska Government Affairs for Sohio Alaska Petroleum Company.

Thank you for this opportunity to comment on Senate Concurrent Resolution No. It is very encouraging to Sohio to read a proposed resolution this that actually is aimed at improving the business climate . We heartily endorse your efforts.

We agree totally with the whereas clauses in this resolution. After studying the resolve clauses we had the impression that this resolution was only aimed at future businesses and did not seem to apply to the oil and gas exploration, production and transportation industries. Perhaps this was an oversight in your zeal to encourage new industries and that is understandable.

On the assumption that it was in fact an oversight, we have taken the liberty of adding several phrases and deleting a few words that we believe will improve the resolution and make it more all encompassing.

I have asked that a copy of our re-written version of SCR 41 be passed to each of you. You will note that we have simply re-written it as we are recommending, rather than offering several amendments.

With your indulgence I will go over our suggested changes and comment briefly on them.

(1) We have added to the end of resolve #1 the phrase "by building on its present economic base and encouraging new activities that are economically feasible." This will make it clear that you are encouraging existing businesses as well as new ones and indicates also that you want viable projects.

(2) The second resolve seemed to indicate that any group of local citizens, no matter how small, could stop a project that was of overriding importance to statewide concern. We have struck the words "wanted by" and replaced them with the phrase "undertaken after careful consideration of the views of". This assures that local concerns will be carefully considered in the balanced decision that a state administrator must make.

(3) We have added the phrase "adds to and where possible" at the beginning of this clause. We are all in favor of diversifying the State's revenues but believe that the resolution should allow for encouragement of those developments that may not, in fact, diversify revenues, such as oil and gas development.

(5) We have added after "effect" the phrase "where applicable and economically feasible". As this clause was originally written it seemed to preclude developments that did not enhance power and energy availability and there may be many desirable developments that will be net users of power or energy. Our rewrite is not all that good and perhaps the committee can think of a better way to express the thought.

(6) We are overwhelmingly in favor of resolve #6.

(7) At the end of resolve #7 we have added the phrase "where economically feasible and in the state's best interest." We believe there could be many circumstances where a requirement to process all of the state's royalty share of a resource within the state would in fact prevent the development of the resouce. No doubt there will be many others where it is possible.

ther resolves:

BIT

(1) The words "both existing and potential" have been added after the work "industries" to make it clear that expansion of existing industries is recognized as responsible economic development.

(2) After "aid" we have added the words "present and" to again include present industries. At the end after "evaluation" we have added a clarifying phrase "of new projects."

(3) We suggest that you strike the words "the many" and replace with the word "any" so as to make it all inclusive. After Federal we have added "and the state" to recognize that realistically there are many constraints to development in state laws and regulations and, contrary to the rhetoric, they are being added to on a daily basis.

(4) The wording has been changed to again include present and future basic industries.

(5) Here, after "areas" we have added "of the country" to indicate that the prime requirement is to compete within the U.S. where, from a practical political standpoint most markets for Alaska's resources will exist. After "tax incentives to" we have added "retain current industries and"; also we have replaced "various" with "future". This resolve is most mportant and has seldom been recognized here in the past. would be a very positive signal to investors.

BII nderstand the objective of the "fixed price" language but are very apprehensive that this could result in unnecessary huge losses of recenue to the state. Our experience would indicate that no one has a good enough crystal ball to make long term, fixed price contracts that work fairly for both parties over the years. We suggest the word fixed be replaced by the phrase "competitive or most favored nation." This will signal that the state wants to be fair and will not let their buyer be undercut by a competitor who is getting a better price. It will also show that you want a reasonable price for your resources and will not subsidize uneconomic development.

Sohio applauds your efforts in fashioning this resolution. We believe our suggested changes retain the basic purpose and thrust while making it clear that current industries as well as new ones are to be encouraged.

We urge the passage of SCR 41 with amendments.

Thank you.

IN THE SENATE

SENATE CONCURRENT RESOLUTION NO. 41

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

Adopting a state policy for economic development.

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

WHEREAS the State of Alaska firmly supports and encourages responsible economic development that will develop, strengthen and diversity its economic base by utilizing its human and natural resources in an effective manner; and

WHEREAS the use of the manifold natural resources of Alaska which most benefits Alaskans is for development of jobs in the state with expansion and diversification of the state's economic base through processing the resources in the state to the maximum about feasible; and

WHEREAS adoption of an economic development policy that clearly expresses the state goals of achieving a sound, healthy and growing economy for Alaska would clearly communicate to tne business community the basis on which the state encourages responsible investors; and

WHEREAS a clearly communicated economic development policy would aid in establishing a sound working relationship with industry so that investors will be encouraged to develop further economic opportunities within the state that can proceed in the common interest of the state and the investors;

BE IT RESOLVED that the Alaska State Legislature adopts the following policy which is intended to clearly communicate to the business community the basis on which the state encourages responsible investors to come to Alaska and determine if various industrial projects are in our common interest; the

state should encourage economic development that

(1) offers long-term benefits and increased employment to Alaskans through strengthening and diversification of the state's economy by building on its present economic base and encouraging new activities that are economically asible;

(2) is environmentally sound and is undertaken after careful consider- n of th views of local citizens most impacted by the development;

(3) adds to and where possible diversifies the state's revenue, increases average personal income and reduces the cost of living by creating economic activity in economic sectors that do not presently exist or are not presently fully developed:

(4) has a positive effect on the revenue needs and fiscal conditions of the state and local communities and does not impose additional governmental costs in excess of this positive effect;

(5) has a positive effect where applicable and economically feasible on power and energy availability for present and future needs;

(6) promotes tax and revenue stability within the state;

(7) processes in the state a maximum feasible amount of any natural resource derived in the state with, as a minimum, processing in the state of that amount of any resource derived in the state equal to the state's royalty share of that resource where economically feasible and in the state's best interest; and be it

FURTHER RESOLVED that the state should actively undertake activities to attract investment within these criteria to take advantage of the investment opportunities afforded by Alaska's abundant resources, and use its powers and resources as a catalyst for responsible economic development of the state in

the interests of its citizens; the state should

(1) be aware of the many advantages and disadvantages to the state that will result from the development of various industries both existing and potential and, through its various agencies, identify and evaluate these factors and make information available to investors and to governmental officials to aid in their evaluation of potential industrial projects;

(2) provide necessary leadership to aid present and potential investors to acquire or develop necessary information which is unique to the state and required for their evaluation of new projects;

(3) with cooperation from investors, seek to identify any constraints to economic development of the state imposed by the federal and the state government and to work with the federal government through the state congressional delegation and with the appropriate state departments to resolve the problems created by these constraints;

(4) identify how the economy will change as a result of normal growth and evolution of present and possible future basic industries and evaluate proposals based on the criteria adopted;

(5) establish a competitive position with other areas of the country seeking to attract economic development and adopt various economic development incentives including tax incentives to retain current industries and attract future industries;

(6) provide necessary assistance to responsible investors to aid in the determination of whether proposed development is in the interest of the investor and the state;

(7) provide a stable economic environment by sale of natural resources owned by the state to processors of the resource at a competitive

or "most favored nation" price for a period necessary for amortization of capital investment by the processor.

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TESTIMONY OF

CHARLES F. BECKER

ECONOMIC DEVELOPMENT DIRECTOR

MUNICIPALITY OF ANCHORAGE

BII

BEFORE THE SENATE RESOURCES COMMITTEE

ANCHORAGE, ALASKA

FEBRUARY 15, 1980

Mr. Chairman:

I am Chuck Becker, Economic Development Director for the Municipality of Anchorage. My position was created last year as a demonstration of Anchorage's commitment to planned and sustained economic development strategies and initiatives. Mayor Sullivan extends his personal regards to each of you and regrets he cannot be here personally.

It is a privilege to be here today to present the position of the Municipality of Anchorage on the Senate Concurrent Resolution Number 41, which would adopt a state policy on economic development.

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We applaud this articulation of economic development policy by the State Legislature. The importance of conveying a clear and consistent statement of policy to Alaska's business community and to corporate offices throughout the United States cannot be underestimated. Consistent policy, consistent laws and consistent regulations are crucial if the State of Alaska is to retain our existing economic base and to expand that base. Business leaders and industrial leaders go to locations in which they are wanted. Throughout the country those places which are successful in retaining and attracting business and industry demonstrate governmental stability, a positive public attitude, a positive private sector attitude, in addition to having the social and cultural amenities which are contributory to a high standard of the quality of life.

Alaska has great potential for a healthy, vibrant economy. Your efforts to enact SCR 41 will be most beneficial in establishing the fertile soil for the seeds of healthy economic development.

Our specific observations on SCR 41 are as follows:

1. We would encourage you to modify the language slightly to focus more on the existing Alaskan entrepeneurs and industries currently

doing business within the State of Alaska.

2. In any community, vocal opposition will develop over proposed modifications to the status quo. These views must be encouraged, must be heard and must be carefully considered. If, however, public decision-makers conclude that the public good is best served by approving such modifications, those public officials must be free to act in accordance with their conclusions. We suggest that the second resolve clause be modified to reflect this observation.
3. Economic feasibility must be considered in each policy statement.
4. No statement should be contrary to that which is in the best interests of the State of Alaska and its citizens.
5. Although we in Alaska know all too well the impediments to a thriving economy which have been created by the federal government, we must always search for and rectify any similar impediments created by actions of the State or its political subdivisions.
6. Providing in state processors with a "fixed price" guarantee on our resources throughout the amortization period, could prove to be detrimental to the interests of the State. To be certain we should provide assurances of fairness and competitiveness. However a fixed price guarantee could prove detrimental to the State's best interest in the long term.

It may be inappropriate in this forum to offer comments not specifically germaine to the provisions of SCR 41, Mr. Chairman, and I will defer to your wishes on this matter, I do however, have some brief observations on the economic development structure of the State government along with similar observations on State government activities which I am prepared to offer at this time.

Addendum

First, the Municipality of Anchorage would encourage a reorganization of the State government's economic development structure. We would specifically wish a separation of the Department of Commerce which has certain regulatory functions potentially incompatible with efforts to establish a positive climate for development from that of the Economic Development operation.

Secondly, we would advocate elevating the Economic Development operation to a Departmental status.

Third, we would urge the consolidation of the various economic development activities presently scattered throughout several Departments, into the newly created Department of Economic Development.

Finally, we advocate the establishment of a formal mechanism for intergovernmental involvement in the economic development planning and implementation process.

Thank you for this opportunity to express the observations of the Municipality of Anchorage regarding economic development in Alaska.