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SENATE STATE AFFAIRS COMMITTEE

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25

Introduced: 1/16/79
Referred: State Affairs
and Finance

IN THE SENATE BY RAY

SENATE BILL NO. 25

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to withdrawal from the federal Social Security System; and providing for an effective date."

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

* Section 1. AS 39.35.160(b) is amended to read:

(b) In addition each employee shall pay the appropriate social security contribution or the contribution required under AS 39.30.170 in lieu of a social security contribution.

* Sec. 2. AS 39.35.680(21) is amended by adding a new subparagraph to read:

(D) may include employees of the division of marine transportation excluded under (C)(v) of this paragraph provided that

(i) the State of Alaska formally agrees to their inclusion through the process of collective bargaining, and

(ii) other than military service credit, only service after January 1, 1980 may be credited under this chapter;

* Sec. 3. 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 30 years or more of credited service, or who is making contributions under AS 39.30.170, is any age and has 25 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;

* Sec. 4. AS 39.35.370(c) is amended to read:

(c) The monthly amount of a retirement benefit for a peace officer

or fireman is two percent of the average monthly compensation times the years of credited service up through 10 years, plus two and one-half percent of the average monthly compensation times the years of service over 10 years. For all other employees it is two per cent of the average monthly compensation times the years of service. The monthly amount of a retirement benefit for an employee covered by this chapter who is making contributions under AS 39.30.170 shall be increased by three-fourths of one per cent of the average monthly compensation times the years of credited service with the state. An actuarial adjustment must be made for an early retirement benefit.

* Sec. 5. AS 39.35.410(d) is amended to read:

(d) The monthly amount of an occupational disability pension is the greater of 40 per cent of the disabled employee's gross monthly compensation at the time of termination due to disability or the amount determined in accordance with AS 39.35.370(c) considering the employee's credited service and compensation before termination of employment.

* Sec. 6. AS 39.30 is amended by adding new sections to read:

ARTICLE 4. SUPPLEMENTARY EMPLOYEE BENEFITS ON WITHDRAWAL FROM FEDERAL SOCIAL SECURITY.

Sec. 39.30.150. SURVIVOR'S BENEFITS. (a) The State of Alaska shall provide for survivor's benefits for occupational and non-occupational death effective as of an employee's first day of employment, or January 1, 1980, whichever is later, to employees of the state who are making contributions under AS 39.30.170 as follows:

(1) for all casual, emergency or temporary employees not covered by the Alaska Public Employees' Retirement System (AS 39.35) or the Alaska Teachers' Retirement System (AS 14.25) the benefit payable to the beneficiary shall be a lump sum of $15,000.

(2) for all employees other than those covered under (1) of

this subsection, the benefit payable to the beneficiary shall be a lump sum equal to 12 times the employee's basic monthly compensation at the time of death;

(b) For purposes of this section, "basic monthly compensation at the time of death" means the employee's basic monthly compensation for the last full month of employment immediately preceding his death or disability leading to his death.

Sec. 39.30.160. DISABILITY BENEFIT. (a) The state shall provide an occupational and non-occupational disability benefit program covering each employee of the state making contributions under AS 39.30.170. Coverage shall begin on the first day of employment or January 1, 1980, whichever is later. Disability payments are not payable during the first six months of disability.

(b) In this section, "disability" means the complete inability of the employee to engage in his regular occupation during the first 12 months of disability, and thereafter the complete inability to engage in any employment or occupation for which he is reasonably fitted by reason of education, training or experience.

(c) For a casual, emergency or temporary employee not covered by the Alaska Public Employees' Retirement System (AS 39.35) or the Alaska Teachers' Retirement System (AS 14.25), the disability benefit is $100 per week and shall be payable only if the disabled employee fulfills the requirements set out in (e) of this section. The last payment shall be for the week in which (1) the death of the disabled employee occurs, or (2) the disabled employee reaches the age of 65, whichever occurs first.

(d) For all employees other than those covered in (c) of this section, the monthly disability benefit shall be 60 per cent of the first $5,000 of the employee's basic monthly earnings at the date of disability less any disability benefits the employee is entitled to

under Social Security or any other disability plan to which the state makes contributions on behalf of that employee. The disability benefit shall be payable only if the disabled employee fulfills the requirements set out in (e) of this section. The last payment shall be for (1) the month in which the death of the disabled employee occurs, or (2) the month the disabled employee reaches normal retirement age, or (3) the month the disabled employee reaches the age of 65, whichever comes first.

(e) An employee receiving a disability benefit under this section shall provide the director of the division of retirement and benefits, one year after appointment to disability benefits and once each year thereafter until disability benefits cease, satisfactory proof of continuing disability. If the employee provides satisfactory proof that the disability is permanent, the requirement of submitting further proof of continuing disability may be waived by the director.

Sec. 39.30.165. BASIC MONTHLY COMPENSATION. In secs. 150 - 160 of this chapter, "basic monthly compensation" means the amount earned by the employee during the month, including normal overtime; however, unusual or seasonal overtime or work of a seasonal nature may be adjusted to reflect a 12-month average.

Sec. 39.30.170. CONTRIBUTIONS. (a) The amounts which both the state and the employee of the state would have otherwise paid into the federal Social Security System at the rate then in effect had the state continued in the federal Social Security System shall be paid into special employee benefit account in the Department of Administration to be used to provide employee retirement and death and disability benefits for each of the following groups:

(1) employees covered under the Alaska Public Employees' Retirement System (AS 39.35), except peace officers and firemen (as

defined in AS 39.35.680(27));

(2) peace officers and firemen covered under AS 39.35 (PERS);

(3) employees covered under the Judicial Retirement System (AS 22.25);

(4) emergency, temporary or casual workers not covered under AS 39.35 (PERS) or AS 14.25 (TRS);

(5) employees of the division of marine transportation engaged in operating the state ferry system who are covered by a maritime union contract and are not covered under AS 39.35 (PERS).

(b) There shall be determined the cost of providing the survivor and disability benefits provided under AS 39.30.150 and AS 39.30.160 expressed as a percentage of payroll for each of the groups set out under (a) of this section, except that all employees covered under AS 39.35 (PERS) shall be considered as one group for purposes of this subsection.

(c) From the employee benefit accounts established under (a) of this section, the Department of Administration shall deduct:

(1) from each benefit account, the amount determined under (b) of this section to pay the cost of providing benefits under secs. 150 and 160 of this chapter for each employee in that group;

(2) from the account for the group listed in (a)(1) of this section, an additional 7.1 per cent of gross monthly compensation for each employee in that group;

(3) from the account for the group listed in (a)(2) of this section, an additional 6.2 per cent of gross monthly compensation for each employee in that group.

(d) The balance in each employee benefit account shall, after deduction of the amounts specified in (c) of this section, be allocated on a pro rata basis to those employees for whom contributions under (a)

of this section exceeded deductions under (c) of this section and be deposited in individual deferred compensation accounts in the names of those employees. The director of the division of retirement and benefits shall administer the deferred compensation program and shall, by regulation, establish operating procedures for the program which allow for deferment of the state and federal income tax until benefits are receivable in accordance with federal requirements under the Internal Revenue Code.

* Sec. 7. If approved by employees of the State of Alaska as set out in sec. 8 of this Act, the state's notice of intention to withdraw from the federal Social Security System shall be allowed to become effective January 1, 1980.

* Sec. 8. The Department of Administration shall conduct an election by secret ballot by September 25, 1979. The department shall, at least 90 days before the election, prepare a list of all affected state employees, including permanent, seasonal and temporary employees, who shall be eligible to vote, along with mailing addresses, and make the list available to interested persons or employee representative organizations. The question on the ballot shall read: "Do you favor withdrawal from the Social Security System?" The ballot shall contain a description of the benefits provided for in this Act which would be provided in lieu of further benefits under the Social Security System. No other information concerning the election issue may be distributed with or attached to the ballot A simple majority of those employees voting shall determine the outcome of this issue.

* Sec. 9. Sections 1 - 7 of this Act take effect on January 1, 1980 if approved by a majority of the votes cast by affected state employees under sec. 8 of this Act. Section 8 of this Act takes effect immediately in accordance with AS 01.10.070(c).

78-126

Chairman Cowper stated the next bill to be considered was HB 946. HB 946

"An Act relating to withdrawal from the federal Social Security System; and providing for an effective date."

Sherry Shelley, representing APEA and the Confidential Unit, stated both organizations are in favor of the bill, mainly because it provides for an election in the Spring of 1979 where employees can elect whether or not they want to withdraw from the federal social security system. She stated the bill needs two amendments, which are being drafted at the present time. She stated the first amendment relates to the Boatman's Union participation, and the second amendment relates to the actuary figure which they are recommending be reduced to 3/4's of 1%. She stated with that reduction the bill will not cost the state anything. There was discussion on the amendments.

Representative Meekins asked what the rationale for the bill was. Ms. Shelley advised that the APEA is not taking a position on whether or not state employees should opt out of the social security system. She stated they have many members who believe this would be a better way to go, and would like an opportunity to vote on it. She stated the money that is not going into social security would be paid into an enhancement P.E.R.S. program. She stated there are basically four programs. Employees would not get an increased check by withdrawing from social security.

In answer to a question from Representative Duncan, Ms. Shelley stated there are basically four different programs under the bill. She stated the Inland Boatman's Union has a private pension plan, and Public Safety has a different program. She stated that basically the bill set's up four different alternatives for employees. She stated the money previously submitted to social security would go into an insurance program, disability program, and a mandatory deferred compensation program for each temporary employee. There was further discussion on the bill. Ms. Shelley stated the bill provides for an election in the spring of 1979, and should the employees vote to opt out, they would not actually drop out until spring of 1980.

Representative Miller stated there are a substantial number of state employees paying social security that feel a better system could be designed if that same money were taken and put into an enhancement P.E.R.S. system. He stated this bill does not do that; all it does is allow the question to be put before the people who are paying social security. He stated this does not make any difference to the state money-wise. He stated his feeling is that the people who actually pay into the system should make the decision on this.

Representative Buchholdt asked if those groups who opted out could decide to come back in at a later date. Representative Miller stated he was not sure, but thought that once the decision was made it couldn't be changed. Representative Buchholdt asked if the present employees decided to opt out and future employees wanted back in, could they do that. Representative Miller stated he didn't think so. He stated everyone would have to either go out of the system or stay in. There was discussion. Representative Miller stated this would have to be done by all the groups, not just one group. He stated the State would be paying the same amount of moeny either way.

Representative Rhode asked what this would do to the federal social security program. Representative Miller stated this was a national program and he didn't think it would make any difference if 3,200 employees dropped out. Representative Rhode stated this would be whittling away from the program. Representative Miller stated he didn't think this was their concern. He stated if congress decided this is a threat they might try to "plug the loop-hole" that allows employees to opt out of the system. He stated that right now it is legal to do this.

Representative Duncan stated that people from the Division of Retirement would like to testify on this. He stated he would also like to see copies of the amendments and recommended this bill be held over.

HB 946
HELD OVER

The meeting adjourned at 9:55 a.m.

ADJOURN

Tape HPC 78-125 #1580 to end
78-126 # 001 to 713

5/31/78

Representative Rhode wondered, if this bill went into effect, how long it would be before the State didn't get outside bidders. Representative Meekins stated that right now the difference in terms of higher costs in Alaska is about 20-25%. He stated one thing about bidding is that businesses in Alaska don't have the capital equipment in place to do the work. He stated he believes a cycle could be started where the more the business is used, the more equipment they will be able to purchase, and the more business they will get.

Chairman Cowper stated the language in the bill is unclear to him. Representative Meekins stated they had trouble drafting language to be sure businesses were actually in-state bidders. Representative Freeman asked if this bill would effect municipalities. Representative Meekins answered that it does not require anyone but the state to give preference. There was discussion on the language in the bill. Chairman Cowper stated the problem is with the definition of "Alaska bidder".

Representative Meekins advised that the federal government has this program, as does Hawaii. He stated Hawaii's figure is 15%. He stated several other states have this.

Representative Rhode commented that if this bill becomes law an Alaska bidder might hook-up with an outside business. Chairman Cowper stated this bill also effects construction concerns.

Representative Meekins referred to page 1, line 12, and stated it says an Alaska manufacturer or warehouser would get 25%; an Alaska bidder would get 15%; and there is already a provision that outside bidders that do a substantial amount of business within the state get 5%.

There was further discussion on the language of the bill. Representative Duncan recommended redefining "Alaska Bidder" and adding a stipulation that the business had to be established in the state for a certain number of years. Representative Meekins stated they could redo the bill to have it not apply to construction. He stated he is really concerned only with the small businesses in the state. There was further discussion. Representative Meekins stated he would come back to the Committee with a better defined, more constricted definition of who is eligible.

HB 512
HELD OVER

Chairman Cowper stated the next bill to be considered was HB 946.

HB 946

"An Act relating to withdrawal from the federal Social Security System; and providing for an effective date."

Mr. Paul Arnold, Director, Division of Retirement and Benefits, presented a fiscal note on HB 946. He advised that Administration's position on the bill is clearly opposed. He stated they are opposed to the concept of withdrawing from social security. He advised that if the state were to take action and not have to depend on any counter-action by the federal government this would have more latitude. But, he stated, they are seeing that the long term approach of social security is to include as many people as possible in that system. He stated social security wants total coverage of all eligible employees. Mr. Arnold stated they also felt that one-third of funding for social security is going to come from federal general revenues. He stated that if that comes to pass those who are not paying into social security are going to want to get back into social security.

Mr. Arnold advised that if the State withdraws from social security, under current law they are barred from ever participating in social security again. He stated if the State does opt out and set up an alternative package, at a future date they would be paying for social security from general revenue funds. He stated that would add to the costs.

Mr. Arnold stated there are many benefits within social security that cannot be replaced. He stated there are several benefits that the state couldn't provide -- one is "portability". He advised the benefits of the social security system are tax free, there is no other pension plan that is not taxed. He stated social security indexes in total any cost of living increase. He stated that neither P.E.R.S. or T.R.S. can provide this, because it is too costly. He stated social security also provides a tremendous amount of survivor/disability benefits that would not be available under other programs.

Mr. Arnold stated the actual bill has inequities built into it. He stated it defines contributions as 7.7% taken from the pool to fund employees. He stated it does not take into account if benefits cost more or less. He stated another problem with the bill is that it receives the same contributions that are going into social security, with an addition of $4 million, for the first year. He stated that since the contributions are coming in up to a ceiling of $17,700, the problem is that everyone who makes over $17,700 will have their P.E.R.S. benefits calculated on their salaries which in some cases are much higher than that. He stated someone would be subsidizing these benefits. He stated the higher the income, the more the employee will be drawing out.

Chairman Cowper asked what would happen to people who work for the state for 4 or 5 years and then leave. Mr. Arnold advised that if they had been with the state for less than

five years, under P.E.R.S. they would only be eligible for a refund. He stated under this bill they wouldn't have any of these funds. He stated the only portion that would be refundable would be the portion going into the deferred comp program.

Chairman Cowper commented that to him it defies logic that Congress will allow withdrawals from social security to continue.

Representative Duncan stated he can understand some problems Mr. Arnold is saying might happen. He stated the bill allows the employees who are the ones contributing to the system to make the decision of whether or not they want to withdraw. He stated he thinks the information being given to this Committee should be given to the employees. He asked if the Administration is opposed to allowing employees to vote on this issue. Mr. Arnold stated Administration is opposed to withdrawing from the social security system. Representative Duncan stated that is not the issue in this bill. He stated the bill gives the employees the right to vote. Mr. Arnold stated the bill states his division shall remain impartial during an election. He stated he doesn't know what that means that he can't speak out at all? Mr. Arnold stated he thinks if the employees are given an opportunity to vote they have to be totally informed.

Representative Duncan asked if Administration is opposed to allowing employees the right to make the decision. Mr. Arnold stated if this is the case there is probably not a legislator here who should be here -- every issue should be resolved to the employees. He stated he didn't know what the administration's position was on whether or not a vote should be taken. Representative Duncan stated he thought he should get that answer from the Governor.

Representative Duncan commented the fiscal note is based on passage of the Act. He stated it has $1 million in costs in 1979 and the bill doesn't even take effect until 1980. Mr. Arnold stated this is in error. Representative Miller stated this fiscal note prompts him to consider circulating among actuary's and getting a retainer. He stated Administration sat in on every meeting concerning this and never once questioned the assumptions made on the bill. He stated that now after the actuary they hired came in with their statement, Administration has the William Mercer Co. coming in and raising the price up 6%. He stated he would like to have the actuary report to the Legislature rather than Administration. Chairman Cowper suggested addressing this through the Legislative Review Board on Retirement and Benefits.

HB 946
HELD OVER

The meeting adjourned at 10:15 a.m.

ADJOURN

Tape HFC 78-126 #713 to 1598

6/1/78

HOUSE FINANCE COMMITTEE
June 2, 1978
9:25 a.m.

PRESENT

All members of the Committee were in attendance except Representative Gruening. Present to testify were: Pat Murphy, APEA; and Paul Arnold, Division of Retirement and Benefits.

HB 946

Chairman Cowper recalled the meeting to order and brought HB 946 up for consideration.

"An Act relating to withdrawal from the federal Social Security System; and providing for an effective date."

Mr. Pat Murphy, APEA, advised that in 1975 then Commissioner of Administration Andy Warwick put in a letter of intent to opt out state employees from social security. He advised at that time they circulated a letter to employees asking if they wanted to opt out. He advised that letter of intent would have expired in 1977 He stated since the Legislature was not ready to deal with the issue last year they put it into a Committee to study through HCR 76. He advised they studied the issue for six months. The result of that is the present bill, HB 946.

Mr. Murphy advised the important language, as far as they are concerned, is in section 8 which provides that the Department of Administration shall conduct an election, asking employees if they want to opt out. He stated opting out is a very complex issue. He stated all this bill does is give public employees an opportunity to decide whether or not they want to opt out. He stated APEA is not taking a position on whether or not they should opt out. They will provide the information to their membership.

Mr. Murphy stated the other important item in this bill is how much it is going to cost. He stated as far as they are concerned it is not going to cost anything. He stated the Committee was given money to fund the services of an actuary. According to his calculated costs it would not exceed the present and projected contrubutions of state employees. Mr. Murphy advised that after this report was made, the State's actuary came in with a report that has a cost figure of $4.3 million. Mr. Murphy stated he has been dealing with this issue for the past three or four months and he is not qualified to say whose figures are right. However, he stated he didn't think it was relevent because they are willing to move the benefit factor down to 2.75% which should absorb the costs.

Mr. Murphy stated they are not asking for a free ride. They are saying reduce the benefits to 2.75% and let their members vote on whether or not they want to opt out. He stated the only cost he sees would be on page 2 of the fiscal note, items 4 & 5, which are costs for the election -- $5,000 data processing, $1500 for postage, and $200 for printing ballots.

Representative Rhode asked if the employees involved in this could have an election without the bill. Mr. Murphy stated the reason for the election being put in the bill is the fact that they could conduct an election, but the Governor would not necessarily live with the results of that election. He stated by being in the bill, this would have the force of law.

Representative Schaeffer asked what the results of the election they conducted earlier were. Mr. Murphy stated they had about 1,000 responses and they were for an opt out. He stated that was two years ago, and information provided was probably biased towards opting out. He advised that from their point of view, next time they will provide unbiased information to their membership.

Representative Buchholdt asked what steps will be taken to be sure the election is unbiased. Mr. Murphy stated because there will be two parties involved -- Administration and the Unions -- with some in favor and some opposed, he thinks the information will be fairly disseminated. He stated he thinks fair information will be put out on both sides of the question.

There was brief discussion on opting out. Representative Freeman asked if Marine Transportation was in favor of the bill. Mr. Murphy stated the IBU at this time favors a vote of their membership, and he thinks they even favor opting out.

Mr. Paul Arnold, Division of Retirement and Benefits, stated one of the things the social security study group addressed was the issue of the advisibility of withdrawing from social security. He stated he did oppose those provisions of the bill. Mr. Arnold stated there are inequities in the bill. He stated he would like to make it clear that he is not attempting to "sand-bag" the bill or use the actuary to accomplish this. He stated the only difference between the two actuarial figures was in the methods that were developed. He stated it was about a 6% difference in the total cost. There was brief discussion on the actuary.

Representative Duncan asked if, on page two of the bill, they changed the figure to "3/4's of 1%" if they could assume there will be no cost to the state. Mr. Arnold stated he is not sure. He stated he didn't know what impact this would have as far as reducing the cost. He stated he thinks it would be better if they eliminated the fixed amount.

Representative Meekins asked if he had found out what Administration's position on the bill was. Mr. Arnold stated they are opposed to withdrawing from social security. Regarding having employees vote, he stated he had not had an opportunity to discuss this with the Governor's Office.

Representative Duncan moved to amend the bill on page two to change "1%" to "3/4%". There being no objection, it was so ordered.

Representative Duncan moved to report out a finance committee substitute for HB 946 incorporating the above change. There being no objection, it was so ordered. — CSHB 946 REPORTED OUT

Representative Duncan stated this would eliminate everything in the fiscal note except those items relating to the cost of the election -- $6,700 in contractual. He will provide a new fiscal note. — FISCAL NOTE REVISED

The meeting adjourned at 10:00 a.m. — ADJOURN

Tape HFC 78-130 #618 to 1164 — 6/2/78

78-125 #1580 – END
126 #001 – 1598
130 #618 – 1164

Sherry Shelley currently in pivot. [illegible]
system. IDH

[illegible] reduce to 2 3/4
as von 3% – [illegible]
to take care of adm. [illegible]

Dixie 2 members to vote in SB. D.S.

Old And city employees
have opted out,

Teachers 1 yes. S.S.

Arnold – opposed
to concept of withdrawal
2 things: coverage will be same
Medicare
not be subject to payroll taxes if not
in system
future employees will want to know
"we didn't vote for that"









Several S.S. Benefits stated and provide

1. Portability
2. SS benefits are tax free
3. SS increase cost of living changes



automatic. TRS in PERS can provide adjust. because too expensive

4. would req 14% of Pay to cover this
5. lots of same benefits



Vested 11 15 14 %

depends under 7.7% +-

only 11,701 will have pension to [illegible] based on salary when to have paying into - by optional and only

946 - not refundable

only portion - deferred comp.

SS. [illegible]

40 qtrs - opt out - Average Social Security opt out

letter asking question "Should we opt out"

May 19, 1978

Legislative Board of Retirement Benefits analysis and recommendations on:

House Bill No. 946

No detailed fiscal analysis of HB 946 is possible at this time; however, with the exception of including maritime employees in the PERS, most costs should be covered by funds that would otherwise go to the social security system.

Five members of the board recommend that HB 946 do pass; one member has no recommendation; and one member was absent.

The board feels that, if HB 946 passes, the state should support a program to provide affected employees with adequate information on which to base their decision prior to the election. Providing a voter information pamphlet containing pro and con arguments would constitute a minimal program.

The board feels that the ballot should not contain a description of any benefits but simply reference the benefits to be provided in lieu of social security.

SUMMARY OF HOUSE BILL NO. 946

Retirement system affected: PERS

Provides for an election in which the state employees who are currently covered by federal social security may choose whether to continue that coverage or to continue the same contributions required by social security, opt out and receive an alternative package of benefits provided by the state.

Provides that an occupational disability pension be the greater of 40 percent of the disabled employee's compensation or the accrued retirement benefit.

The alternate package of benefits for affected state employees includes:

(1) membership in the PERS for employees of the division of marine transportation engaged in operating the state ferry system who are covered by a union or group retirement system to which the state makes contributions;

(2) a 25-and-out provision for PERS employees;

(3) an additional one percent on the PERS benefit crediting factor for each year of service;

(4) survivor's and disability insurance; and

(5) a mandatory deferred compensation program for contributions in excess of deductions.

STATE of ALASKA

MEMORANDUM

TO: Jay Hogan
Director
Legislative Finance Division

DATE: May 25, 1978

FILE NO:

TELEPHONE NO: 465-4460

FROM: Paul B. Arnoldt
Director
Division of Retirement & Benefits
Department of Administration

SUBJECT: Social Security Withdrawal

We are pleased to announce a presentation by Mr. A. Haeworth Robertson, former Chief Actuary of the U.S. Social Security Administration, on the advantages of the State's withdrawal from Social Security. Mr. Robertson will speak and entertain general discussion from 12 p.m. - 1 p.m., May 30, in Court Room A, Juneau Court and Office Building. All interested employees are invited to attend.

Please post notice of this presentation throughout your office in the Juneau area. The issue of social security withdrawal is a complex one and one that should be of interest to all employees. As you may be aware, there is currently legislation pending which would authorize state employees to vote on withdrawal and which proposes alternate benefits to social security. Mr. Robertson's appearance will present a rare opportunity for employees to gather information from perhaps the most knowledgeable individual on the Social Security System today.

Mr. Robertson is currently with the actuarial firm of William M. Mercer, Inc., with offices in Washington, D.C. He became Chief Actuary of the U.S. Social Security Administration in 1975. While he was in that position he was awarded the Commissioner's Citation (the Social Security Administration's highest honor award) and the Arthur J. Altmeyer Award (conferred by the Department of Health, Education and Welfare) for superior performance in planning and directing the actuarial activities of the Social Security Administration, and in recognition of his especial efforts in interpreting the status of Social Security financing for public organizations and individuals.

He holds a master's degree in actuarial science from the University of Michigan, has performed actuarial work for the U.S. Air Force; for ten years was a consulting actuary in various consulting firms dealing with private and public pension plans; devoted four years to organizing, operating and serving as president of a life insurance company; and for six years was an international consultant on social insurance programs which included assignments in Switzerland, Barbados, Ghana, Lebanon and the Philippines.

Mr. Robertson is a Fellow of the Social of Actuaries, a Fellow of the Conference of Actuaries in Public Practice, a member of the American Academy of Actuaries, an Associate of the United Kingdom's Institute of Actuaries, and an Enrolled Actuary.

If you require any further information, or if I can be of service to you in any way, please do not hesitate to contact me.

PBA/BAC/mc

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

Social Security Rollback Must Wait

WASHINGTON (AP) — President Carter says cuts in "unnecessary" Social Security benefits must precede any rollback in the steep payroll tax increases enacted to save the retirement fund from bankruptcy.

In his upcoming budget, Carter proposes eliminating $600 million in Social Security benefits in 1980, it was learned Wednesday.

The president's proposal comes at a time of increasing congressional support for a rollback of the tax increases.

SOCIAL SECURITY DEDUCTIONS. Many Americans will have Social Security deductions taken from their paychecks for a longer period in 1979 than in 1978. Assuming a worker is paid weekly every Friday here is how long he or she will pay Social Security taxes in 1979, compared with 1978:

	1978		1979	
Annual Earnings	Number of Weeks	Last Social Security Payment	Number of Weeks	Last Social Security Payment
$17,700 or less	52	Dec. 29	52	Dec. 28
20,000	47	Nov. 24	52	Dec. 28
22,900	41	Oct. 13	52	Dec. 28
25,000	37	Sept. 15	48	Nov. 30
30,000	31	Aug. 4	40	Oct. 5
35,000	27	July 7	35	Aug. 31
40,000	24	June 16	30	July 27
50,000	19	May 12	24	June 15

CB-RADIO RULES. Those who found a citizens'-band radio under the Christmas tree this year may want to get a copy of the Federal Communications Commission's new booklet, "Citizens Band Radio Service Rules." The booklet explains federal broadcast regulations for CB's in plain English. It explains how to get a license and what to do to get on the air. It even includes a CB-problem checklist to help make repairs. The booklet is available for $1.25 from the Consumer Information Center, Dept. 109F, Pueblo, Colo. 81009.

CHAIN LETTERS. A new illegal chain-letter scheme apparently is sweeping the country, the Postal Service warns. The chain, called the "Circle of Gold," usually requires participants to buy two copies of the letter for $100--$50 for the bearer of the letters and another $50 to the first person at the top of a 12-name list. The Postal Service cautions that chain-letter schemes involving the mailing of money are against federal law. Besides, it notes, people who buy chain letters rarely get their money back.

WINTER DOG-WALKING. The Humane Society of the United States issues this seasonal warning for dog owners: A pet spending most of its time indoors probably never has developed a thick undercoat. Spending long periods outdoors in frigid weather could be dangerous to its health.

SOLAR-ENERGY PITFALLS. If you've been thinking about installing solar-energy equipment to take advantage of new tax breaks, be careful, warns a report just published by a congressional subcommittee. Some solar-energy systems, especially those in residences, have been plagued by "a significant number of design, manufacturing and installation problems," the subcommittee said. Other energy-conservation steps that may be more cost-effective also should be considered, the subcommittee added. These include installation of insulation, storm windows or doors, caulking or weatherstripping and automatic-setback thermostats.

March 17, 1978

ANALYSIS OF ALTERNATIVES TO THE SOCIAL SECURITY FOR PERS AND TEMPORARY EMPLOYEES OF THE STATE OF ALASKA

In November 1977 the State of Alaska notified the Social Security Administration of its intent to terminate participation in the Social Security System. Such termination is effective two years from the date that the notice of intent was filed. State employees in the following categories will be affected by the withdrawal from Social Security:

1. Employees participating in the Public Employees' Retirement System of Alaska (PERS). This basically covers, on a mandatory basis, all full-time and part-time employees and, on an optional basis, elected officials. Specifically excluded are state employees of the division of marine transportation engaged in operating the state ferry system while covered by a union or group retirement system to which the state makes contributions, justices and judges, temporary employees and persons covered by the Alaska Teachers' Retirement System.

2. Justices and judges.

3. Temporary employees.

4. Employees of the division of Marine Transportation as specified above.

As all of the state employees affected by the withdrawal from Social Security do not have the same fringe benefits, it is necessary to establish a separate and distinct plan for each of the above listed groups of employees. There are basically three plan combinations that are feasible to accommodate a replacement for Social Security. There are up to three basic components involved in each of these three replacement plans. The components are PERS, the existing deferred compensation plan and a new plan which will provide for survivor's benefits, lump sum death benefits and disability benefits on either an insured or noninsured basis with this decision to be ultimately made at the time of implementing the program. The three alternate plans are comprised of these basic components as follows:

1. Plan A - PERS plus the deferred compensation plan

2. Plan B - PERS plus the deferred compensation plan plus the new plan

3. Plan C - The deferred compensation plan plus the new plan

The alternatives available for each of the four considered groups of employees are:

1. PERS employees - Plans A, B and C

2. Justices and judges - Plan C

3. Temporary employees - Plan C

4. Marine Transportation division employees - Plan C

Obviously, if either al. or a portion of the temporary employees or employees of the division of marine transportaiton were at a future time included under PERS, their Plan C would be modifed to the extent they would be sharing in any benefits under PERS that were deemed otherwise attributable to replacement for Social Security coverage.

Under Plan A there would be improvements in the retirement, survivor's, lump sum death and disability benefits under PERS to recognize the loss of Social Security benefits, it being felt that those increases in the existing PERS benefits would raise those overall benefits to a satisfactory level. Social Security contributions in excess of the amount necessary to fund the increased cost would go to the deferred compensation plan.

Under Plan B the PERS improvements for these benefits would be more modest with additional survivor's disability and lump sum death benefits being established under a new plan. Excess Social Security contributions would go again to the deferred compensation plan.

Finally, under Plan C there would be no PERS improvements. Thus, Plan C is identical to Plan B, except that more funds are diverted to the deferred compensation plan.

The Social Security Withdrawal Study Group which is made up of representatives from all the organizations representing state employees recommended Plan B for PERS employees and Plan C for temporary employees. Under Plan B for PERS employees the following benefits are available for selection:

	BENEFITS	COST	
1.	Increase the benefit crediting factor for employees other than peace officers and firemen to 2-1/2% per year of state employment after withdrawal from Social Security (currently 2%) and increase the benefit crediting factor for peace officers and firemen to 2-1/2% per year for the first 10 years of state employment after withdrawal from Social Security and to 3% per year thereafter (currently 2% and 2-1/2%).	Future Service Only Future Service and Past Service	2.4 3.2

2.	Increase the occupational death and disability benefits for payments prior to retirement date to the larger of 40% of compensation and the accrued PERS benefit (currently 40% of compensation.)	(already included in PERS program)	0.0
3.	25 year service retirement	Future Service Only	0.7
		Future Service and Past Service	0.9
4.	20 year service retirement	Future Service Only	2.2
		Future Service and Past Service	2.8
5.	Add non-occupational disability benefits of larger of 40% compensation or accrued benefit		0.4

6. (Note: At a minimum it is suggested a one times salary lump-sum death benefit for all employees ($15,000 flat for temporaries). Probably more desirable, would be a two times salary benefit for all employees ($15,000 flat for temporaries). Assuming $25,000 annual salary, a death benefit of $50,000 would provide income of about $700 a month for 8 years. In addition, beneficiaries of the employee would receive any survivorship benefit available under PERS and Social Security. Benefits, in total, would likely be superior to those resulting from the combination of existing PERS and Social Security benefits. A lump-sum benefit is easy to administer and avoids the severe problems associated with keeping track of the status of the survivors (remarriage or spouse earnings following death of the employee).)

PERS Employees

One X Salary Benefit	.5
Two X Salary Benefit	1.0

Temporary Employees

Lump Sum Benefit $15,000	..21

All other monies received for temporary employee as a result of social security withdrawal will be placed in a mandatory deferred compensation program.

7. In addition, it is recommended that the cost of all improvements to PERS, plus the cost of any new plan, not exceed 75% of the contributions available from Social Security on a long term basis. Funds placed in deferred compensation plan.

(NOTE: This report does not deal with selection of benefits or plans with selection of benefits or plans for employees under the Judiciary System or Marine Group.)

Currently employees and the State each contribute 6.05% (12.1%) of income on a taxable wage base of $17,000.00 to social security. The total monies (12.1 of $17,000,00 base) contributed to social security currently equal 8.9% of the total state payroll. Calculations from the Milliman and Robertson, Inc. Report indicate total Social Security contributions in future to be equivalent to 10.2% of total state payroll. It is now necessary to select a percentage between 8.9% and 10.2% on which to base the benefit package for PERS employees. Assuming 8.9% is selected a typical benefit package from the benefits listed above would be as follows:

A.	1/2% benefit factor increase (Item 1)	Future Service Only	2.4
B.	20 year retirement (Item 3)	Future Service and Past Service	2.8
C.	Non-occupational disability at 40% compensation (Item 5)		0.4
D.	Two Salary Benefit (Item 6)		1.0
E.	25% contributed to deferred compensation plan to provide margin of error (Item 7)		2.3
		TOTAL	8.9

Areas for Discussion

1. There are several ways in which the employee contributions to the plan could be handled. For example, if employee contributions are simply withheld from an employee's paycheck much as they are now for Social Security, the employee will pay tax on those contributions at the time the paycheck is received but, of course, will receive tax-free any benefits resulting from those contributions. An alternative would be to have all contributions made through salary reduction agreements (contributions will be mandatory anyway) thus relieving the employee of the tax impact at the current time on such contributions. It does, however, mean that when an employee ultimately receives benefits from the plan, he will be taxed on benefits produced by those contributions. A third alternative is simply to have a mandatory across-the-board salary reduction and have all contributions made to the replacement program by the state. The legislation introduced should indicate in what manner the contribution will be handled.

2. Keeping in mind that Social Security Law can change at anytime, it has been suggested to the new PERS plan developed from Social Security withdrawal to Social Security contributions rates in the future. Thus if in the future either employer or employee contribution rates increased in Social Security, likewise there would be an increase in the new PERS plan for both employees and the employer (State of Alaska). State employees would not gain any increased employer contribution, if

the new PERS plan is not tied to Social Security contribution rates. However, many legislators have indicated that if an attempt is made to tie the new PERS plan to social security contribution rates in the future, the legislation opting out of Social Security will have much difficulty passing. It might be wise to select a percentage of total payroll between 8.9% and 10.2% (explained above) as the mandatory contribution rate for a set number of years.

SOCIAL SECURITY TAKES BIGGER CHUNK OF PAYCHECKS WITH MORE INCREASES DUE

The new Social Security financing bill will substantially raise the payroll taxes of everyone paying into the system—employes and employers alike.

The taxes, designed to shore up the shaky Social Security system, will not take effect until next year. But employes already have seen a slight increase this year under an older law, and deductions will escalate rapidly starting in 1979.

The increases are intended to boost Social Security revenues to avoid a fiscal crisis the disability fund faces next year and the exhaustion of the old age and survivors' trust fund in 1983. The new tax structure also is suppose to eliminate the system's fiscal deficits for 75 more years.

The original Social Security funding law required an increase this year of two-tenths of one per cent on a slightly expanded wage base. The rate already has changed from 5.85 per cent of the first $16,500 to 6.05 per cent of the first $17,700. For a $10,000 a year worker, the tax increased $20 per year. The maximum tax jumped from $965 to $1,071. But starting in 1979, the changes will come more rapidly.

Passed at the close of the first session of Congress, the new funding bill almost doubles the previously scheduled increases in payroll taxes through 1987. For some workers the actual annual deduction will almost triple over the next 10 years.

By 1987, lower-paid employes will be paying 15-20 percent higher payroll taxes. Those earning more than $20,000 will pay about 85 per cent more than they do now. There will be a dramatic rise in the taxable wage base from the current $17,700 to $42,600.

There is some good news for retirees, though. Under the older of the two financing laws, retired persons younger than 72 could earn only $3,000 a year without losing any of their Social Security benefits. That changed. This year, retirees age 65-71 may earn up to $4,000 with no penalty—above the limit they lose one dollar of pension for every two dollars earned. There is no outside income limit for persons age 72 and older.

S.S.
NEW DEDUCTIONS

Salary	Current rate	New law
$10,000		
1979	$605	$613
1982	630	670
1985	630	705
1987	645	715
$20,000		
1979	$1,143	$1,226
1982	1,260	1,340
1985	1,260	1,410
1987	1,290	1,430
$30,000		
1979	$1,143	$1,404
1982	1,474	2,010
1985	1,758	2,115
1987	1,935	2,145
$40,000		
1979	$1,143	$1,404
1982	1,474	2,131
1985	1,758	2,676
1987	2,012	2,860

$42,600 or more — $3,046

Beginning in 1982, there will be no earning limit for those age 70 and older, and no penalty for outside income of $6,000 for other retirees over age 65.

Here's how the new law affects three specific wage earners:

* $10,000 wage earner in 1977 paid a maximum tax of $585 . . . by 1987 the payroll deduction will reach $715.

* $15,000 wage earner paid a maximum tax of $877.50 last year . . . by 1987 the payroll deduction will reach $1,072.50.

* $20,000 wage earner paid a maximum tax of $965 . . . by 1987, the payroll deduction will reach $1,430.

The new schedule of Social Security deductions is more fully detailed in the accompanying chart.

One forseeable effect of the S. S. increases, besides the erosion of earnings for public employes, is the difficulty of improving employe benefits or winning new ones. The state must match the increased contributions imposed on employes on a dollar-for-dollar basis. It is safe to assume that public employers will try to hold down costs in other areas to compensate for this added cost.

James F. Marshall, executive director of the Assembly of Governmental Employees, of which the SCSEA is an affiliate, warns that some states may try to cut the cost of the new legislation by pushing for integration of their public employes' retirement system with Social Security. Although this would reduce contributions by both employe and employer, it also would mean a reduction in the size of retirement checks.

If the Social Security program proves too expensive, other ways to trim costs may include stripping away Medicare, disability and survivor benefits and handling them separately to hold down Social Security taxes.

Some of the expense of new taxes this year is balanced by President Carter's State of the Union proposal for a general tax cut which should be slightly larger than the increased payroll deductions for most employes.

CHANGES IN THE SOCIAL SECURITY LAW

The maximum amount of earnings that counts for social security increased on January 1, 1978 to $17,700 up from the previous year's taxable wage base of $16,500, according to the Social Security Administration. Because of changes in the law designed to keep benefits in line with living costs, it is no longer possible to predict with accuracy what the dollar amounts of benefits are likely to be in the future years. The law is structured, however, so that you can be sure that the "real" value of your benefits (your buying power) will be at least as great as it is now.

Under the tax schedule now written into law, the 1978 combined Social Security and Medicare tax is 6.05 percent of the first $17,700 of earnings, or $1,070.85 at the most (8.1 percent or $1,433.70 at the most, for self-employed). The employer contributes the same amount toward an employee's coverage.

Maximum earnings subject to tax will be set by law through 1981 (see table below). After that, they will be raised whenever cash benefits are increased under the automatic adjustment provisions of the law because of increases in the cost of living. How much the tax base will rise after 1981 cannot be known now, as it depends on the increase in average wages of employees covered by Social Security each year. Tax rates after 1981 will be, for employer and employee, 6.7 percent each from 1982 through 1984, 7.05 percent in 1985, 7.15 percent from 1986 through 1989, and 7.65 percent from 1990 on; for the self-employed, 9.35 percent from 1982 through 1984, 9.9 percent in 1985, 10 percent from 1986 through 1989, and 10.75 percent from 1990 on.

EMPLOYER & EMPLOYEE (EACH)

Year	Maximum Earnings Base	OASDI Tax Rate	Health Plan Tax Rate	Total Tax Rate	Annual Maximum Tax
1978	$17,700	5.05	1.00	6.05	$1070.85
1979	22,900	5.08	1.05	6.13	1403.77
1980	25,900	5.08	1.05	6.13	1587.67
1981	29,700	5.35	1.30	6.65	1975.05
SELF-EMPLOYED					
1978	$17,700	7.10	1.00	8.10	$1433.70
1979	22,900	7.05	1.05	8.10	1854.90
1980	25,900	7.05	1.05	8.10	2097.90
1981	29,700	8.00	1.30	9.30	2762.10

The monthly Social Security check you will get after you retire fully insured depends on your average earnings in "covered employment during the period used to figure your benefits. In the first 5 months of 1978, an employee and his wife can expect to receive a joint monthly benefit check of around $690 — provided they both start drawing benefits at age 65 and the employee's earnings have been equal to or over the maximum taxable earnings base each year that is used to figure benefits.

You can retire before you reach 65, but this will result in a reduced monthly benefit. The earliest age at which you can retire is 62. If you retire on your 62nd birthday and apply for benefits immediately, you can get 80 percent of the monthly amount you would be entitled to if you waited until 65. For each month you wait to apply after reaching 62, your benefits checks are slightly higher. Note that if you choose to take benefits in a reduced amount before you reach 65, you will continue to get a reduced benefit even after you reach 65. Dependents of the insured may be entitled to benefits of the following categories:

Wife or husband at least 62 years of age (a non-dependent husband will have his benefit reduced by the amount of any pension he receives for public employment not covered by Social Security).

Wife at any age if she is caring for a child under 18 or disabled — who is entitled to Social Security.

Unmarried children under 18 (or 22 if fulltime students).

An unmarried child who becomes disabled before reaching 22 and has remained so since, or whose disability recurs within seven years of the termination of his earlier entitlement to benefits.

Grandchildren who live with insured, if their parents are dead or disabled.

A divorced wife if she (a) is at least 62 and (b) was married to insured for 20 years or more (10 years, starting January 1979).

Medicare for the aged or disabled is discussed on the reverse. For additional discussion see Payroll Compensation at 353:151. Copies of "Your New Social Security and Medicare Fact Sheet" can be ordered by writing to: BNA Books, The Bureau of National Affairs, Inc., 9401 Decoverly Hall Rd., Rockville, Maryland 20850. Copies are 30¢ each for 20-29 copies, 25¢ for 100-499, 20¢ for 500-999 copies, and 19¢ each for 1,000 to 2,499.

Social Security's Dominance

With more than half of U.S. households paying more in social security taxes than federal income taxes, complaints about the nation's tax structure are mounting. Critics point out that social security's transformation into the dominant tax for the majority of U.S. families is steadily turning the nation's "progressive" tax system into a "regressive" structure in which lower-income taxpayers are bearing a proportionally heavier tax burden than upper-income individuals.

Two factors have combined to produce this shift in the nation's tax burden: congressional reliance on higher payroll taxes, rather than income taxes, to finance increased social security benefits; and the continuing erosion of the income tax base by various corporate and individual tax breaks, which currently are estimated to cost the Treasury Department $112.7 billion in yearly revenues. Thus, in 1950, 79.7 percent of the federal government's revenues were derived from income taxes and only 20.3 percent from social security; today, however, income taxes account for 59.3 percent of the revenues, while social security payroll taxes have climbed to 40.7 percent. Moreover, with the recent trend toward cutting income taxes to offset higher social security taxes the shift is accelerating. For example, President Carter's proposed $25 billion tax cut is designed, in part, to help offset the hefty social security tax increase that went into effect on January 1. Also, Mr. Carter has indicated that more tax cuts may be in the works to ease the sharp payroll tax hikes scheduled for future years under the social security reform bill signed into law in December.

Tax Rulings

Traveling Expenses . . .

An employee's contention that his traveling expenses, including the costs of meals and lodgings, during a year's employment in another state were tax deductible is upheld by the U.S. Tax Court.

Due to a depressed job market in his home town of Cleveland, Ohio, a union electrician, who normally secured work through an area hiring hall, was obligated to work for a year at a Michigan jobsite. Although the worker periodically returned to his family home in Ohio, where he looked for a job and even investigated other lines of work, a lack of work in the area forced him to keep returning to the Michigan jobsite. In filing his federal income tax returns, the employee claimed that his Michigan employment was temporary and that his expenses there were deductible as "traveling expenses" that had been incurred "away from home" in the pursuit of a trade or business.

Rejecting the Internal Revenue Service's argument that the employee's home was Michigan since it was his principal place of employment, the court stresses that the worker had "strong social and familial ties" to Cleveland and had "no intention" of working away from there "except on a temporary basis." "It would not have been reasonable" for the employee to "relocate himself and his family in Michigan," the court says, concluding that the worker was entitled to the deduction. (*Saunders v. Comr.*, USTC No. 1236-75, Dec. 12, 1977)

. . . Apprenticeship Committee

A collectively bargained, jointly administered apprenticeship committee formed to upgrade area work standards through educational and training programs qualifies for an exemption from federal income tax, the Internal Revenue Service holds.

Under a contract between a union and an employers' association, IRS notes, the nonprofit apprenticeship committee selects and trains apprentices in order to "ensure that local standards on the quality of work conform with national codes for the industry." Federal law, IRS continues, provides for the tax-exempt status of "labor organizations" set up to better their members' conditions, improve the grade of their products, or develop a higher degree of efficiency in their occupations. Since the apprenticeship committee was involved in "improving the grade of the industry's product" and "developing a higher degree of occupational efficiency," IRS concludes, it "is exempt from federal income tax." (*Rev. Ruling 78-42*, Jan. 30, 1978)

UI: IUR Drops, EB Halted

Regular extended unemployment insurance benefits (EB) were discontinued in 41 states on January 28, because the national insured unemployment rate (IUR) dropped below 4.5 percent, the Labor Department announces. The IUR drop to 4.42 percent for the 13-week period ending January 7 ended the authoriza-

(Continued on page 7)

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THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

Senator Bob Mulcahy
Chairman, State Affairs Committee
Alaska State Legislature
Pouch V,
Juneau, Alaska 99811

See me on this

Feb 14, 1979

Dear Senator Mulcahy,

Part in file

Following are comments relative to S.B. 25 introduced 1.16.79. The bill has a great many advantages to State Employees + the future of the retirement fund. There are a few areas of the bill ~~I feel~~, I feel, are a problem.

(Page 2, line 12-16) The amendment to 39.35.410(d) is confusing + in conflict with 39.30.160(d) (Page 3 line 8) It also conflicts with a recent court ruling reducing police + Fire from 66⅔% to 40%. I recommend deleting 39.35.410(d) as it is covered adequately in 39.30.160(d)

(Page 2 line 20) under 39.30.150(2)(b) The survivors benefits are not clearly defined.

1. When an employee is working at his time of death the section is clear.
2. What if a man has retired and then dies?
   a. Is he still an employee?
   b Does his survivor receive benefits + if so what compensation is the amount based upon.
   c If no survivor benefits are received - why not?

(Page 3, line 12-13) AS 39.30.160 Doesn't have to follow the Social Security pattern. It could be amended to: "Disability payments are not payable until that time the employee either exausts his medical leave or 6 months has elapsed since the disability"

Page 3, lines 26 thru line 15, page 4) RE: 39.30.160 Disability Benefit
This section is in conflict with 39.35.410(d) (Page 2 line 12-17)
To be fair to both parties affected (Police & Fire) & (all other Employees) a compromise of 60% for a disability as defined in this section is reasonable. Even though most Police & Fire Personnel are facing disabilitating injuries on a regular basis as compared with other employees, the frequency of occurance to all employees seems similar.
(Page 4, lines 21-27) Contributions:
The first 7 lines are fairly clear, both the State & the employee continue paying at the current (includes future) equal rate of the S.S. System. This in effect does not cost the State or the employee any different had we not chosen to get out of the SS system. The confusion comes on page 5 where specific percentages are set for different groups. The language identifies the States share paid to the system. If this percentage is allowed to remain static & does not move with the Federal System it would be out of balance in a few years.

There is no question in my mind that withdrawal from Social Security is the best way to go. Properly written this, Bill when passed, will provide Alaskans with the retirement incentive to remain in Alaska. It will also provide retiries with the necessary funds to keep them out of the "Poverty Bracket" present Social Security recipients are in.

Sincerely,

Robert G Penman
7730 Honeysuckle
Anchorage, Alaska
99502

SB 25 -SOCIAL SECUIRTY WITHDRAWAL

Comparative summary of existing statutes, SB 25 and HB 946 based on the 9 sections of SB 25

GENERAL OVERVIEW

SB 25

FOR THIS GENERAL OVERVIEW * WHEN STATED "SAME AS SB 25" HB 946 MAY NOT BE EXACTLY THE SAME. REFER TO COMPREHENSIVE BREAKDOWN. But it generally speaks to same issue.

SECTION NO.	EXISTING STATUTES	SB 25	HB 946
1.	Requires social security contribution.	Requires same or contribution in lieu of social security.	*Same as SB 25
2.	Defines members. Lists those included and those excluded..	Adds to include marine transportation ferry system employees now excluded with stipulation of collective bargaining.	Adds to include marine transportatio employees. Deletes exclusion of M.T.
3.	Defines "normal retirement"	Amends to include members in alternative system. 25 & out.	Same as SB 25
4.	Defines retirement for peace officers and firemen. Determines retirement for all other PERS members.	Increases retirement benefits for PERS members in alternate system.	Same as SB 25
5.	Determines occupational disability pension for firemen & peace officers. Determines same for all other members.	Determines occupational disability pensions for all members.	Same as SB 25
6.	NEW SECTION - 4 parts		
	AS 39.30.150	Determines survivor benefits for occupational and non-occupational death. Defines basic monthly compensation under alternate system.	Same as SB 25
	.160	Determines disability benefits for each group under alternative system. Defines "disability". Requires proof of disability.	Same as SB 25
	.165	Defines "Basic Monthly Compensation"	Same as SB 25

SB 25 -SOCIAL SECUIRTY WITHDRAWAL

Comparative summary of existing statutes, SB 25 and HB 946 based on the 9 sections of SB 25

SB 25

SECTION NO.	EXISTING STATUTES	SB 25	HB 946
	.170	Determines contributions in lieu of social security for each group. Provides for deductions for deferred compensation. Sets up accounts.	Same as SB 25
7.	NEW	Provides intention to withdraw from social security by 1/1/80 if approved by employees.	Same
8.	NEW	Provides for election	Same
9.	NEW	Provides for effective dates	Same

SB 25 -SOCIAL SECUIRTY WITHDRAWAL

Comparative summary of existing statutes, SB 25 and HB 946 based on the 9 sections of SB 25

SB 25

SECTION NO.	EXISTING STATUTES	SB 25	HB 946
1 AS 39.35.160(b)	Each employee shall pay the appropriate social security contribution.	Amends by adding that each employee shall pay the appropriate social security contribution or a contribution in lieu of a social security contribution.	SAME AS SB 25

SB 25 -SOCIAL SECURITY WITHDRAWAL

Comparative summary of existing statutes, SB 25 and HB 946 based on the 9 sections of SB 25

SB 25

SECTION NO.	EXISTING STATUTES	SB 25	HB 946
2. AS 39.35.680(21)	(A) Defines member or employee as one eligible to participate in PERS and (B) includes: i. active member ii. inactive member iii. vested member iv. deferred vested member v. non-deferred vested member vi. disabled member vii. retired member (C) does not include: i. former members ii. persons on contract or fee basis iii. casual, emergency or temporary workers iv. persons in Alaska Teachers Retirement System v. Marine Transportation ferry system employees who are covered by union or group retirement system to which state makes contributions. vi. supreme court justices	Adds new sub-paragraph(D) to include marine transportation employees who are now excluded under (C)(v) from PERS if the state agrees to their inclusion through collective bargaining and specifying that other than military service credit, only service after 1/1/80 may be credited.	Includes, under (B) marine transportation employees who are now excluded under (C)(v), and specifies that other than military service credit, only service after 1/1/80 may be credited. Deletes (C)(v) which excludes Marine Transportation ferry system employees.

SB 25 -SOCIAL SECUIRTY WITHDRAWAL

Comparative summary of existing statutes, SB 25 and HB 946 based on the 9 sections of SB 25

SB 25

SECTION NO.	EXISTING STATUTES	SB 25	HB 946
3. AS 39.35.680(25)	Defines "Normal retirement" as retirement for a member who is at least 55 and has a minimum of 5 years credited service, or who is any age and has 30 years or more credited service, or a peace officer or fireman who is any age and has 20 years or more of credited service.	Amends to include under the definition of "normal retirement" members who are making contributions under the new system in lieu of social security and are of any age & have 25 years or more of credited service.	SAME AS SB 25.

SB 25 -SOCIAL SECUIRT[illegible] WITHDRAWAL

Comparative summary of existing statutes, SB 25 and HB 946 based on the 9 sections of SB 25

SB 25

SECTION NO.	EXISTING STATUTES	SB 25	HB 946
4. AS 39.35.370(c)	Determines the amount of retirement pension for peace officers and firemen. For every other PERS member and retired member the monthly amount is 2% of his average monthly compensation times years of credited service.	Amends statute by adding an increase in the monthly amount of retirement benefit for a PERS employee who is paying into the alternate system (in lieu of social security) by 3/4 of 1% of the average monthly compensation times the years of credited service making the total = 2-3/4% of the average monthly compensation times years of credited service.	SAME AS SB 25

SB 25 -SOCIAL SECUIRTY WITHDRAWAL

Comparative summary of existing statutes, SB 25 and HB 946 based on the 9 sections of SB 25

SB 25

SECTION NO.	EXISTING STATUTES	SB 25	HB 946
5. AS.39.35.410(d)	Determines monthly amount of occupational disability pension for a peace officer or fireman. For other employees it is determined in accordance with sec. 370(c) of this chapter (see sec. 4 of this summary), considering compensation before termination of employment and either credited service that would have been accumulated if employment had continued until his 55th birthday or actual credited service before disability, whichever is greater, except the determined amount shall be reduced by assuming that a joint & survivor option of 75% became immediately effective upon retirement, with the employee's spouse as contingent beneficiary. If no spouse exists at retirement the pension shall not be reduced.	This section is amended to read that the amount of an occupational disability pension is the greater of 40% of the employee's gross monthly compensation, or the amount determined in sec. 370(c) of this chapter, considering the employees credited service and compensation before termination of employment.	SAME AS SB 25

SB 25
SECTION NO.

6. AS 39.30 is amended by adding new sections to the existing statutes.
ARTICLE 4 - SUPPLEMENTAL EMPLOYEE BENEFITS ON WITHDRAWAL FROM SOC. SECURITY

Sec. 39.30.150 - SURVIVOR BENEFITS

SB 25	HB 946
a) State shall provide for survivor's benefits for occupational and non-occupational death effective as of employee's first day of employment or 1/1/80 whichever is later, to employees making contributions under AS 39.30.170 (alt. system)	a) Same as SB 25
1) for casual, emergency & temporary employees not covered by PERS or TRS, benefits payable to beneficiary shall be a lump sum of $15,000.	1) for employees covered by Judicial Retirement Ssytem or PERS, benefits payable to beneficiary shall be a lump sum equal to 12 times employee's basic monthly compensation at time of death.
2) for all employees other than those above, benefits payable shall be a lump sum equal to 12 times the employee's basic monthly compensation at time of death.	2) Same as a)1 sec.39.30.150 SB 25.
b) Defines "Basic Monthly Compensation at Time of Death" as employee basic monthly compensation for the last full month of employment immediately preceding death or disability leading to death.	b) Same as SB 25

SB 25
SECTION NO.

6. AS 39.30 is amended by adding new sections to the existing statutes.
ARTICLE 4 - SUPPLEMENTAL EMPLOYEE BENEFITS ON WITHDRAWAL FROM SOC. SECURITY

Sec. 39.30.160 - DISABILITY BENEFITS

SB 25	HB 946
a) Requires state to provide an occupational and non-occupational disability benefit program covering each state employee making contributions under AS 39.30.170 (alternative system) Coverage to begin on 1st day of employment or 1/1/80, whichever is later. Disability payments are not payable during the first six months of disability.	SAME AS SB 25 (Entire section) dealing with DISABILITY BENEFITS
b) Defines "disability" as complete inability to engage in regular occupation during first 12 months of disability & thereafter complete inability to engage in any employment or occupation for which he is reasonably fitted by reason of education, training or experience.	
c) For a casual, temporary or emergency employee not covered by PERS or TRS, the benefit is $100 per week payable only if the employee fulfills the requirements of (e) of this section. The last payment shall be for the week in which 1) death occurs, or 2) he reaches age of 65, whichever occurs first.	
d) For all employees other than those covered by (c) the monthly disability benefit shall be 60% of the first $5,000 of the employees basic monthly earnings at the date of disability less any benefits the employee is entitled to under social security or any other disability plan to which the state contributes on his behalf. Disability benefits payable only if the employee fulfills the requirements of (e) below. The last payment shall be for 1) the month of his death, or 2) the month he reaches normal retirement age, or 3) the month he reaches 65, whichever comes first.	

SB 25
SECTION NO.

6. AS 39.30 is amended by adding new sections to the existing statutes.
ARTICLE 4 - SUPPLEMENTAL EMPLOYEE BENEFITS ON WITHDRAWAL FROM SOC. SECURITY

Sec. 39.30.160 - DISABILITY BENEFITS (Continued from last page

SB 25	HB 946
e) An employee receiving these benefits must provide satisfactory proof of continuing disability to the Director of the Division of Retirement & Benefits one year after emp' ee is appointed to disability benefits and once e. ch year thereafter until benefits cease. If employee provides satisfactory proof of permanent disability, the requirement of further proof of continuing disability may be waived.	SAME AS SB 25

SB 25
SECTION NO.

6. AS 39.30 is amended by adding new sections to the existing statutes.
ARTICLE 4 - SUPPLEMENTAL EMPLOYEE BENEFITS ON WITHDRAWAL FROM SOC. SECURITY

Sec. 39.30.165 - BASIC MONTHLY COMPENSATION

SB 25	HB 946
Defines "basic monthly compensation" as the amount earned by the employee during the month, including normal overtime; however, unusual or seasonal overtime or work of a seasonal nature may be adjusted to reflect a 12-month average.	SAME AS SB 25

SB 25
SECTION NO.

6. AS 39.30 is amended by adding new sections to the existing statutes.
ARTICLE 4 - SUPPLEMENTAL EMPLOYEE BENEFITS ON WITHDRAWAL FROM SOC. SECURITY

Sec. 39.30.170 - CONTRIBUTIONS

SB 25	HB 946
a) Amounts usually paid by the state and employee into social security shall be paid into a special employee benefit account in the Dept. of Administration to be used for retirement, death and disability benefits for: 1. PERS members except peace officers and firemen. 2. Peace officers & firemen covered under PERS 3. Judicial Retirement System members 4. emergency, temporary or casual workers not covered by PERS or TRS 5. Marine transportation state ferry employees who are covered by a maritime union contract but not in PERS	(a) Amounts usually paid into social security to be paid into special employee benefit account in the Dept. of Administration for employee retirement, death and disability benefits.
b) Cost of providing survivor and disability benefits outlined in this article shall be determined and expressed as a percentage of payroll for all of the above groups except all employees covered by PERS shall be considered as one group. (a.1.& 2.)	b) The cost of providing survivor and disability benefits under sections 150 & 160 shall be expressed as a percentage of payroll for each of the following 1. PERS members 2. Judicial Retirement System members 3. Emergency, temporary or casual workers not covered by PERS or TRS
c) From employee benefits accounts (a) the Department of Administration shall deduct: 1. the amount determined under (b) to pay for cost of providing benefits under sections 150 & 160 for each employee in that group.	c) From the amount contributed by the employee and the state the Dept. of Administration shall deduct: 1. for each employee the amount determined under (b) to pay for benefits under sections 150 and 160. 2. for PERS members except peace officers and firemen, an additional 7.1% of gross monthly compensation. 3. for peace officers & firemen covered under PERS an additional 6.2% of gross monthly compensation.

SB 25
SECTION NO.

6. AS 39.30 is amended by adding new sections to the existing statutes.
ARTICLE 4 - SUPPLEMENTAL EMPLOYEE BENEFITS ON WITHDRAWAL FROM SOC. SECURIT

Sec. 39.30.170 - CONTRIBUTIONS (Continued)

SB 25	HB 946
(c) 2. from the account for group in (a) (1) an additional 7.1% of gross monthly compensation for each employee in that group.	
3. from the account for group in (a) (2) an additional 6.2% of gross monthly compensation for each employee in that group.	
(d) The balance in each employee benefit account shall, after specified deductions in (c) be allocated on a pro rata basis to those employees for whom contributions under (a) exceed deductions under (c), and be deposited in individual deferred compensation accounts. The director of the division of retirement and benefits shall administer this program and establish operating procedures which allow for deferment of state and federal income tax until benefits are receivable in accordance with federal regulations under the Internal Revenue Code.	(d) The balance of contributions made into special employee benefit account shall, after deductions specified in (b) of this section, be deposited in an individual deferred compensation account. Director of the division of retirement and benefits shall administer this program and establish operating procedures which allow for deferment of state and federal income tax until benefits are receivable in accordance with federal regulations under the Internal Revenue Code.

SB 25 -SOCIAL SECURITY WITHDRAWAL

Comparative summary of existing statutes, SB 25 and HB 946 based on the 9 sections of SB 25

SB 25

SECTION NO.	EXISTING STATUTES	SB 25	HB 946
7. Intention to withdraw from Social Security System & providing for an effective date.	None	If approved by employees of the State of Alaska as set out in sec. 8 (see next page) the state's notice of intention to withdraw from the federal Social Security System shall become effective January 1, 1980.	SAME AS SB 25

SB 25 -SOCIAL SECUIRTY WITHDRAWAL

Comparative summary of existing statutes, SB 25 and HB 946 based on the 9 sections of SB 25

SB 25

SECTION NO.	EXISTING STATUTES	SB 25	HB 946
8. Election	None	Provides for the Dept. of Admin. to conduct a secret ballot election by 9/25/79. The Dept. shall prepare a list of all affected employees and their addresses at least 90 days before the election and make the list available to interested parties. The question on the ballot shall read "Do you favor withdrawal from the Social Security System?" The ballot shall contain a description of the benefits under the alternative system in lieu of social security benefits. No other information concerning this issue will be distributed or attached to the ballot. A simple majority of those employees voting shall determine the outcome of the issue.	SAME AS SB 25 except this bill provides for a secret ballot election between February 1 and April 1, 1979.

SB 25 -SOCIAL SECUIRTY WITHDRAWAL

Comparative summary of existing statutes, SB 25 and HB 946 based on the 9 sections of SB 25

SB 25

SECTION NO.	EXISTING STATUTES	SB 25	HB 946
9. Effective dates	None	Sections 1-7 of this bill will take effect on 1/1/80 if approved by a majority of the voters under sec. 8. Sec. 8 takes effect immediately if this bill is passed.	SAME AS SB 25

Introduced: 1/16/79
Referred: State Affairs
and Finance

IN THE SENATE BY RAY

SENATE BILL NO. 25

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to withdrawal from the federal Social Security System; and providing for an effective date."

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

* Section 1. AS 39.35.160(b) is amended to read:

(b) In addition each employee shall pay the appropriate social security contribution or the contribution required under AS 39.30.170 in lieu of a social security contribution.

* Sec. 2. AS 39.35.680(21) is amended by adding a new subparagraph to read:

(D) may include employees of the division of marine transportation excluded under (C)(v) of this paragraph provided that

(i) the State of Alaska formally agrees to their inclusion through the process of collective bargaining, and

(ii) other than military service credit, only service after January 1, 1980 may be credited under this chapter;

* Sec. 3. 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 30 years or more of credited service, or who is making contributions under AS 39.30.170, is any age and has 25 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;

* Sec. 4. AS 39.35.370(c) is amended to read:

(c) The monthly amount of a retirement benefit for a peace officer

or fireman is two percent of the average mo[illegible]ly compensation times the years of credited service up through 10 yea[illegible] plus two and one-half percent of the average monthly compensation times the years of service over 10 years. For all other employees it is two per cent of the average monthly compensation times the years of service. The monthly amount of a retirement benefit for an employee covered by this chapter who is making contributions under AS 39.30.170 shall be increased by three-fourths of one per cent of the average monthly compensation times the years of credited service with the state. An actuarial adjustment must be made for an early retirement benefit.

* Sec. 5. AS 39.35.410(d) is amended to read:

(d) The monthly amount of an occupational disability pension is the greater of 40 per cent of the disabled employee's gross monthly compensation at the time of termination due to disability or the amount determined in accordance with AS 39.35.370(c) considering the employee's credited service and compensation before termination of employment.

* Sec. 6. AS 39.30 is amended by adding new sections to read:

ARTICLE 4. SUPPLEMENTARY EMPLOYEE BENEFITS ON WITHDRAWAL FROM FEDERAL SOCIAL SECURITY.

Sec. 39.30.150. SURVIVOR'S BENEFITS. (a) The State of Alaska shall provide for survivor's benefits for occupational and non-occupational death effective as of an employee's first day of employment, or January 1, 1980, whichever is later, to employees of the state who are making contributions under AS 39.30.170 as follows:

(1) for all casual, emergency or temporary employees not covered by the Alaska Public Employees' Retirement System (AS 39.35) or the Alaska Teachers' Retirement System (AS 14.25) the benefit payable to the beneficiary shall be a lump sum of $15,000.

(2) for all employees other than those covered under (1) of

this subsection, the benefit payable to the beneficiary shall be a lump sum equal to 12 times the employee's basic monthly compensation at the time of death;

(b) For purposes of this section "basic monthly compensation at the time of death" means the employee's basic monthly compensation for the last full month of employment immediately preceding his death or disability leading to his death.

Sec. 39.30.160. DISABILITY BENEFIT. (a) The state shall provide an occupational and non-occupational disability benefit program covering each employee of the state making contributions under AS 39.30.170. Coverage shall begin on the first day of employment or January 1, 1980, whichever is later. Disability payments are not payable during the first six months of disability.

(b) In this section, "disability" means the complete inability of the employee to engage in his regular occupation during the first 12 months of disability, and thereafter the complete inability to engage in any employment or occupation for which he is reasonably fitted by reason of education, training or experience.

(c) For a casual, emergency or temporary employee not covered by the Alaska Public Employees' Retirement System (AS 39.35) or the Alaska Teachers' Retirement System (AS 14.25), the disability benefit is $100 per week and shall be payable only if the disabled employee fulfills the requirements set out in (e) of this section. The last payment shall be for the week in which (1) the death of the disabled employee occurs, or (2) the disabled employee reaches the age of 65, whichever occurs first

(d) For all employees other than those covered in (c) of this section, the monthly disability benefit shall be 60 per cent of the first $5,000 of the employee's basic monthly earnings at the date of disability less any disability benefits the employee is entitled t

under Social Security or any other disability plan to which the state makes contributions on behalf of that employee. The disability benefit shall be payable only if the disabled employee fulfills the requirements set out in (c) of this sec ion. The last payment shall be for (1) the month in which the death of the disabled employee occurs, or (2) the month the disabled employee reaches normal retirement age, or (3) the month the disabled employee reaches the age of 65, whichever comes first.

(c) An employee receiving a disability benefit under this section shall provide the director of the division of retirement and benefits, one year after appointment to disability benefits and once each year thereafter until disability benefits cease, satisfactory proof of continuing disability. If the employee provides satisfactory proof that the disability is permanent, the requirement of submitting further proof of continuing disability may be waived by the director.

Sec. 39.30.165. BASIC MONTHLY COMPENSATION. In secs. 150 - 160 of this chapter, "basic monthly compensation" means the amount earned by the employee during the month, including normal overtime; however, unusual or seasonal overtime or work of a seasonal nature may be adjusted to reflect a 12-month average.

Sec. 39.30.170. CONTRIBUTIONS. (a) The amounts which both the state and the employee of the state would have otherwise paid into the federal Social Security System at the rate then in effect had the state continued in the federal Social Security System shall be paid into special employee benefit account in the Department of Administration to be used to provide employee retirement and death and disability benefits for each of the following groups:

(1) employees covered under the Alaska Public Employees' Retirement System (AS 39.35), except peace officers and firemen (as

defined in AS 39.35.680(27));

(2) peace officers and firemen covered under AS 39.35 (PERS);

(3) employees covered under the Judicial Retirement System (AS 22.25);

(4) emergency, temporary or casual workers not covered under AS 39.35 (PERS) or AS 14.25 (TRS);

(5) employees of the division of marine transportation engaged in operating the state ferry system who are covered by a maritime union contract and are not covered under AS 39.35 (PERS).

(b) There shall be determined the cost of providing the survivor and disability benefits provided under AS 39.30.150 and AS 39.30.160 expressed as a percentage of payroll for each of the groups set out under (a) of this section, except that all employees covered under AS 39.35 (PERS) shall be considered as one group for purposes of this subsection.

(c) From the employee benefit accounts established under (a) of this section, the Department of Administration shall deduct:

(1) from each benefit account, the amount determined under (b) of this section to pay the cost of providing benefits under secs. 150 and 160 of this chapter for each employee in that group;

(2) from the account for the group listed in (a)(1) of this section, an additional 7.1 per cent of gross monthly compensation for each employee in that group;

(3) from the account for the group listed in (a)(2) of this section, an additional 6.2 per cent of gross monthly compensation for each employee in that group.

(d) The balance in each employee benefit account shall, after deduction of the amounts specified in (c) of this section, be allocated on a pro rata basis to those employees for whom contributions under (a)

of this section exceeded deductions under (c) of this section and be deposited in individual deferred compensation accounts in the names of those employees. The director of the division of retirement and benefits shall administer the deferred compensation program and shall, by regulation, establish operating procedures for the program which allow for deferment of the state and federal income tax until benefits are receivable in accordance with federal requirements under the Internal Revenue Code.

* Sec. 7. If approved by employees of the State of Alaska as set out in sec. 8 of this Act, the state's notice of intention to withdraw from the federal Social Security System shall be allowed to become effective January 1, 1980.

* Sec. 8. The Department of Administration shall conduct an election by secret ballot by September 25, 1979. The department shall, at least 90 days before the election, prepare a list of all affected state employees, including permanent, seasonal and temporary employees, who shall be eligible to vote, along with mailing addresses, and make the list available to interested persons or employee representative organizations. The question on the ballot shall read: "Do you favor withdrawal from the Social Security System?" The ballot shall contain a description of the benefits provided for in this Act which would be provided in lieu of further benefits under the Social Security System. No other information concerning the election issue may be distributed with or attached to the ballot. A simple majority of those employees voting shall determine the outcome of this issue.

* Sec. 9. Sections 1 - 7 of this Act take effect on January 1, 1980 if approved by a majority of the votes cast by affected state employees under sec. 8 of this Act. Section 8 of this Act takes effect immediately in accordance with AS 01.10.070(c).

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

Alaska State Legislature

JUNEAU ALASKA

SB 25

Relates to withdrawal from federal social security system by state employees. Amends AS 39.30 by addition of new article entitled "Supplemental Employee Benefits on withdrawal from federal social security", allowing state employees to pay into a special employee benefit account in the Dept. of Administration for retirement, death and disability benefits in lieu of a social security contribution. Provides act effective January 1, 1980, if approved by a majority of affected state employees. Sec. 8 provides for election by state employees on 9/25/79 - effective immediately.

Fiscal note wont be available for a week. - ADMIN - SEWELL - 2277

Modified and amended version of HB 946 ([redacted]) passed House 4 which [redacted] died in Senate Fish & Game Management.

SB 25 is sponsored by Ray but was submitted by APEA who have related back-up material.

HB-946
↓
SB-25

1. History
2. Testimony & positions of interested parties
3. Comparison of existing statutes, SB25 & HB946
   Gen. Outline / Detailed Comparison
4. Data on affected employees

To do: (1) Get position of: Paul Arnold - Retirement
Gilcrease -
Local 71 - when available

(2) Comparison of Social Security Benefits & PERS (expanded) benefits

S/B 25. 1/22/78

Revised note to be sent by Dept. of Admin. - weather unfavorable till next week

Back up on HB ~~947~~ 946

Sponsored by Rep.
Subcommittee by AGRA

SB. 25 - Withdrawal from fed. soc. security

SEC. 1 - AS. 39.35.160(b) -

PERS - (APEA, LUNF, P.S, LOCAL 71)

1 act year - APEA -

LOCAL 71 - 800

OWN Ret TRUST FUND — IBU - Land Boatmens Union — cannot participate in pers. would to

Public Saf - to state would boot diff

Confidential List -

Judges - own

Temp. Employees - No syst

What to do w/ SS money for disabled people

946 and -

Would allow IBU to participate in pers. & use SS money for that purpose.

SB 25

HB 946

Sec. 2, RCW 39.35.680 (21) amended to read

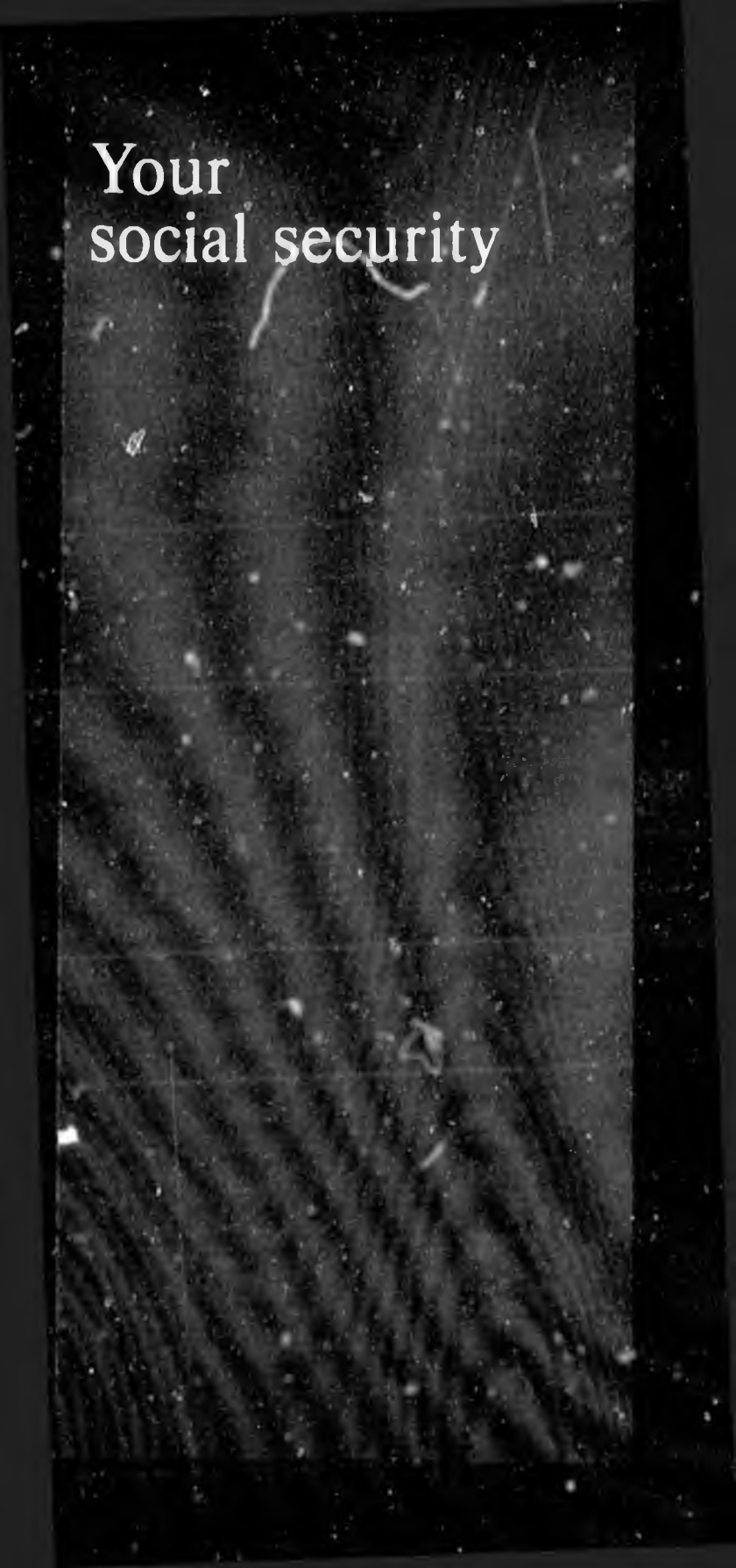
(21) member or employee - person elig.
(A) to participate in system who is covered by system
(B) includes active, inactive, vested deferred vested, non-vested, disabled retired, employees of m.t. who are covered by mandatory coverage

Sec. 6, ART. 4
RCW 39.30.150 SURVIVORS BENEFITS
INC. 1) Emp covered by funded Ret. System (RCW 22.25) or PERS Ret. System

~~Sec. 39.30.165 (not included in bill) #25~~

Sec. 39.30.170 - Contributions

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.


Your
social security

HEW Publication No. (SSA) 78-10015

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Your social security

Today, social security is the Nation's basic method of providing a continuing income when family earnings are reduced or stop because of retirement, disability, or death.

- Nine out of 10 workers in the United States are earning protection under social security.
- Nearly 1 out of every 7 persons in this country receives monthly social security checks.
- About 23.1 million people 65 and over, nearly all of the Nation's aged population, have health insurance under Medicare. Another 2.6 million disabled people under 65 also have Medicare.

Nearly every family, then, has a stake in social security.

Through the years since social security was enacted in 1935, there have been many changes to improve the protection it gives to workers and their families. At first, social security covered only the worker upon retirement; but in 1939, the law was changed to pay survivors when the worker died, as well as certain dependents when the worker retired.

Social security covered only workers in industry and commerce when the program began. In the 1950's, coverage was extended to include most self-employed persons, most State and local employees, household and farm employees, members of the Armed Forces, and members of the clergy. Today, almost all jobs in the United States are covered by social security.

Disability insurance benefits were first paid for July 1957, giving workers protection against loss of earnings due to total disability.

The social security program was expanded again in 1965 with the enactment of Medicare which assured hospital and medical insurance protection to people 65 and over. Since 1973, Medicare coverage has been available to people under 65 who have been entitled to disability checks for 2 or more consecutive years and to people with permanent kidney failure who need dialysis or kidney transplants.

As a result of legislation enacted in 1972, social security benefits will increase automatically in the future as the cost of living goes up.

Legislation enacted in late 1977 made an important change in the way benefits are calculated, restored the financial soundness of the social security program, and made other changes in the program.

This booklet is about your social security. It tells how you earn protection under social security, the kinds of benefits you and your family can get, how social security is financed, and other information that can help you in planning for the future.

Who gets checks?

Who gets a monthly social security check? The question can be answered in one word. People. All kinds of people. Young people, old people, poor people, rich people. Men, women, and children.

Monthly social security checks may go to workers and their dependents when the worker retires, becomes severely disabled, or dies. Then, there's Medicare, which helps pay the cost of health care for eligible people who are 65 or over or disabled.

Monthly benefits social security pays include:

Retirement checks—When you retire, you can start getting retirement checks as early as 62.

Disability checks—A worker who becomes severely disabled before 65 can get disability checks.

Under social security, you're considered disabled if you have a severe physical or mental condition which:

- Prevents you from working, and
- Is expected to last (or has lasted) at least 12 months, or is expected to result in death.

Your checks can start for the 6th full month of your disability. Once checks start, they'll continue as long as you are disabled. If you are severely disabled, you could get benefits even though you manage to work a little.

Survivors checks—If the worker dies, survivors checks can go to certain members of the worker's family. A lump-sum payment also can be made when a worker dies. This payment usually goes to the widow or widower.

Checks for a worker's family

Monthly social security checks also are paid to certain dependents of a worker who has retired, become disabled, or died.

Retirement or disability—Monthly payments can be made to a retired or disabled worker's:

- Unmarried children under 18 (or 22 if full-time students).
- Unmarried children 18 or over who were severely disabled before 22 and who continue to be disabled.
- Wife or husband 62 or over.
- Wife under 62 if she's caring for worker's child under 18 (or disabled) who's getting a benefit based on the retired or disabled worker's earnings.

Survivors—Monthly payments can be made to a deceased worker's:

- Unmarried children under 18 (or 22 if full-time students).
- Unmarried son or daughter 18 or over who was severely disabled before 22 and who continues to be disabled.
- Widow or widower 60 or older.
- Widow, widower, or surviving divorced mother if caring for worker's child under 18 (or disabled) who is getting a benefit based on the earnings of the deceased worker.
- Widow or widower 50 or older who becomes disabled not later than 7 years after worker's death, or within 7 years after mother's or father's benefits end.
- Dependent parents 62 or older.

Checks also can go to a divorced wife or husband at 62 or over, or a surviving divorced wife at 60, or to a disabled surviving divorced wife 50 or older if the marriage lasted 20 years or more (10 years beginning January 1979). Children may be eligible for social security benefits based on a grandparent's earnings under certain conditions.

Generally, a marriage must have lasted at least 1 year before dependents of a retired or disabled worker can get monthly benefits; survivors can get benefits in most cases if the marriage lasted at least 9 months.

Medicare

The two parts of Medicare—hospital insurance and medical insurance—help protect people 65 and over from the high costs of health care. Also eligible for Medicare are disabled people under 65 who have been entitled to social security disability benefits for 24 or more consecutive months (including adults who are receiving benefits because they have been disabled since childhood). Insured workers and their dependents who need dialysis treatment or a kidney transplant because of permanent kidney failure also have Medicare protection.

The hospital insurance part of Medicare helps pay the cost of inpatient hospital care and certain kinds of follow-up care. The medical insurance part of Medicare helps pay the costs of physicians' services, outpatient hospital services, and for certain other medical items and services not covered by hospital insurance. People who have

medical insurance pay a monthly premium. More than 70 percent of the cost of medical insurance is paid from general revenues of the Federal Government. The basic premium is $8.20 for the 12-month period beginning July 1978.

If you're eligible for a social security or railroad retirement check either as a worker, dependent, or survivor, you automatically have hospital insurance protection when you're 65.

It's a good idea to apply for your Medicare insurance 3 months before your birthday month. That way your protection will start the month you reach 65. When you apply for hospital insurance, you will be enrolled automatically for the medical insurance part of Medicare unless you tell us you don't want it.

People 65 and over who haven't worked long enough to be eligible for hospital insurance can get this protection by enrolling and paying a monthly premium just as they would for other health insurance. The basic premium is $63 for the 12-month period beginning July 1978. People who buy Medicare hospital insurance also must enroll in medical insurance.

For more information about Medicare, ask at any social security office for a copy of the leaflet, *A brief explanation of Medicare.*

Building protection

Monthly cash benefits

Before you or your family can get monthly cash benefits, you must have credit for a certain amount of work under social security. The exact amount of work credit depends on your age.

Social security credit is measured in "quarters of coverage." Starting with 1978, employees and self-employed people receive one quarter of coverage for each $250 of covered annual earnings. For information about how self-employment earnings are covered under social security, ask for a copy of the leaflet, *If you're self-employed...reporting your income for social security.* No more than four quarters of coverage can be credited for a year. The $250 measure will increase automatically in the future to keep pace with average wages.

Before 1978, an employee generally earned one quarter of coverage if he or she was paid wages of $50 or more in a calendar quarter. Self-employed people received four quarters of coverage if they had self-employment net profit of $400 or more.

More than 9 out of 10 jobs in paid employment and self-employment in the United States are covered by social security. Special rules which apply to some occupations are discussed later in this booklet.

If you stop working under social security before you've earned enough credit, you can't get benefits later. But the credit you've already earned will stay on your record and you can add to it if you return to work under social security.

Having enough credit means only that you or your family can get checks. The amount of your check depends on your average earnings over a period of years.

The following tables show how much credit is needed for retirement and survivors benefits. The people in any social security office will be glad to give you more details.

Under a special rule, cash payments can be made to a worker's children and their mother or father even though the worker dies with fewer credits than shown provided he or she has worked under social security 1½ years in the 3 years before death.

Work credit for disability benefits

If you become disabled before you're 24, you need credit for 1½ years of work in the 3 years before you become disabled.

If you're between 24 and 31, you must have credit for half the time between your 21st birthday and the time you become disabled.

If you become disabled at 31 or later, you generally need credit for at least 5 years of work out of the 10 years ending when you become disabled. You may need additional credit, depending on your age and the date your disability starts.

The chart for work credits for survivors and disability benefits on the next page shows how much total work credit is needed by workers who become disabled at age 43 or older.

If you are disabled by blindness, you do not have to meet the requirement of recent work but do need credit for ¼ year of work for each year since 1950 (or the year you reached 21 if later), up to the year you become blind. A minimum of 1½ years of credit is needed.

Work credit for retirement benefits

If you reach 62 in	Years you need
1975	6
1976	6¼
1977	6½
1978	6¾
1979	7
1981	7½
1983	8
1987	9
1991 or later	10

Work credit for survivors and disability benefits

Born after 1929, die or become disabled at	Born before 1930, die or become disabled before 62 in	Years you need
28 or younger		1½
30		2
32		2½
34		3
36		3½
38		4
40		4½
42		5
44		5½
46	1975	6
48	1977	6½
50	1979	7
52	1981	7½
54	1983	8
56	1985	8½
58	1987	9
60	1989	9½
62 or older	1991 or later	10

Special rules apply to some work

Although almost all jobs in the United States are covered by social security, there are special rules which apply to some.

You should check with a social security office about these special rules if you work in or about someone's home doing housecleaning, gardening, or babysitting; if you are a student and also are employed by your school or college; if you own, operate, or work on a farm; if you are a member of a religious order; if you have a job where you get cash tips; or if you are an employee of a State or local government, a non-profit or international organization. Special rules also apply to those who work or are self-employed outside the United States.

Leaflets containing information of special interest to self-employed people, farmers, farm landlords, people who receive cash tips, and others are available at any social security office. State and local government employees should direct their questions to their State Social Security administrator.

What is it worth?

Amount of monthly checks

Up to now, social security checks have usually been based on your average earnings under social security over a period of years, using the actual dollar value of your past earnings. This method will continue to be used for workers who reach 62, become disabled, or die before 1979.

For workers who reach 62, become disabled, or die after 1978 a new method of calculating benefits will go into effect. Under this method, actual earnings for past years will be adjusted to take account of changes in average wages since 1951. These adjusted earnings will be averaged together and a formula will be applied to the average to determine the benefit amount.

The new method is intended to insure that benefits will reflect changes in wage levels over your working lifetime and will have a relatively constant relationship to pre-retirement earnings. So that no one now nearing retirement will be disadvantaged, the law contains a guarantee. Under the guarantee, retirement benefits for workers who reach 62 after 1978 and before 1984 will be figured two ways—under the old method using benefit rates that were in effect as of January 1979 and under the new method. The benefit rate paid will be the higher of the two calculations.

Workers who become disabled after 1978 will have their benefits figured only under the new method starting in 1979 as will the survivors of workers who die after 1978. In addition, social security benefits for people on the rolls will increase automatically in future years as the cost of living rises. Each year, living

costs will be compared with those of the year before. If living costs have increased 3 percent or more, benefits will be increased by the same amount and will be included in checks issued the following July unless Congress has already acted to raise benefits.

While you are working, social security contributions are taken out of your wages. You will pay social security contributions on all wages up to $17,700 in 1978. After increases to $22,900 in 1979, $25,900 in 1980, and $29,700 in 1981, this amount will increase automatically in future years to keep up with changes in average wage levels as under previous law. This means that a worker paying increased social security contributions can be sure of higher benefits later because benefits will be based on a higher level of earnings.

Social security checks are not subject to Federal income tax.

If you qualify for checks on the record of more than one worker (for example, on your own record and your husband's), you'll get an amount equal to the larger of the two amounts. If, in addition to your social security benefit as a wife, husband, widow, or widower, you receive a pension based on your work in public employment not covered by social security, your benefit as a dependent or survivor will be reduced by the amount of that pension. Under an exception in the law, your governmental pension will not affect your dependent's or survivor's benefit if you become eligible for that pension before December 1982, and, if at the time you apply or become entitled to your social security benefit as a dependent or survivor, you could have qualified for that benefit if the law as in

effect in January 1977 had remained in effect. (At that time, men had to prove they were dependent upon their wives for their support to be eligible for benefits as a dependent or survivor.) Your governmental pension, however, will not affect any social security benefit based on your own work covered by social security.

In addition to monthly benefits, there is a lump-sum payment made at a worker's death. It is $255.

A word of explanation

Some people think that if they've always earned the maximum amount covered by social security they will get the highest benefit shown on the chart. This isn't so. Although retirement benefits as high as $502 a month are shown, payments this high can't be paid to a worker retiring at 65 now. The maximum retirement benefit generally payable to a worker who becomes 65 in 1978 is $489.70 a month (effective June 1978), based on average covered yearly earnings of $8,257.

The reason the average can be no higher now is that the maximum covered earnings were lower in past years. Those years of lower limits must be counted in with the higher ones of recent years to figure your average covered yearly earnings and this average determines the amount of your check.

The maximum earnings creditable for social security are $3,600 for 1951-1954; $4,200 for 1955-1958; $4,800 for 1959-1965; $6,600 for 1966-1967; $7,800 for 1968-1971; $9,000 for 1972; $10,800 for 1973; $13,200 for 1974; $14,100 for 1975; $15,300 for 1976; $16,500 for 1977; $17,700 for 1978; $22,900 for 1979; $25,900 for 1980; and $29,700 for 1981.

The table shows examples of monthly cash benefits payable, based on several different levels of average yearly earnings.

Reduced benefits

You can retire as early as 62, but your retirement check will be reduced permanently. Payment amounts are also reduced if a wife, husband, widow, or widower starts getting payments before 65.

The amount of reduction depends on the number of months you get checks before you reach 65. If you start your checks early, you'll get about the same value in total benefits over the years, but in smaller installments to take account of the longer period you'll get them.

Estimating your check

Although the *exact* amount of your retirement check can't be figured until you apply for benefits, you can estimate the amount ahead of time. Ask at any social security office for a copy of the leaflet, *Estimating your social security retirement check.*

Bigger checks by additional work

If you return to work after you start getting retirement checks, your added earnings will often result in higher benefits when you again stop working. Social security will automatically refigure your benefit after the additional earnings are credited to your record.

In addition, a worker who doesn't get any benefits before 65 and delays retirement past 65 will get a special credit that can mean a larger benefit. The credit adds to a worker's benefit 1 percent for each year (1/12 of 1 percent for each

Examples of monthly social security payments (effective June 1978)

Average yearly earnings after 1950 covered by social security

Benefits can be paid to a:	$923 or less	$3,000	$4,000	$5,000	$6,000	$8,000	$18,000*
Retired worker at 65	121.80	251.80	296.20	343.50	388.20	482.60	534.70
Worker under 65 and disabled	121.80	251.80	296.20	343.50	388.20	482.60	534.70
Retired worker at 62	97.50	201.50	237.00	274.80	310.60	386.10	427.80
Wife or husband at 65	60.90	125.90	148.10	171.80	194.10	241.30	267.40
Wife or husband at 62	45.70	94.50	111.10	128.90	145.60	181.00	200.60
Wife under 65 and one child in her care	61.00	133.20	210.00	290.40	324.00	362.00	401.00
Widow or widower at 65 if worker never received reduced benefits	121.80	251.80	296.20	343.50	388.20	482.60	534.70
Widow or widower at 60 if sole survivor	87.10	180.10	211.80	245.70	277.60	345.10	382.40
Widow or widower at 50 and disabled if sole survivor	61.00	126.00	148.20	171.90	194.10	241.40	267.50
Widow or widower with one child in care	182.80	377.80	444.40	515.40	582.40	724.00	802.20
Maximum family payment	182.70	384.90	506.20	633.80	712.10	844.50	935.70

*Maximum earnings covered by social security were lower in past years and must be included in figuring your average earnings. This average determines your payment amount. Because of this, the amount shown in the last column generally won't be payable until future years. The maximum retirement benefit generally payable to a worker who is 65 in 1978 is $489.70.

month) from age 65 to age 72 for which he or she did not get benefits because of work. The credit will be increased to 3 percent for each year (¼ percent for each month) for workers reaching 65 after 1981. Also, persons who received reduced benefits will be able to get the credit for non-payment months after reaching 65. Starting with June 1978, the worker's credit will also apply to widow's and widower's benefits.

Special minimum benefit

There is a special minimum benefit at retirement for some people who worked under social security over 20 years. This helps people who had low earnings (but still above a specified level) in their working years. The amount of the special minimum depends on the number of years of coverage. For a worker retiring before 1979 at 65 with 30 years of coverage, the special minimum is $180. Effective January 1979, the special minimum for a worker with 30 or more years of coverage will increase to $230. Most people who have worked 20 years or more under social security already receive benefits higher than the special minimum.

Years of coverage from 1937 to 1950 are determined by dividing the total wages for those years by $900, with a maximum of 14 years of coverage counted for that period. After 1950, a year of coverage is any year a person has earnings of at least 25 percent of the maximum covered by social security.

The automatic cost-of-living benefit increases apply to the special minimum benefit amounts starting in 1979.

Why payments stop

If you work after payments start
After you start getting social security checks, they will continue to arrive each month unless your circumstances change and cause payments to stop.

If you go back to work and are under 72, your earnings may affect your social security benefits. You don't have to stop working completely, though, to get social security benefits. You can receive all benefits if your earnings do not exceed the annual exempt amount. The annual amount for 1978 is $4,000 for people 65 or over and $3,240 for people under 65.

If your earnings go over the annual amount, we withhold $1 in benefits for each $2 of earnings above the limit.

The monthly measure used for 1977 and earlier years to determine whether benefits could be paid for any month a person earned 1/12 or less of the annual exempt amount and did no substantial work in his or her business has been eliminated. A person can use the monthly test only in the first year he or she has a month in which earnings do not exceed 1/12 of the annual amount or does not perform substantial services in self-employment. If such a month occurs in 1978, a benefit can be paid for any month in which you earn $334 or less (if 65 or older) or $270 (if under 65) and you don't perform substantial services in self-employment even though your total yearly earnings exceed the annual amount.

For people 65 or over, the annual exempt amount will increase to $4,500 for 1979; to $5,000 in 1980; $5,500 for 1981; and $6,000 for 1982. After that, the limit will increase automatically as the level of average wages rises. The limit for people under 65 will also continue to increase.

(*Note:* Different rules apply to work performed by people getting benefits because they are disabled. For more information, ask for a copy of the leaflet, *If you become disabled*, at any social security office.)

If you are getting retirement checks, your earnings may affect your dependent's checks as well as your own. If you get checks as a dependent or survivor, your earnings can affect only your own check.

Income that counts

When figuring what income may affect your social security checks, you must count earnings from work of any kind, whether or not it's covered by social security, except tips amounting to less than $20 in a month with one employer. Total wages, not just take-home pay, and all net self-employment earnings must be added together.

However, income from savings, investments, or insurance won't affect your checks.

Your earnings for the entire year in which your checks start or stop count when we figure the amount of benefits that can be paid for that year. But earnings after you reach 72 won't affect your checks. Starting with 1982, earnings after you reach 70 won't affect your check.

If you go outside the United States

Special rules apply to people outside the U.S. If you go outside the country for 30 days or more while you're getting checks, your absence from this country may affect your right to checks. Ask at any social security office for a copy of the leaflet, *Your social security check while you're outside the United States.*

Financing

The basic idea

The basic idea of social security is a simple one: During working years, employees, their employers, and self-employed people pay social security contributions. This money is used only to pay benefits to the more than 33 million people getting benefits and to pay administrative costs of the program. Then, when today's workers' earnings stop or are reduced because of retirement, death, or disability, benefits will be paid to them from contributions by people in covered employment and self-employment at that time. These benefits are intended to replace part of the earnings the family has lost.

Part of the contributions made goes for hospital insurance under Medicare so workers and their dependents will have help in paying their hospital bills when they become eligible for Medicare. The medical insurance part of Medicare is financed by premiums paid by the people who have enrolled for this protection and amounts contributed by the Federal Government.

Contribution rates

If you're employed, you and your employer each pay an equal share of social security contributions. If you're self-employed, you pay contributions for retirement, survivors, and disability insurance at a rate about equal to 1½ times the employee rate. The hospital insurance contribution rate is the same for the employer, the employee, and the self-employed person.

As long as you have earnings that are covered by the law, you continue to pay contributions regardless of your age and even if you are receiving social security benefits.

For 1978 employees and employers each pay 6.05 percent on the employee's wages. The total rate for self employed people is 8.10 percent. The rates include 1.0 percent for hospital insurance under Medicare. The maximum amount of earnings that can count for social security purposes and on which you pay social security contributions is $17,700 in 1978.

Future rate increases are scheduled. In 1979 and 1980 the employee and employer will each pay 6.13 percent. The rate for each will go to 6.65 percent in 1981; to 6.70 percent in 1982; to 7.05 percent in 1985; to 7.15 percent in 1986; and to 7.65 percent in 1990.

The self-employed rate will go to 9.30 percent in 1981; to 9.35 percent in 1982; to 9.90 percent in 1985; to 10 percent in 1986; and to 10.75 percent in 1990.

The hospital insurance part of the rate will increase to 1.05 percent in 1979; 1.30 percent in 1981; 1.35 percent in 1985; and to 1.45 percent in 1986.

Funds not required for current benefit payments and expenses are invested in interest-bearing U.S. Government securities.

The Government's share of the cost for supplemental medical insurance and certain other social security costs comes from general revenues of the U.S. Treasury, not from social security contributions.

How contributions are paid

If you're employed, your contribution is deducted from your wages each payday. Your employer matches your payment and sends the combined amount to the Internal Revenue Service.

If you're self-employed and your net earnings are $400 or more in a year, you must report your earnings and pay your self-employment contribution each year when you file your individual income tax return. This is true even if you owe no income tax.

Your wages and self-employment income are entered on your social security record throughout your working years. This record of your earnings will be used to determine your eligibility for benefits and the amount of cash benefits you and your dependents will receive.

Future increases are automatic

The maximum amount of annual earnings that counts for social security will rise to $22,900 for 1979; to $25,900 for 1980; and to $29,700 for 1981. After 1981, the maximum will rise automatically in future years as earnings levels rise as it did before 1979. This will mean higher benefits later because a greater portion of a worker's earnings will be counted towards social security. Every year the increase in average covered wages will be determined, and if wage levels have increased since the base was set last, the base will be raised—but only if there is an automatic benefit increase the same year.

Excess earnings, contributions

When you work for more than one employer in a year and pay social security contributions on wages over $17,700 for 1978, you may claim a refund of the excess contributions on your income tax return for that year. If you work for only one employer who deducts too much in contributions, you should apply to the employer for a refund. A refund is made only when more than the required amount of contributions has been paid. Questions about contributions or refunds should be directed to the Internal Revenue Service.

Earnings over the maximum may appear on your social security earnings record, but they cannot be used to figure your benefit rate.

Serving you

Social security offices
The Social Security Administration has over 1,300 offices conveniently located throughout the country; representatives of these offices also make regular stops in neighboring communities.

When you should contact us
Before you or your family can get any social security checks, you must apply for them.

Get in touch with any social security office if:

- You're unable to work because of an illness or injury that is expected to last a year or longer.
- You're 62 or older and plan to retire.
- You're within 2 or 3 months of 65 even if you don't plan to retire.
- Someone in your family dies.

It's important for you to call, visit, or write any social security office before you reach 65, not only about retirement checks, but also about Medicare, which is available whether or not you retire.

A long delay in applying for monthly benefits can cause loss of some benefits since back payments can be made for no more than 12 months.

Your social security card
You need a social security number if your work is covered by social security or if you have certain kinds of taxable income. Your social security number is also used for Federal income tax purposes.

People should apply for their card several weeks before they need it.

Show your card to your employer when you start work. Upon request, show it to anyone who pays you income that has to be reported. You can apply for a social security card at any social security office.

The number on your card is used to keep a record of your earnings. You need just one social security number during your lifetime. Notify any social security office if you ever get more than one number.

If you lose your social security card, contact a social security office to get a duplicate of the card you lost. You should also contact social security if you change your name to get a new card showing your new name.

Your employer is required to give you a statement of the social security contributions deducted from your pay. This is done at the end of each year or when you stop working for that employer. These records, such as Form W-2, will help you check on your social security record.

It's a good idea to check your record every 3 years or so to make sure that earnings are being correctly reported to your record. You can get a free postcard form at any social security office for this purpose.

When you apply for social security benefits

When you apply for social security benefits, you should have with you:

- Your own social security card or a record of your number (if your claim is on another person's record, you'll need that person's card or a record of the number).
- Proof of your age; a birth certificate or a baptismal certificate made at or shortly after birth if you have one.
- Your marriage certificate if you're applying for wife's or widow's benefits.
- Your children's birth certificates if you're applying for them.
- Your Form W-2 for the previous year; a copy of your last Federal income tax return if you're self-employed.

If you're applying for benefits as a dependent parent of a deceased son or daughter, or as a dependent grandchild, you'll need proof that you were being supported by the worker. Generally, this proof must be supplied within 2 years after the worker dies or applies for cash benefits. An application for the lump-sum death payment must usually be made within 2 years after the worker's death.

Don't delay applying because you don't have all these proofs. The people in the social security office will tell you about other proofs that can be used when you apply.

Right of appeal

If you feel that a decision made on your claim is not correct, you may ask the Social Security Administration to reconsider it. If, after this reconsideration, you still disagree with the decision, you may ask for a hearing by an administrative law judge of the Bureau of Hearings and Appeals. And, if you're not satisfied with the hearing decision, you may request a review by the Appeals Council. If you're still not satisfied, you may take your case to the Federal courts.

The Social Security Administration makes no charge for any of the appeals before the administration. You may, however, choose to be represented by a person of your own choice, and he or she may charge you a fee. The amount of such a fee is limited and must be approved by the Social Security Administration.

Someone in any social security office will explain how you may appeal and will help you get your claim reconsidered or request a hearing.

Supplemental security income
In addition to the benefits mentioned in this booklet, there is a Federal program called supplemental security income (SSI). It assures a minimum monthly income to needy people with limited income and resources who are 65 or older or blind or disabled. Eligibility is based on income and assets. Payments of up to $189.40 a month ($284.10 for a couple), effective July 1978, can be made. Although the program is administered by the Social Security Administration, it is financed from general revenues, not from social security contributions.

For more information
If you would like more information about social security monthly benefits, Medicare, or SSI, contact any social security office. The people there will be glad to help you. To find the address of the nearest office, look in the phone directory under Social Security Administration, or ask at your post office.

U.S. Department of
Health, Education, and Welfare
Social Security Administration
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Social security credits—how you earn them

Social security credits—how you earn them

Almost all employment and self-employment in the United States is covered by social security. (If you're not sure your work is covered, ask at any social security office.)

But, you need credit for a certain amount of work under social security before you or your family can get social security payments.

This leaflet tells you how you earn social security credits—called "quarters of coverage"—and how many credits you need to get benefits.

If you work as an employee

Starting with 1978, you earn one quarter of coverage for each $250 of your covered annual earnings, up to a total of 4 quarters for each year you have covered earnings of $1,000 or more. *No more than 4 quarters of coverage can be earned for any one year.*

The amount of covered earnings needed for a quarter of coverage will increase automatically each year to keep pace with increases in average wage levels.

Any quarters of coverage you earned before 1978 will remain on your social security record and will count in determining your eligibility for benefits.

If you work as a domestic employee in a private household, your wages are covered by social security if you are paid $50 or more in cash in a 3-month calendar quarter by one employer. You get one quarter of coverage for each $250 of your covered wages, up to a maximum of 4 quarters for a year.

If someone hires you to do farm work, including domestic work in a farm home, your wages are covered by social security if:

- You receive at least $150 in *cash* pay from that employer during a year, or
- You are employed on 20 or more days during a year for cash pay figured on a time basis (by the hour, day, week, etc.), regardless of the amount of pay.

You will get one quarter of coverage for each $250 of your covered earnings, up to a maximum of 4 quarters for a year.

If you work for a member of your family, your work may not count for social security. Work done by a child under 21 for a parent, by a husband for his wife, or by a wife for her husband is not covered by the social security law. However, work done by a parent for a son or daughter in connection with the son's or daughter's business, is covered. Household work for a son or daughter *may* be covered in certain situations. Check with any social security office for further details.

If you work for yourself

Starting with 1978, you earn one quarter of coverage for each $250 of your covered self-employment income. Your income is covered by social security if you have net profit of $400 or more in a year. Your self-employment income also may count for social security even if your actual net earnings are less than $400. You can get more information about this at any social security office.

Quarters of coverage you earned before 1978 remain on your social security record and will count in determining your eligibility for benefits.

HEW Publication No. (SSA) 78-10012

How many credits you need

The amount of social security credit you need depends on your age. If you have enough credit to be entitled to benefits, payments also can be made to your dependents. This includes unmarried children who are under 18, children who became disabled before 22 and continue to be disabled, or children who are 18-22 and full-time students.

Credits earned at any time after 1936 can be counted.

Retirement benefits and Medicare—The table on page 5 shows the number of quarters of coverage you will need to get retirement benefits.

If you reached 65 before 1971 and are not already getting retirement benefits, contact any social security office to find out how many quarters of coverage you need.

The table also shows the number of credits you need to get hospital insurance under Medicare if you are not entitled to monthly benefits.

Nearly everyone who reached 65 before 1968 and everyone 65 or older who is entitled to monthly social security or railroad retirement benefits gets Medicare hospital insurance, even if he or she has never worked under social security.

(Note: No earnings credits are needed for the medical insurance part of Medicare. To get medical insurance protection, you must enroll for it and pay a monthly premium.)

Social security credits—how you earn them

Almost all employment and self-employment in the United States is covered by social security. (If you're not sure your work is covered, ask at any social security office.)

But, you need credit for a certain amount of work under social security before you or your family can get social security payments.

This leaflet tells you how you earn social security credits—called "quarters of coverage"—and how many credits you need to get benefits.

If you work as an employee

Starting with 1978, you earn one quarter of coverage for each $250 of your covered annual earnings, up to a total of 4 quarters for each year you have covered earnings of $1,000 or more. *No more than 4 quarters of coverage can be earned for any one year.*

The amount of covered earnings needed for a quarter of coverage will increase automatically each year to keep pace with increases in average wage levels.

Any quarters of coverage you earned before 1978 will remain on your social security record and will count in determining your eligibility for benefits.

If you work as a domestic employee in a private household, your wages are covered by social security if you are paid $50 or more in cash in a 3-month calendar quarter by one employer. You get one quarter of coverage for each $250 of your covered wages, up to a maximum of 4 quarters for a year.

HEW Publication No. (SSA) 78-10072

If someone hires you to do farm work, including domestic work in a farm home, your wages are covered by social security if:

- You receive at least $150 in *cash* pay from that employer during a year; or
- You are employed on 20 or more days during a year for cash pay figured on a time basis (by the hour, day, week, etc.), regardless of the amount of pay.

You will get one quarter of coverage for each $250 of your covered earnings, up to a maximum of 4 quarters for a year.

If you work for a member of your family, your work may not count for social security. Work done by a child under 21 for a parent, by a husband for his wife, or by a wife for her husband is not covered by the social security law. However, work done by a parent for a son or daughter, in connection with the son's or daughter's business, is covered. Household work for a son or daughter *may* be covered in certain situations. Check with any social security office for further details.

If you work for yourself

Starting with 1978, you earn one quarter of coverage for each $250 of your covered self-employment income. Your income is covered by social security if you have net profit of $400 or more in a year. Your self-employment income also may count for social security even if your actual net earnings are less than $400. You can get more information about this at any social security office.

Quarters of coverage you earned before 1978 remain on your social security record and will count in determining your eligibility for benefits.

How many credits you need

The amount of social security credit you need depends on your age. If you have enough credit to be entitled to benefits, payments also can be made to your dependents. This includes unmarried children who are under 18, children who became disabled before 22 and continue to be disabled, or children who are 18-22 and full-time students.

Credits earned at any time after 1936 can be counted.

Retirement benefits and Medicare—The table on page 5 shows the number of quarters of coverage you will need to get retirement benefits.

If you reached 65 before 1971 and are not already getting retirement benefits, contact any social security office to find out how many quarters of coverage you need.

The table also shows the number of credits you need to get hospital insurance under Medicare if you are not entitled to monthly benefits.

Nearly everyone who reached 65 before 1968 and everyone 65 or older who is entitled to monthly social security or railroad retirement benefits gets Medicare hospital insurance, even if he or she has never worked under social security.

(*Note:* No earnings credits are needed for the medical insurance part of Medicare. To get medical insurance protection, you must enroll for it and pay a monthly premium.)

Year you are 65	Quarters of coverage needed for retirement benefits		Quarters of coverage needed for hospital insurance	
	Men	Women	Men	Women
1971	20	17	12	12
1972	21	18	15	15
1973	22	19	18	18
1974	23	20	21	20
1975	24	21	24	21
1976	24	22	24	22
1977	24	23	24	23
1978	24	24	24	24
1982	28	28	28	28
1986	32	32	32	32
1990	36	36	36	36
1994 or later	40	40	40	40

Survivors benefits—In some cases, survivors benefits can be paid if a worker has fewer quarters of coverage than those required for retirement benefits. One quarter of coverage is required for each year:

- After 1950 and up to the year of death, if you were born in 1929 or before; or
- After the year you reached 21 and up to the year of death, if you were born in 1930 or later.

Regardless of when you were born, monthly payments can be made to your surviving dependent children if you worked under social security for 1½ years (6 quarters) in the 3 years before your death.

Your widow or widower also may be eligible for benefits if she or he is caring for children under 18 or disabled who are entitled to benefits based on your earnings.

Disability benefits—The number of credits needed depends on your age when you become disabled. If at the time you become disabled you are:

- Under 24—You need credit for 1½ years of work (6 quarters) out of the 3-year period ending when your disability begins.
- 24 through 30—You need credit for having worked under social security for half the period from the time you reach 21 until you become disabled.
- 31 or older—You need credit for at least 5 years of work out of the 10 years ending when you become disabled (in other words, 20 quarters of coverage out of the previous 40 quarters). You also need to be fully insured—that is, you need enough work to be eligible for retirement benefits as if you had reached retirement age at the time you become disabled.

A person disabled by blindness does not have to meet the requirement for recent work under social security. But a blind person does need credit for ¼ year of work for each year since 1950 or, if later, the year he or she reached 21, up to the year he or she became blind. A minimum of 1½ years of credit is needed.

For more information

If you have any questions about work credits or any other social security matter, get in touch with a social security office. The people there will be glad to help you.

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Your 1979 social security deduction

Your 1979 social security deduction

The social security (FICA) deduction from your paycheck is higher this year.

The social security tax rate is 6.13 percent in 1979, compared to 6.05 percent in 1978. In addition, the "wage base"—the maximum amount of earnings on which social security taxes are paid—rises from $17,700 last year to $22,900 in 1979.

These increases stem from legislation enacted in 1977 to insure the financial stability of the social security system into the next century.

Workers paying into the social security system are building lifetime protection for themselves and their families. In addition to monthly benefits in retirement, social security also provides disability and survivors insurance that protects you and your dependents throughout your working years. Social security deductions also pay for Medicare hospital insurance for people 65 and older and for those who have been getting disability checks for 2 years or more.

HEW Publication No. (SSA) 79-10008

Higher social security deductions also pay for "inflation insurance." The law provides for automatic increases in social security benefits to reflect rises in the cost of living.

Impact of changes

People earning less than $17,700 a year won't notice as big a change in their social security deductions as workers in higher income brackets.

If your earnings are $10,000 a year, for example, you will pay $8 more into social security in 1979 than you did last year. That's about 15 cents more a week.

If your earnings are $17,700, you will pay $15 more into social security this year—an additional 29 cents a week.

On earnings of $22,900 or more, the social security tax in 1979 will increase by $333—or $6.40 a week. This larger increase reflects the higher taxable wage base in 1979. But those workers in higher income brackets also can count on higher benefits when they are eligible for social security. Their monthly checks will be higher because benefit amounts are based on the amount of earnings on which social security taxes are paid.

Employers also will pay more into social security in 1979 since they match, dollar for dollar, the social security taxes paid by employees.

In the years ahead

The social security law also provides for additional increases in the tax rate and the wage base in future years in order to keep the social security system on a sound financial footing.

The table below shows the tax rate for 1980 through 1990, and the wage base for 1980 and 1981. Starting with 1982, the earnings base will rise automatically according to increases in average wage levels.

In	Employers and employees each will pay	On earnings up to
1980	6.13%	$25,900
1981	6.65%	$29,700
1982	6.70%	*
1983	6.70%	*
1984	6.70%	*
1985	7.05%	*
1986	7.15%	*
1987	7.15%	*
1988	7.15%	*
1989	7.15%	*
1990	7.65%	*

*Wage base will increase according to average wage level increases.

For more information

For more information about social security, call any social security office. The number is listed in your local telephone directory under "Social Security Administration."

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Health, Education, and Welfare
Social Security Administration
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January 1979

Your stake in social security as a public employee

Your stake in social security as a public employee

Over 34 million Americans—nearly one in seven—get a social security check each month. And 25.5 million people have health insurance coverage under Medicare to help them pay costly hospital and doctor bills. Social security's retirement, survivors, disability, and health insurance protection is a benefit "package" unavailable elsewhere at a comparable cost.

Today, close to three-fourths of all State and local government employees have social security coverage. More than half are covered both by social security and by an employer retirement system. Unlike most of the 100 million Americans who work and have compulsory social security coverage during a year, State and local employees are covered through voluntary State agreements with the Federal Government. This means the State has the unique option of asking for cancellation of coverage for a group wishing to do so which has been under the program at least 5 years. Less than 1 percent of all State and local employees had their coverage cancelled, however, and the overall number of public employees under social security has steadily increased.

HEW Publication No. (SSA) 78-10065

If you and your fellow employees are considering dropping social security in favor of another pension plan, you should think about it very carefully. It is a good idea to get the opinion of an independent expert, such as an actuary, before making a decision. Such an expert may be available in the State or local government. Once a group drops out, it can't get coverage again. Before your group makes a decision, ask yourself these questions:

Will another plan provide monthly benefits to my family if I die or become disabled before retirement?

Yes ☐ No ☐

When comparing social security with other plans, some people consider only retirement benefits. But to make a realistic comparison, you must take into account that social security is more than a retirement system. Your contributions also provide protection for you and your family if you should become disabled for a year or more or if you should die.

About 7.6 million survivors of deceased workers are getting nearly $1.5 billion a month from social security. They include children and their widowed mothers and fathers, many older widows, widowers, divorced wives, and dependent parents. In addition, over 2.8 million disabled workers under 65 and about 2 million dependents of disabled workers also are getting monthly checks. Payments to the family of a young worker who dies or becomes disabled can, in many cases, amount to more than $100,000 over a period of years.

Out of each social security contribution dollar, about 19 cents goes for survivors benefits, 13 cents for disability benefits, 52 cents for retirement benefits, and 16 cents for Medicare hospital insurance. These amounts include the relatively small cost of administering each program. Overall, approximately 2 cents of each contribution dollar is used for administrative expenses of these four programs.

Will another plan give me health benefits at 65 or earlier?

Yes ☐ No ☐

Medicare helps most people 65 and over pay costly hospital and doctor bills. People under 65 who have been entitled to social security disability checks at least 2 consecutive years also have Medicare coverage. In addition, if an insured worker under 65 or a member of the family has permanent kidney failure, Medicare will help pay the bill.

A person 65 or over can get Medicare hospital insurance without paying a premium if he or she has either worked long enough under social security or is eligible for a social security or railroad retirement check as a worker, dependent, or survivor. Otherwise, the person must pay a monthly premium ($63 effective July 1978) to get this protection.

If your group cancels its social security coverage, many younger workers may not be insured for hospital insurance later on and will have to pay a premium if they want it. By then, the cost will probably be much higher than $63 a month because of rapidly rising medical costs.

Will another pension plan replace more of my earnings than social security?

Yes ☐ No ☐

If a married worker has always earned the average amount that counts for social security, the monthly family benefit for the worker and spouse (both 65) would amount to over 60 percent of the worker's final gross monthly wages. The replacement rate is even higher for workers with lower earnings.

Will another plan protect my benefits against inflation?

Yes ☐ No ☐

Social security benefits increase automatically as the cost of living goes up. Each time the Consumer Price Index rises 3 percent or more, benefits will increase by the same percentage the following year. Benefits were increased automatically in 1978 and in each of the three preceding years.

Another provision in the law guarantees that as wages rise in the future, higher earnings will count for social security. Since the amount of your benefits depends on your covered earnings over your working lifetime, it is important that this taxable base ($17,700 for 1978) be kept up to date.

If your earnings are now above the base, you will pay more contributions as the base increases. But you will get more protection in the form of higher benefits later. And you will be assured that your retirement check will be more closely related to the amount of your earnings when you retire, not your earnings now.

With social security taxes rising each year, isn't the program becoming too expensive for most workers?

Yes ☐ No ☐

It's true that most working people will pay more for social security protection in coming years. It was necessary to increase contributions because of rising inflation, high unemployment, and other factors. Many employee benefit plans, however, also have been encountering financial problems due to increased costs.

An important point to remember is that the majority of American workers who earn less than the taxable wage base will pay only a little more into social security than they would have under the old law. This is because the taxable *rate* (6.05 percent on wages in 1978, and 6.13 percent in 1979 and 1980) does not rise as fast as the base. As an example, a person who earns $15,000 in both 1979 and 1980 will pay $919.50 into social security each year. This is only $12 more than he or she would have paid under previous law. An individual who earns $10,000 both years would pay only $8 extra.

Would another plan provide greater financial stability than social security?

Yes ☐ No ☐

The social security system is not like private pension plans, which must fund benefits in advance because there is no way of assuring that additional people will be enrolled in future years. Because social security coverage is compulsory for most workers, the system is assured of a continuing income. Social security actually operates as an income transfer program, with current income used to

pay current benefits. Reserves are accumulated to serve as a buffer in times of recession, when income to social security drops because of higher unemployment. Long range demographic and economic projections are updated annually so adjustments can be made to maintain the fiscal soundness of the system.

If I'm now insured for monthly social security retirement benefits and Medicare, shouldn't I drop my coverage?
Yes ☐ No ☐
It's true that a State or local employee who has worked long enough under social security can still get retirement benefits at 62 or older and Medicare at 65 if the group cancels coverage now. But the retirement check *amount* will be less than it would have been because the amount is based on covered earnings over a working lifetime. Most workers have their highest earnings in the last years of employment.

Take John M., for example, who was 50 in December 1977, when his State coverage group's termination of social security became effective. At that time, John had more than 10 years of coverage so he'll be permanently insured for retirement and survivors benefits and Medicare.

John has maximum covered earnings each year through 1977, but none from 1978 up to 1993, when he'll retire at 65. So his social security check will be about $808 a month (under 1977 estimates). If he had kept his social security coverage, he would have gotten about $1,122 a month in social security benefits.

Also, he loses disability protection after 5 years without coverage, as do other members of his coverage group. To be eligible for disability benefits, people generally need some *recent* work under social security.

My social security protection continues if I change jobs. Would it under a private plan?
Yes ☐ No ☐
Under social security, earnings with different employers and in different types of covered employment are all added to your permanent social security record. Credit for all covered employment and self-employment is combined when you or your family applies for benefits.

Under some private plans, employees may not be eligible for the full range of benefits until they have been under the plan many years. If they quit or change jobs before retirement, they may lose some or all of their rights to benefits under the plan.

Does another plan adequately protect new employees?
Yes ☐ No ☐
While many older State and local government employees have worked long enough under social security to be eligible for some social security benefits later on, many younger and new employees will not have had this chance. They and their families may be losing valuable benefit protection for which an alternate plan may not adequately compensate. You should consider the consequences to all present and future members of the group if coverage is terminated.

Social security benefits are tax free. Are pensions from another plan?
Yes ☐ No ☐
There's no Federal income tax to pay on social security checks. But private pension benefits you receive in excess of the amount you contributed to the pension fund are counted in determining Federal income tax liabilities.

Does another plan provide sufficient benefit protection for women workers and their dependents?
Yes ☐ No ☐
Under social security, a woman worker has the same benefit rights as a man. For example, her children could get benefits on her social security record if she dies or becomes disabled. Her husband may be able to get survivors payments if he has young children in his care. He also may be eligible for widowers benefits at age 60 (as early as 50 if disabled) or husband's benefits at 62.

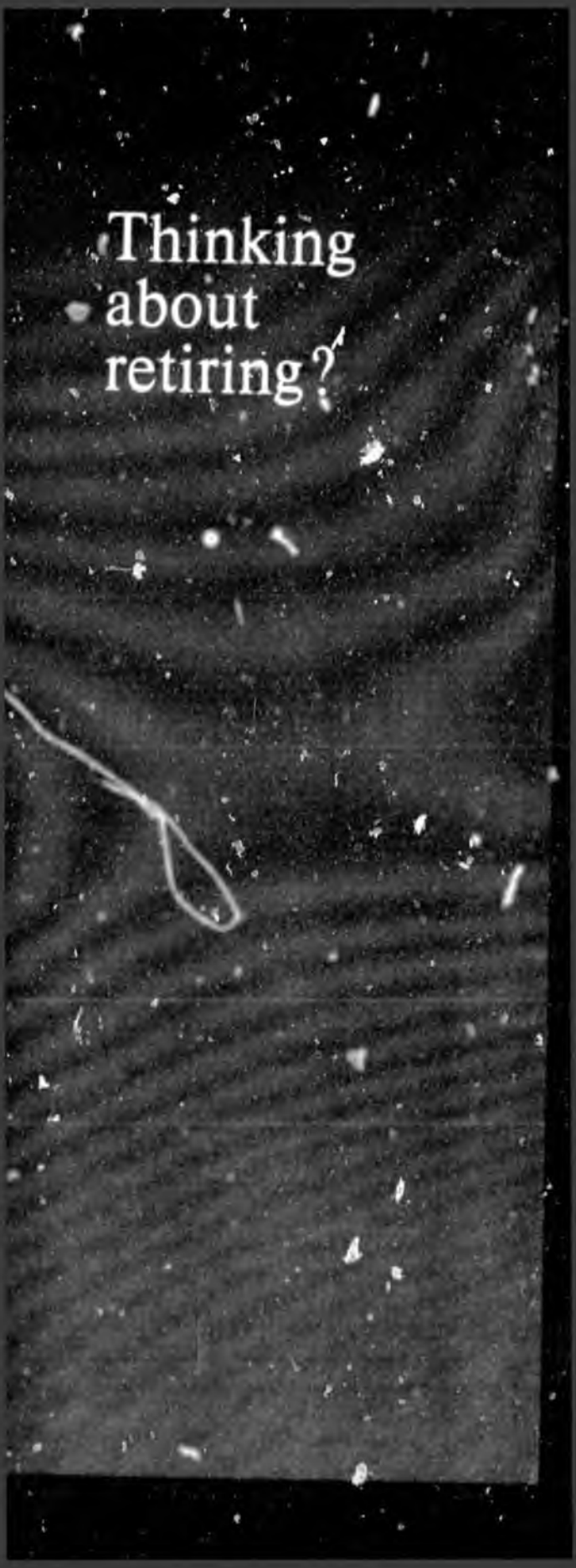
If both the woman and her husband work and become insured, both can receive social security retirement checks on their own earnings records. A spouse's benefit also *may* be payable to one of them but only to the extent that this benefit exceeds the amount of the individual's own retirement check. Take Helen and Bill, for example, both over 65. If Helen receives $400 a month from social security but Bill's retirement check is only $180, then he is eligible for $20 a month on Helen's record because his amount is *less than one-half* of hers. If Helen receives $400 but Bill is not insured, then he could receive the full $200 spouse's benefit on her record.

(*NOTE:* If a spouse receives a social security check as a dependent or survivor *and* also gets a pension based on his or her work in public employment *not* covered by social security, the social security check may be reduced by the amount of the pension. Since the offset does not apply if the public employment *is* covered by social security, this is another good reason for obtaining or retaining coverage.)

For more information
If you answered "no" to most of the above questions or if you weren't sure, you should seriously consider keeping your social security coverage. Each dollar you contribute buys valuable protection for you and your family.

If you have questions about your social security *coverage*, contact your State social security administrator. If you want more information about social security *benefits* or Medicare, get in touch with the nearest social security office. The people there will be glad to help you.

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Thinking
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Thinking about retiring?

If you have started thinking about retiring, chances are some of your questions have to do with social security.

This leaflet answers many of the questions we have received about retirement and social security. We hope it helps make your retirement planning a little easier.

Before you can get retirement checks, you must have credit for a certain amount of work covered by social security. The exact amount depends on your age. You earn credit in ¼ year units called quarters of coverage. The quarters need not be consecutive. The following table shows in years how much credit is needed for retirement benefits.

Work credit for retirement benefits

If you reach 62 in	Years you need
1975	6
1976	6¼
1977	6½
1978	6¾
1979	7
1981	7½
1983	8
1987	9
1991 or later	10

Checks for your family

When you retire, checks can be paid to certain members of your family. Monthly checks can go to your unmarried children under 18, or 22 if full-time students; or 18 or over who were severely disabled before 22 and who continue to be disabled; your wife or husband 62 or over; and your wife under 62 if she's caring for your child under 18 (or disabled) who's getting checks on your record.

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When should I retire?

It's difficult to give a single answer to this question because each person's situation is different. Social security retirement benefits can be paid as early as age 62. But, if your benefits start before 65, the amount of your checks will be reduced to take account of the longer period you will be getting them.

The amount of the reduction depends on the number of months you receive benefits before you become 65. The reduction amounts to 20 percent at 62; 13 1/3 percent at 63; and 6 2/3 percent at 64.

There may be other factors involved in your decision about retiring. A company pension for instance, would influence your decision. So would your ability to continue working and your own financial situation, among others. The important thing is that it is your choice.

We can't answer this question for you; it's up to you.

There is one thing we can say for sure. If you haven't applied before, be sure to apply 2 or 3 months before you reach 65 so that you will have full Medicare protection the month you reach 65. If you wait until the month you are 65 or later, your Medicare medical insurance coverage will be delayed at least one month.

This is important because many commercial and non-profit health insurance plans adjust their coverage when a person reaches 65 to take account of Medicare coverage. You may want to get in touch with your insurance agent or the office where you pay health insurance premiums to discuss your health insurance needs in relation to Medicare

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Once you decide when you will retire, remember to apply for your social security retirement checks 2 or 3 months before you plan to stop working. This way, your benefits will be ready to start when your income from work stops.

There is another factor to consider. If you work past 65, your monthly benefit will be increased by 1 percent for each year (1/12 percent for each month) that you don't get a benefit because of your work. For people who reach 65 in 1982 or later, the credit will be 3 percent for each year (¼ percent for each month).

How can I apply?

There are two ways to apply and the way you choose is strictly up to you. You can apply in person or you can do it over the telephone. Many people find it more convenient to use the phone so they don't have to travel to the office.

Once you've been interviewed by phone, the rest can be done by mail.

What documents do I need?

First, you need your social security card, or a record of the number.

Next, you need proof of your date of birth. We prefer that you submit an official record of your birth or baptism recorded early in life. If this is not possible, submit the best evidence you have available. The best is often the oldest. If you're not sure what is best, just call any social security office. The people there

can tell you what kind of documents are acceptable.

Other records that might be acceptable include school, church, State or Federal census, insurance policies, marriage, passports, employment, military service, children's birth certificates, union, immigration, and naturalization. This is not an exclusive list and there are other records which may prove acceptable.

We would like you to bring in your latest W-2 (Wage and Tax Statement) form, or, if you're self-employed, a copy of your latest self-employment tax return since the most recent reports may not yet be in our records. We need these so that you'll get the highest possible benefit as early as possible.

If your husband or wife is also going to apply for benefits, he or she will need pretty much the same documents. It would also be a good idea to have your marriage certificate available, although this is not always needed. If either of you were married before, we will need information about the duration of the previous marriages.

If you have eligible unmarried children, you should bring their birth certificates along, together with a record of the social security numbers if available.

In some situations, other documents may be needed, but those listed here will be enough in most cases.

How much will I get?
We really cannot answer this question until we check your social security record, which shows all of your earnings covered by social security.

When you apply, we will figure your exact benefit rate. Your rate will depend on the amount of earnings reported for you. The higher your earnings over the years, the closer your benefit rate will be to the larger figure mentioned below.

But right now, benefits payable to a retired worker who reaches 65 this year range from $121.80 to $489.70 a month. The range for a worker who reaches 62 this year is from $97.50 to $377.70 a month.

If you have eligible dependents, and you are 65, the range for a family is from $182.80 to $856.60 a month. If you're 62 this year, the range is from $158.50 to $731.70 a month.

Once you are on the social security benefit rolls, your checks will increase automatically to keep pace with increases in the cost of living. Each year, living costs are compared to those of the previous year. If the cost of living has increased by 3 percent or more from one year to the next, benefit rates will be increased by the same percentage the following July.

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If you apply 2 or 3 months before your retirement month, your checks should start the month you retire. If you apply closer to that month or after, your checks will start 6 to 8 weeks after you apply and we have all the required supporting evidence.

What if I return to work?
Anyone can work after they become eligible for social security checks. But, the real question being asked is: How much can I earn and still get checks? The answer to this question depends on your age.

If you are 65 or older—If you are 65 or older in 1978, you can earn $4,000 this year and receive all benefits due you for the year. This annual exempt amount will increase to $4,500 for 1979; $5,000 for 1980; $5,500 for 1981; and $6,000 for 1982. After that, it will increase automatically to keep pace with increases in average covered wages.

If you are under 65—If you are under 65 in 1978, you can earn $3,240 this year and receive all benefits due you for the year. This annual exempt amount will increase automatically in future years to keep pace with increases in annual covered wages.

If your earnings exceed the annual exempt amount, $1 in benefits will be withheld for each $2 of earnings above the exempt amount.

There is a special rule that applies to people only in the year they retire. Under this rule, even though earnings exceed the annual exempt amount, a benefit can be paid for any month the person's wages do not exceed the monthly limit and the person does not perform substantial services in self-employment. The 1978 monthly limit is $334 for people 65 or over and $270 for people under 65. (For information about substantial services, ask for a copy of the leaflet *If you work after you retire* at any social security office.)

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Higher social security payments

Higher social security payments

Social security monthly benefits will increase 6.5 percent starting with the check due in early July. This is the fourth automatic cost-of-living increase. The table below gives examples of some of the higher payments.

The average monthly check for a retired worker without dependents will rise from $239 to $254 a month and for a couple from $407 to $433. For a disabled worker, the average check increases from $268 to $285. People who get benefits will receive the increase automatically. They don't have to take any action themselves.

Examples of monthly social security payments (effective June 1978)

	Average yearly earnings after 1950 covered by social security						
Benefits can be paid to a:	**$923 or less**	**$3,000**	**$4,000**	**$5,000**	**$6,000**	**$8,000**	**$10,000***
►Retired worker at 65	121.80	251.80	296.20	343.50	388.20	482.60	534.70
►Worker under 65 and disabled	121.80	251.80	296.20	343.50	388.20	482.60	534.70
►Retired worker at 62	97.50	201.50	237.00	274.80	310.60	386.10	427.80
►Wife or husband at 65	60.90	125.90	148.10	171.80	194.10	241.30	267.40
►Wife or husband at 62	45.70	94.50	111.10	128.90	145.60	181.00	200.60
►Wife under 65 with one child in her care	61.00	133.20	210.00	290.40	324.00	362.00	401.00
►Widow or widower at 65 if worker never received reduced benefits	121.80	251.80	296.20	343.50	388.20	482.60	534.70
►Widow or widower at 60 if sole survivor	87.10	180.10	211.80	245.70	277.60	345.10	382.40
►Widow or widower at 50 and disabled if sole survivor	61.00	126.00	148.20	171.90	194.10	241.40	267.50
►Widow or widower with one child in care	182.80	377.80	444.40	515.40	582.40	724.00	802.20
Maximum family payment	182.70	384.90	506.20	633.80	712.10	844.50	935.70

* Maximum earnings covered by social security were lower in past years and must be included in figuring your average earnings. This average determines your payment amount. Because of this, amounts shown in the last column generally won't be payable until future years. The maximum retirement benefit generally payable to a worker who is 65 in 1978 is $489.70.

HEW Publication No. (SSA) 78-10124

Higher SSI payments

Supplemental security income payments (SSI) will increase by 6.5 percent beginning with the check due in July. This is the fourth automatic cost-of-living increase.

The new SSI payment amounts will be $189.40 for an individual and $284.10 for a couple.

Many States make payments to supplement these Federal SSI amounts. The people at your social security office can tell you if your State makes these additional payments.

U.S. Department of
Health, Education, and Welfare
Social Security Administration
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May 1978
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Your social security rights and responsibilities

Disability benefits

Your social security rights and responsibiliti

This booklet tells about your social security checks. It explains how you—or someone for you—should notify the Socia Security Administration when certain things happen that may affect your social security checks.

This booklet is only for people receiving social security benefits because they are disabled:

- *Disabled workers*, who receive benefits based on their own earnings.
- *Disabled widows (including surviving divorced wives) and disabled widowers*, who receive benefits on the earnings of their deceased husband or wife.
- *Adults who became disabled in childhood (before reaching 22)*, who receive benefits based on the earnings of their father or mother.

The following list shows when you, or someone acting for you, should notify us. Take a few minutes to read over the list. Then, if one or more of the items may affect you, turn to the page indicated for more detailed information. Keep this booklet in a handy place and refer to it from time to time so that you don't overlook anything.

HEW Publication No. (SSA) 78-10153

1 You change your mailing address (Page 11).
2 Your condition significantly improves (Page 12).
3 You go to work (Page 12).
4 You go outside the United States for 30 days or more (or into certain countries) (Page 13).
5 You apply for or there is a change in the amount of your workers' compensation benefits (disabled workers only) (Page 14).
6 You marry (except disabled men workers) (Page 14).
7 A child in your care is adopted (Page 15).

Someone should report for you if:

8 You have become unable to manage your own funds (Page 16).
9 You die (Page 16).

If you want more information than this booklet gives on a particular point or need help in making a report, the people at any social security office will be glad to help you.

Supplemental security income

Some people with limited income and resources qualify for both social security disability benefits and supplemental security income (SSI) payments. If you are one of them you should also read the booklet, *What you have to know about SSI* (formerly *Important information about your supplemental security income payments).* If you don't have a copy of the booklet, ask any social security office to give you one.

If you are not now receiving SSI payments and think you may be eligible (or would like more information), contact any social security office. The people there will be glad to tell you more about the program.

Your social security checks

Social security benefits are paid by U.S. Government checks. Your Certificate of Award explains when your checks will begin and in what amount. Because the law requires a 5-month waiting period, payments to a disabled worker and family or to a disabled widow or widower generally cannot begin until the 6th full month of disability.

If you became disabled more than 6 months before you applied, back benefits may be payable, but not before the 6th full month of disability. Back payments may be made for up to 12 months before you applied.

The first check you get may include payment for more than one month. From then on, checks for a particular month are issued early in the following month. For example, a check dated May 3 would normally be your benefit for the month of April; a check dated June 3 would be your benefit for the month of May; etc.

Your checks should arrive in the mail about the same day each month. Sometimes although not often, something may happen in the mail delivery or elsewhere to cause a delay. If your check isn't delivered on the usual day, look for it to arrive by the 6th of the month. If it still hasn't come by the 6th, get in touch with any social security office. The people there will help you find out what happened and see that you get any check due you as soon as possible.

Cashing checks

It's a good idea to wait until you are at the bank or with the person who will cash your check before endorsing it. If you endorse a check and *then* lose it, the person who finds it could cash it.

Direct deposit of checks

You can have your checks deposited in a checking or savings account in a bank, savings bank, savings and loan association or similar institution, or Federal or State chartered credit union. If you don't have an account now, you can open one with a financial organization.

Direct deposit of checks has several advantages. For example:

- You don't have to stand in line to cash or deposit your check.
- If you are away from home, your money is available in your account instead of sitting in your mailbox.
- You don't have any problem cashing your check because it goes directly into your account.
- You don't have to worry about losing your check or having it stolen.

If you want to arrange for direct deposit of your checks, contact the financial organization of your choice and ask for a direct deposit form SF-1199. Completion of the form only authorizes deposits into your account. It does not authorize withdrawals from your account.

If you want more information about direct deposit, get in touch with your financial organization or contact any social security office.

The amount of your check

In future years, the amount of your check will increase automatically to keep pace with changes in the cost of living. Whenever the consumer price index goes up 3 percent or more from one year to the next, the increase will be included in the check the following July unless a general benefit increase is enacted or becomes effective during the prior year. This is to make sure that the value of your social security check keeps up to date with living costs.

Returning benefit checks not due

If you get a check which you know isn't due you, return it to the U.S. Treasury Department, Division of Disbursement, at the address shown on the envelope in which the check was delivered. Enclose a note telling why you're sending the check back.

If you lose your check

If your check is lost or stolen, get in touch with your social security office immediately and explain what happened. Your check can be replaced if it is destroyed, stolen, or lost. It takes time to do this, though, so it is in your interest to be careful with your checks.

Vocational rehabilitation referral

When you applied for social security disability benefits, your name and information from your file were sent, as required by law, to the State vocational rehabilitation agency. People from that agency may get in touch with you about services they can provide to help you regain your ability to work.

When you are no longer disabled

Disabled workers and adults disabled in childhood—You were found disabled and eligible for social security benefits because you have a condition that prevents you from doing substantial gainful work.

Your eligibility ends if your condition improves so that you are capable of doing substantial gainful work. Your eligibility also ends if you return to substantial gainful work. If you return to work in spite of a severe impairment, your eligibility may continue until you have completed a trial work period as described on page 17.

Did you receive benefits as an adult disabled in childhood and then recover from your disability before age 22? If you are still under 22, unmarried, and are attending school full time, you may be eligible for students' benefits. The people at your social security office will be glad to tell you what evidence is needed to establish your full-time school attendance.

Disabled widows and widowers—You were found disabled because you have an impairment severe enough to meet the medical requirements of the law for this type of benefit.

Your eligibility ends if your impairment improves so that it no longer is severe enough to meet the medical requirements or you are performing substantial gainful work.

If you again become disabled

If your benefits as a *disabled worker* were ended and you become disabled again before you are 65, you should notify your social security office as soon as the new disability begins. Under some circumstances you can receive disability benefits *beginning with the first full month you are disabled*. This is possible if:

- The new disability has lasted or can be expected to last a continuous period of at least 12 months or to result in death;
- The new disability begins within 5 years after the month in which the previous period of disability or entitlement to disability benefits ended; and
- You still meet work and other eligibility requirements for disability benefits.

If you become re-entitled on this basis, however, you are not entitled to a trial work period of the kind described on page 17.

If you receive benefits as a disabled widow or widower or as an adult disabled before age 22 and the benefits stop because you are no longer disabled, it may be possible to have them reinstated provided you again become disabled within 7 years after your previous entitlement to benefits ended and you still meet the other eligibility requirements. For information about whether your disability benefits can be reinstated, get in touch with your social security office.

When you get older

If you are receiving checks as a disabled worker, your disability benefits will automatically be changed to retirement benefits when you reach 65. We will send you other instructions then to take the place of the instructions in this booklet.

If you are getting checks as a disabled widow or widower, you will get new instructions when you reach 65 because your rights and responsibilities will be somewhat different than they are now.

Your Medicare protection

You will have protection under Medicare after you have been entitled to disability benefits for 2 consecutive years. Shortly before your protection starts, we will send you information about Medicare and explain how you can have the full protection it provides.

If a social security representative visits you

We may, from time to time, get in touch with you to give or get information. Usually we do this by mail. Sometimes for your convenience our representative may call at your home.

Anyone from social security will be glad to show you identification before discussing your social security. A social security employee will never ask you for money to have something done because helping you with your social security business is our job. If you ever have any doubts about someone who says he or she is from social security, call the social security office and ask if they sent someone to see you.

How to report

You can make your reports by mail, telephone, or in person, whichever you prefer. It's usually easier to telephone your report. If you mail your report, the pre-addressed "Reporting Card" given you can be used. Replacement cards will be sent to you or you may obtain them from any social security office.

On any report you make, be especially careful to include all these necessary details:

- Name of person or persons about whom report is made.
- What is being reported.
- Date it happened.
- Your signature and address.
- The correct claim number under which the social security benefits are payable. It is a nine-digit number (000-00-0000) followed by a letter (A, C, HC, or W). It is shown on all letters sent to you about the benefits you are receiving.

If you want help in making a report or if you have a question, get in touch with any social security office.

What to report

The remainder of this booklet gives detailed information about when and what you're to report to us. It's important to report promptly to protect your own interests.

If you fail to report something or if you make a false statement about it, you can be penalized by a fine or imprisonment. You may also lose some of your checks if you don't report to us when a report is due.

Change of mailing address

Even if your payments are being sent directly to your financial organization for deposit, let us know right away of any change in your mailing address. If you receive your checks directly, telling us about your new address will reduce the chance that it might be delayed. If you have elected payment by direct deposit, telling us about your new address will assure that you get any correspondence we send you. You may call or write social security, but if you write, please be sure to type or print your complete new address carefully, including your ZIP code number. Also, tell us your social security claim number, your old address, and the name of all those in your family who should get checks or other information at the new address. We'll change the records as soon as possible.

You also should tell the post office of your change of address and ask them to forward your mail. That way, if we haven't been able to make the address change before your next check is mailed, it will be forwarded to you by the post office.

2 Your condition improves

You should notify us if your condition improves. You may then be asked to discuss your condition with a representative of your social security office. In addition, there may be times when we will want to discuss your condition with you, even though you made no report. If a new medical report on your condition is needed, you may be asked to have a physician examine you.

If your condition has improved medically to the extent that you are no longer disabled within the meaning of the law, benefits will still be paid to you for a period of 3 months. Thus, if your disability ended in July, you would be paid for July, August, *and* September. Your last check would be the one for September.

Improvement in your condition does not necessarily mean a benefit will end, unless it is established that the medical improvement is sufficient to permit your return to substantial work.

3 You go to work

You should notify us if you take a job or become self-employed while you are still disabled, *no matter how little you earn.*

Generally, people who return to work *before* there has been medical improvement in their conditions get a *trial work period.* During this period they may work and still get disability checks. (A special provision applies to people 55 and over who are disabled by blindness. They should ask at the social security office about this provision.)

Disabled widows and widowers do not get a trial work period. Also, workers whose disability benefits ended because they recovered or returned to work, but who again become disabled and entitled to social security benefits within 5 years, may not get a trial work period.

Even if you are not eligible for a trial work period, you will be paid benefits for an adjustment period of 3 months should you recover or return to substantial gainful work. (See "What is substantial gainful work?" on page 18.) "Trial work period" is explained on page 17.

4 If you go outside the United States

Notify us if you (or someone for whom you get checks) decide to go to any of the following countries: Albania, People's Republic of China, Cuba, East Germany and East Berlin, North Korea, Vietnam, and Khmer Republic (Cambodia).

Also notify us if you (or someone for whom you receive social security benefits) decide to go to any other country outside the United States for a stay of 30 or more consecutive days.

In your notice give the name of the country to which you or the other person is going and the date you expect to leave the U.S.

Special provisions apply to the payment of social security benefits to people who are outside the U.S. When you report you're going outside the U.S., you'll get special reporting instructions. You'll also be told how to arrange for getting your checks while you are abroad.

If you're thinking about going abroad, ask at any social security office for a copy of the booklet, *Your social security check while you're outside the United States*. This booklet explains how your checks are affected when you leave the country.

5 You apply for or there is a change in the amount of your workers' compensation benefits

If a disabled worker receives workers' compensation benefits, the amount of social security benefits payable to the worker and family may be reduced.

If you are a disabled worker, you should notify us if, before age 62 you:

- Apply for workers' compensation benefits;
- Receive a lump-sum workers' compensation settlement;
- Begin to receive workers' compensation benefits; or
- Have a change in the amount of your workers' compensation benefits or such payments stop.

6 Marriage

If an *adult disabled in childhood* marries, or if a person receiving benefits as the *disabled widow, disabled surviving divorced wife*, or *disabled widower* of the worker remarries, we should be notified. (If a woman who gets checks as a retired or disabled worker marries, she should let us know so we can show her new name on her checks.)

In some cases, social security checks stop after marriage. In others, the amount may be changed because of marriage. This depends on what kind of benefits you get and sometimes on whether the person you marry gets checks.

If your checks as a widow, widower, or divorced wife stop because you remarry, they may be started again if your remarriage ends. For help in getting them started, go to any social security office.

If an adult child's checks are stopped because of marriage, they cannot be started again unless the marriage is void.

The following chart shows how marriage will affect your type of benefit:

Type of benefit you now receive	If you marry, benefits will . . .
Disabled worker (benefits are based on his or her own earnings)	Continue unchanged
Disabled widow, or widower under age 60	End unless your husband or wife is getting social security benefits as a widower, parent, adult disabled in childhood, or as a child under certain limited conditions
Disabled widow, or widower age 60 or over	Continue (though in some cases in a reduced amount)
Disabled surviving divorced wife	End unless your husband is getting social security benefits as a widower, parent, adult disabled in childhood, or as a child under certain limited conditions
Adult disabled in childhood	End unless you marry a social security beneficiary other than a child under certain limited conditions

7 Adoption

If you get checks for a child, notify us if he or she is adopted so our record will show the child's new name. In your report, show the date of the adoption decree and the adopting parent's name.

8 Person not able to manage own funds

Not everyone who gets social security checks can manage his or her own funds. A parent, or some other person, usually gets checks for a child.

Sometimes an older person becomes unable to manage his or her own funds. When this happens, the person who takes care of the older person should let us know. Then we can arrange to send the checks to a relative or other person who can handle the funds. We call this person a "representative payee."

Duties of a representative payee—A representative payee accepts the responsibility for receiving and using social security benefits for another person. If you're a representative payee, it's your job to:

- See that the checks are used in the person's best interest and, when we ask, tell us how they were used. You'll get a special booklet that tells what you should do. It's called *Your duties as a representative payee.*
- Notify us whenever something on the list on page 3 happens.
- Notify us if the person leaves your care or custody, has a change of address, or if you no longer wish to be the payee.

9 Death

When a beneficiary dies, the check for the month in which death occurs should be returned to the sender. For example, if the person dies in July, even on the last day, the check dated August 3 should be returned. However, if the check is issued jointly to a husband and wife, the survivor should get in touch with any social security office about cashing the check.

If the person who died worked under social security, benefits may be paid to his or her survivors. If his wife (or her husband) and children were getting checks before he or she died, they probably won't have to apply again. Their checks will continue. If they weren't getting checks, someone should contact the nearest social security office to find out what benefits may be payable.

Trial work period

If you are *eligible* for a trial work period (see page 12), you may test your ability to resume substantial work for as many as 9 months should you try to return to work *while* you are still disabled. You will continue to receive your disability checks during this period no matter how high your earnings are. Remember, however, that *you must notify us whenever you begin working.*

The trial work period ends after you have done some work in 9 different months or when you recover from your disability, whichever is earlier.

Since the trial work provision is intended to give a disabled person the opportunity to test his or her ability to work and hold a job, minor work activity in the trial work period may be disregarded. As a general rule, when you are working in a trial work period, only months in which you are employed and earn more than $50 will count as a month of trial work. If you are self-employed, only months in which your net earnings are more than $50 or you devote more than 15 hours to the business will count as months of trial work. The 9 different work months may be consecutive, or they may be separated by months or even years in which you do not work at all.

At the end of the trial work period, your case is reviewed to see whether you are able to engage in substantial gainful work. If you are, your benefits will continue for 3 additional months before being stopped.

When you report that you have returned to work, your benefits may be discontinued if the evidence shows you have recovered or you may be asked to submit evidence that you are still disabled. *If you recover from your disabling condition during a 9-month trial work period, the trial work period ends with the month of recovery; this may be as early as the first month of your return to work.* Benefits stop after a 3-month adjustment period—the month of recovery and 2 additional months.

On the other hand, if you do *not* recover during the trial work period, we will review your trial work. If we find that you are still unable to do substantial gainful work, your disability benefits will continue.

What is substantial gainful work?

If you return to work while still disabled, a decision about continuing or ending your benefits depends on whether your work shows that you are able to engage in substantial gainful work. This determination is based on whether the work involves significant duties and is of substantial value.

If you work as an employee—The amount of your earnings is important in determining whether you can perform substantial gainful work. The general rule is that if your earnings average more than $200 a month (gross pay before payroll deductions), you are performing substantial gainful work. Special rules apply to people disabled by blindness. They should ask about this provision at any social security office.

If your earnings average $200 or less a month, you may not be doing substantial gainful work. However, if your work is about the same in amount and quality as that being done for a living by workers in your area who are not disabled, you would be considered to be doing substantial gainful work. In making this decision, consideration is given to your hours, duties, and job performance.

Sometimes a disabled worker receives a "subsidy" in addition to actual earnings. *This subsidy is not counted as earnings in applying the above test.* Thus, if your pay includes a subsidy in addition to the value of your services, the subsidy is not considered in deciding whether your work is substantial and gainful. In such cases, consideration is given not only to what you are paid, but also to your skills, your experience, the degree of responsibility you have, the hours you work, and the amount you produce. Often people working in "sheltered workshops" get a subsidy in addition to the pay they get for working. A sheltered workshop is usually a non-profit organization or institution which provides paid work and rehabilitation services for disabled persons who cannot work in non-sheltered jobs.

If you are self-employed—Your business income may not be the best measure of whether you are doing substantial gainful work. This is because business income may depend on many factors other than your own work, such as the economic situation and services of other people.

In such cases, more consideration will be given to the kind and value of your work, including management, than to the amount of your income.

For more detailed information about how working might affect your benefits, get in touch with your social security office.

If a dependent works

If one of your dependents who is under 65 and not disabled works and earns more than $3,240 in 1978, some of the dependent's benefits may be withheld. In general, $1 in benefits is withheld for each $2 over $3,240. (The 1977 annual exempt amount was $3,000.) The earnings limitation for people 65 or older is $4,000 for 1978. The $1 for $2 reduction applies above that amount.

Vocational rehabilitation services

The social security disability program encourages people to return to gainful employment whenever possible. Many disabled people have been able to return to work after receiving rehabilitation assistance, including medical services and aids, vocational counseling, training, and job placement. The vocational rehabilitation agency in your State provides these services.

If you are offered rehabilitation services by your State vocational rehabilitation agency and you refuse the services without good cause, your monthly social security disability benefits must be withheld.

The kinds of services that are provided include:

- *Vocational and medical diagnosis*—so you can better understand your problems.
- *Advice and counsel*—by trained rehabilitation counselors to help you pick a job you could do.
- *Medical, surgical, or hospital services*—to remove or reduce your handicap.
- *Aids*—such as braces, artificial limbs, or hearing aids.
- *Training*—you may need to prepare for a job.
- *Placement*—should you need help in finding the right job when you are ready for work.

If your State vocational rehabilitation agency does not get in touch with you, you may want to get in touch with it to find out what services the agency might be able to offer.

Even if some time passes before you think you're ready for rehabilitation services, feel free to call or write the agency to see what services it can provide. The agency's address may be listed with other State offices in your telephone book or you can ask for the address at your social security office.

Your disability benefits will continue while you receive rehabilitation services until your condition improves or you show by working that you can do substantial gainful work.

If you return to work and later have difficulty in continuing, the rehabilitation agency in your State may again be of assistance. If your benefits have been stopped, you should also get in touch with your social security office.

If you are not satisfied with the decision on your claim

A written notice is used to notify you of the decision made on your claim. If you believe the decision is not correct, you have the right to ask that your claim be re-examined. Your request for review must be in writing and filed with any social security office within specified time limits.

1 First you may ask that the initial decision be reconsidered. Your request must be made within 60 days from the date you receive the notice of the initial decision.

2 If you disagree with the results of that reconsideration, you may next ask for a hearing before an administrative law judge. Your request must be made within 60 days from the date you receive the notice of the reconsidered decision.

3 If you disagree with the decision of the administrative law judge, you may then ask for a review of that decision by the Appeals Council. This request must be made within the time limit mentioned in the notice of the hearing decision.

4 If you disagree with the Appeals Council decision or denial of review, you may bring a civil action in a Federal court. Your complaint must be filed in the United States district court for the district in which you reside within 60 days of the date we mail you the Appeals Council decision or denial of review.

If you have any questions about the decision on your claim for social security benefits or any other of your rights under the social security law, telephone, write, or visit any social security office. We will be glad to discuss your claim or any other social security matter with you and assist you in any way we can.

Your right to be represented

You have the right to be represented by an attorney or other person of your choice in any business you might have with us. This does not necessarily mean that you will need a representative. Most people handle their social security business themselves, with the help of the people in the social security office. If you wish to be represented, however, we will be glad to work with your representative just as we would work with you.

There are special regulations concerning who may represent you, what the representative may do, and how much may be charged for services. If you would like more information about these matters or have any other questions about your right to representation, please get in touch with us.

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JAY S. HAMMOND, Governor

DEPARTMENT OF ADMINISTRATION

DIVISION OF RETIREMENT & BENEFITS

POUCH CR
JUNEAU, ALASKA 99811

February 14, 1979

The Honorable Bill Ray
Senator, District C
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Ray:

Thank you for offering me the opportunity to comment on the letter you recently received from Ms. B. Charlene Stewart, concerning AS 39.35.360, Earlier Service. Although I cannot agree with Ms. Stewart's suggestion that Sec. 360 should be expanded to permit the crediting of all federal service rendered in Alaska prior to 1961 under the Public Employees' Retirement System (PERS), I do appreciate her concerns and I can understand how she concludes that her suggestion would remedy the situation. I share her concerns, but propose a different remedy; i.e., Sec. 360 should not be applicable to any members joining the PERS after July 1, 1979.

Sec. 360 was originally enacted by the Legislature to be effective January 1, 1961, the same time the PERS was established. However, in its original form Sec. 360 authorized only the crediting of service rendered while an employee of the Territory of Alaska, and required that the employee subsequently work for the State in a covered capacity (making contributions) for a period of five (5) years before such service could be credited. Then, as now, no contributions were required for creditable employment segments prior to statehood. As I understand it, the original purpose of Sec. 360 was to reward those career Territorial/State employees with a retirement benefit for service rendered to the Alaskan government and citizenry prior to the time when a comprehensive PERS existed.

Since that time Sec. 360 has been amended on at least eight (8) different occasions. Those amendments have reduced the period of service which must be rendered to the State to three (3) years, and expanded the eligible employment segments to include service as an elected official with the Territory or political subdivision thereof, service as a peace officer of a participating political subdivision, service with certain political subdivision detention facilities, and specified types of employment with

NOTE: Please Include Your Social Security Number in All Correspondence & Requests

nine (9) different federal agencies. I repeat, no contributions are required for any of this service prior to 1961.

Each time Sec. 360 has been amended, it appears that the same basic argument is advanced: The affected individuals performed de facto, if not de jure, service for the State and for that reason should have that time credited for retirement purposes. While the law does provide that any PERS retirement benefits shall be offset by any U. S. government pension received for the same period of service, it does not provide the same offset for any pension payable from a political subdivision. Even the U. S. pension offset is of questionable fiscal value to the PERS, since the only source from which we can obtain that information is the affected individual; reporting a federal pension is essentially a matter of good faith.

As Sec. 360 now reads, one can easily appreciate Ms. Stewart's contention that it is unfair to keep expanding the coverage for select groups of persons, without making it available to everyone. Reading that section from the employee's perspective, it easily appears that it has been amended without rhyme or reason. As she notes, it is difficult to appreciate how service as a Civil Aeronautics Administration heavy equipment operator is of any greater value to the State than her service with the Federal Housing Administration. In fact, it is difficult to explain how service in the current eligible categories was of any greater value in the development of Alaska than work as a miner, logger, commercial fisherman, etc., during that period. However, in my opinion the solution to resolving inequities which now exist lays not in adding to the list of selected "elite" groups, thereby merely altering the perspective of some persons, but rather by reexamining validity of allowing any select groups to profit in the future. Aside from the social policy ramifications of crediting all types of federal service prior to statehood under the PERS, we must consider the horrendous costs of such a move to the Alaskan taxpayer.

Without extensive research, I cannot know the true fiscal impact of legislation as suggested by Ms. Stewart, nor can I state the cost to the taxpayer of the various amendments to Sec. 360 made over the years. But I do know that they have been terribly expensive; we need only look to the latest amendment as an example.

As you know, last year the legislature amended Sec. 360 to provide credit to former employees of the Alaska Communications System and former peace officers of the Territory or participating political subdivisions of the Territory. In preparing a fiscal note on those provisions, we estimated that no more than 60 employees out of approximately 21,000 active and retired members would benefit from the amendment. However, to pay the additional benefits which would be due to these fortunate few, our actuary determined that the PERS required contributions in the amount of $154,000 per year over a 30 year amortization period. The total present day value of the additional benefits thereby provided amounts to $2,246,850, or an average of $37,448 per affected employee. Of course, this expense is borne by the taxpayer.

When contemplating issues of expanding creditable service under the PERS, we must remind ourselves of the purpose underlying the creation of the retirement system. When the system was originally established, the legislature provided at AS 39.35.010(a):

> The purpose of this chapter is to encourage qualified personnel to enter and remain in the service of the state by establishing a system for the payment of retirement, disability, amd death benefits to or on behalf of the employees.

To fulfill this purpose, the PERS must provide competitive inducements to attract qualified employees. However, we cannot endorse system enhancements at the expense of the taxpayer, when no demonstratable need exists in order to fulfill its purpose. Nearly 20 years after statehood, I suspect that little if any need exists to attract former federal employees of the Territorial era by providing more benefits. On the other hand, the crediting of additional federal service from that period works somewhat at cross-purposes to the chapter; it not only costs money, but it actually encourages those employees not to remain in State service, by increasing the amount of service they may apply towards a service retirement.

In light of these considerations, I once more suggest that employees hired on or after July 1, 1979, not be entitled to any service credit under Sec. 360, and that Sec. 360 be expanded no further. While this will not wholly resolve the inequities perceived by Ms. Stewart, it will halt further perpetuation of those perceived inequities, and the increased costs which must be paid by the public.

I thank you again for the opportunity to comment on this matter. Should you have any questions, please do not hesitate to contact me at 465-4460.

Sincerely,

Paul B. Arnoldt
Director

PBA/BAC/jb
cc: All Members
11th Alaska State Legislature

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH V STATE CAPITOL
JUNEAU ALASKA 99811
907-465 3800

MEMORANDUM

February 27, 1979

SUBJECT: SB 25; Summary and Analysis Correction

TO: The Honorable Clem Tillion
President of the Senate

FROM: Ken Humphreys K.H.
Senior Policy Analyst

The summary for SB 25 which was included in the February 16 report of the Legislative Board of Retirement Benefits was in error in that treated a section of last year's bill. The current version of the bill would not include marine employees in PERS. A corrected summary is attached, and the board's analysis should reflect that the fiscal impact has not yet been determined.

Please contact me if you have questions.

KH:jm
Attachment

cc: Chairmen of the House and Senate Finance and State Affairs Committees
Chairman of the Legislative Council

February 16, 1979

Legislative Board of Retirement Benefits analysis and recommendations on:

Senate Bill No. 25

As SB 25 is currently drafted, the fiscal impact has not been determined. More detailed fiscal information will be available soon and the board will make a recommendation at that time.

(corrected 2/27/79)

SUMMARY OF SENATE BILL NO. 25

Retirement system affected: PERS

Provides for an election in which the state employees who are currently covered by federal social security may choose whether to continue that coverage, or to continue the same contributions required by social security, opt out and receive an alternative package of benefits provided by the state.

Provides that an occupational disability pension be the greater of 40 percent of the disabled employee's compensation or the accrued retirement benefit.

The alternate package of benefits for affected state employees includes:

(1) allows the employees of the division of marine transportation who are covered by a maritime union contract to bargain collectively for inclusion in the PERS;

(2) a 25-and-out provision for PERS employees;

(3) an additional three-fourths of one percent on the PERS benefit crediting factor for each year of service;

(4) survivor's and disability insurance; and

(5) a mandatory deferred compensation program for contributions in excess of deductions.

Corrected: 2/27/79

Final note

ACTUARY STILL WORKING ON
NEXT WEEK IT

of total employees affected
having in AIDEA -.

Summary -
list of
summaries - staff - leg.
all people
AIDEA
decision
copies of reports

list of all interested parties ✓

Get copies of all reports ✓

How long will hearing take -

1. Social Security } Comparison of Benefits
2. Alt System

3. Statutes } Comparison ✓
4. SB 25 & 946

5. (1-4) Pro's & Cons of Alt System

6. Employee Feelings – Questionnaire ✓
7. Affected Employees (How many financially benefits

8. Interested Parties – In Favor or Complaints with

9. 946 – Testimony – Pro & Con

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

Chronological history of events culminating in SB 25- State withdrawal from the federal social security ststem.

DEC. 1975 - OPEN LETTER TO EMPLOYEES ASKING IF THEY WANT TO OPT OUT.

*1. December 1975 State (Commissioner of the Dept. of Administration) gave notice to the federal government of intention to withdraw. Notice must be given two years in advance.

*2. July 30, 1976 William M. Mercer/Consulting Actuaries, submitted a study relative to termination of state from federal social secuirty, to the Dept. of Administration. This study was requested by the then Commissioner, Andy Warwick.

MARCH, 1977 FIPEA REPORT TO PUBLIC EMPLOYEES - QUESTIONNAIRE - WITHDRAWAL

*3. March 17, 1977 HB 364 - An act relating to withdrawal of the state from federal social security - was introduced in the House by the House Rules Committee. It was referred to House State Affairs Committee where it died. AS LEG NOT PREPARED ~~READY~~ TO DEAL W/ISSUE THUS

*4. May 2, 1977 HCR 66 - Relating to withdrawal from social security - was introduced in the House and sponsored by Rep. Miller & Rep. Duncan. This resolution requested the Governor to cause the 1975 withdrawal notice to be recinded as of July 1, 1977 and a new notice be given by December 1, 1977 for the purpose of time to conduct further study on the issue. It was resolved that the Legislative Council conduct as study on all aspects of withdrawal. The study group was to include members of the Council, representatives of each employee bargaining group and the director of the division of retirement.** Also requested was an actuarial study of costs and benefits of recommended changes be conducted by an independent actuary

* SEE ATTACHED FOR FURTHER DETAIL

** See attached list of members

under direction of the Legislative Council. This resolution was referred to the House State Affairs Committee, passed both houses and became legislative resolve no. 107 (SLA 1977)

5. March 15, 1978 — The study group report - Alternates to the Social Security System for employees of the State of Alaska (by Milliman & Robertson, Inc.) was submitted to the Legislative Council.

6. June 3, 1978 — The result of the above study became HB 946 submitted by the Rules Committee at the request of the Legislative Council. It was referred to House Finance and passed out of Finance on this date as CS for HB 946 (am). It passed the House and died in Senate Labor and Management Committee.

7. January 16, 1979 — SB 25 - An act relating to withdrawal from the federal social security system - was introduced in the Senate by Sen. Bill Ray at the request for the Alaska Public Employees Association. It was referred to Senate State Affairs then Finance.

Results of APEA Questionnaire sent out with their report on withdrawal from social security to their members. March 1977

Gen.Govt responses=583 out of 5,187 (11%)

Supervisory responses=165 out of 816 (20%)

		Gen. Govt.	Supervisory
1. Are you in favor of withdrawal?	YES	82%	89%
	NO	16%	8%
	NO OPINION	1%	2%
2. If in favor, should money be used to improve PERS benefits?	YES	71%	78%
	NO	10%	9%
	NO OPINION	18%	12%

List in order of priority

	GEN. GOVT. UNIT	SUPERVISORY
1.	Increase retirement to 2½% for each year of service.	1.
2.	Equal benefits for occupational and non-occupational death & disability	4.
3.	Increase death & disability benefits to 50% of monthly earnings.	2.
4.	All state employees 20 and out.	3.
5.	Extend death and disability benefits to employees who leave state service	5.
6.	Death and disability insurance for temporary employees.	6.

COMMENTS

GEN. GOVT.

1. Want alternatives to putting money in retirement fund.
2. Want 20 year retirement option because older employees will lose a minimum of s.s. income and younger employees will have opportunity to qualify for benefits
3. Want retirement increased to 3% for each year. Also want retirement benefits adjusted twice annually to compensate for changes in CPI. No. of years to qualify for vested rights changed from 5 to 2 years.

SUPERVISORY

1. Study to determine wage percentage necessary to parallel s.s. benefits.
2. S.S. money should be used to increase pers payments.
3. If PERS improved, retirement benefits should be increased, no decrease should be allowed.
4. Retirement should be based on 3% for each year of sv
5. Want ironclad irrevocable agreement with Admin. if withdraw.
6. Sick leave not used to be credited toward retirement at time of retirement.

SOCIAL SECURITY WITHDRAWAL

One hundred thirty-eight cities, counties and local government agencies have abandoned the Federal Social Security system in the last three years.

Another two hundred and seven government bodies — most prominently the State of Alaska — have notified the Social Security Administration that they too intend to withdraw from the financially uncertain national insurance program.

So far, the actions of these local government units have had no impact on the vast Social Security system which draws payments from over 100 million Americans and pays benefits to some 30 million or more.

Under the Social Security system, a worker needs at least six (6) quarters, but not more than forty (40) quarters, of coverage to be eligible for a Social Security retirement benefit. Those benefits are determined by a schedule based on what is called the employee's "average monthly wage." The average monthly wage is determined by adding together a worker's annual earnings for each year from age 21 to 62, dividing that total by the number of years employed and then dividing by 12. That produces the "average monthly wage."

The basic cause of concern regarding the future of the Social Security system stems from this benefit formula. In 1972, Congress revised the Social Security law and established an automatic cost of living adjustment on Social Security retirement benefits by tying them to the Consumer Price Index (C.P.I.).

At the same time, Congress also tied the taxable wage base to the benefits increases; that is, when retirement benefits are raised due to inflation, the taxable wage base is automatically increased by a percentage comparable to the inflation of contributing workers' wages. The end result is a "double indexing" of the benefit formula. Inflation raises workers' wages, which raises the "average monthly wage," which consequently increases benefits paid. Then when benefits are raised, the taxable wage base is increased, which raises benefits paid. Unfortunately, Social Security does not include any formula which will generate the revenue required to pay for these upwardly spiraling benefits.

Unlike the Social Security system, the retirement benefit that an employee receives from the Public Employees Retirement System (P.E.R.S.) is directly proportional to what the employee pays into the system. State employees are currently contributing four and one quarter percent of their earnings to the P.E.R.S.. An employee is vested in that system after five years of service. The benefit formula is two (2) percent of the employees average monthly salary, times the number of years of service, times the average of the last three consecutive high-year earnings. Normal retirement age after vesting is 55, however there is an option for early retirement any time after age 50. This is accomplished by subtracting a half of a percent for each month retired before age 55.

During the first session of the 10th Alaska State Legislature, Social Security withdrawal was a major issue following the introduction of a bill that would have legally withdrawn all state employees from the Social Security system through a balloting election procedure (HB#364 and SSSB#215).

However, this bill did not address several main issues, therefore, numerous labor organizations were very verbally apposed to withdrawing at this point in time (namely Labor Local 71 and the confidential unit). The main issues against the withdrawal were as follows:

1. Most importantly, there was no alternative for the money after withdrawal from the current Social Security system. (That is to say, it was not known for sure what to do with the money that would continue to come from state employees pay checks after withdrawing).

2. Likewise, there was no firm understanding that the State of Alaska would continue to pay the same amount of money, into another fund, as under Social Security.

3. No inclusion of benefits to cover temporary position State Employees.

4. Very little consideration was given to disability and the causes of non-occupational vs. occupational disability.

5. Finally, the findings in the Mercer Report, a report the State of Alaska had done on factors in consideration of termination from the Social Security system, vs. the report by the Alaska Public Employees Association's Committee on Social Security Withdrawal, Chaired by Mike Murray of Juneau, were not sound and traceable.

A compromise which would allow another two years to study the inequities of the A.P.E.A.'s Report and the Mercer Report, came about during the last Session of the Legislature as both time was running out under the current 'letter of intent' to withdraw from Social Security and as major opposition mounted. As a result of this compromise came a unanimous support by all, including legislators, to better evaluate the Social Security Withdrawal idea.

This compromise came in the form of House Concurrent Resolution 66, introduced by Representative Mike Miller (D-Juneau) and Representative Jim Duncan (D-Juneau). The purpose of this Resolution was to give the Governor the authority to rescind the first "letter of intent' to withdraw from the Social Security system and re-submit a new "letter of intent"; thus allowing the State of Alaska, A.P.E.A. and the Legislators an additional two years to study Social Security. The first

"letter of intent" was sent in on December 3, 1975, by then Commissioner of Administration, Andy Warwick. The letter to rescind the first letter of intent was sent in May 31, 1977, by Billy Bob Allen now Commissioner of Administration. To date, the second "letter of intent" has not been sent by the present administration, who has only until December 31, 1977 to accomplish it.

Inclusive of H.C.R.#66, which passed unanimously in both the State House and Senate, was language that called for an independent accuracy study of the costs and benefits of the recommended changes, as needed, for withdrawal from the Social Security system. Members of a committee that will determine the direction and choice of accuracy for the State of Alaska's study are a representative of each labor organization, a member of the legislative council and the Director of Retirement.

With the above in mind, the committee held its first meeting on July 11th and determined that Dick Wikenwerder with William Accuracy, a Seattle based accuracy company, would be hired to do the study called for under the bill. A tentative date, of August 18th, has been scheduled to meet with Mr. Wikenwerder to give him the direction and the scope that the committee feels the accuracy should take. Additionally, some tentative directions have already been given to Mr. Wikenwerder to consider before the meeting with the full committee. They are:

1. increase from the current 2 percent to 2 1/2 percent in the P.E.R.S.

2. retirement after 20 to 25 years in the system.

3. a COLA allowance — cost of living adjustment for people who have retired under the P.E.R.S. already.

4. to come up with an alternate plan for the Social Security withdraw plus keep the present P.E.R.S., for a combined retirement benefit system.

Those in attendance at the first committee meeting, and on the committee are:

Representative Mike Miller - Chairman

Linda McCurry - Confidential Unit

Ann Shippard - Public Safety Employees (PSEA)

Roy Dunn - Alaska Public Employees Association (APEA)

Greg O'Clary - Inlandboatmans Union (IBU)

Paul Arnold - Division of Retirement

Ken Humphries - Legislative Affairs Agency

Bob Gates - Division of Retirement Director

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

M I N U T E S

SOCIAL SECURITY WITHDRAWAL STUDY GROUP

A meeting of the Social Security Withdrawal Study Group commenced at the State Capitol, Juneau, Alaska on August 18, 1977. Presiding at the meeting was Representative Mike Miller. Also present were:

Roy Dunn
Mike Murray
APEA Juneau ~~Field Office~~ Headquarters

Ann Sheppard
Public Safety Employees Association

Paul Arnoldt, Director
Division of Retirement and Benefits

Dave Warren
Confidential Employees Association

Ken Spray
APSE Local 71

Richard A. Winkenwerder
Milliman & Robertson, Inc.

Ken Humphreys
Research Analyst
Legislative Affairs Agency

James L. Baldwin
Legislative Counsel
Legislative Affairs Agency

As the first order of business, Representative Miller stated that he had reviewed the contract for actuarial services with Milliman and Robertson, Inc. and recommended that the study group approve the contract. The contract was approved for submittal to the contractors for their review and execution.

Mr. R. A. Winkenwerder was introduced to the study group and discussion ensued concerning guidelines for his investigation of alternative approaches to Social Security. The members of the study group expressed interest in investigation of the following approaches or problems:

(1) Improve PERS in general with the use of additional funds released from Social Security contributions.

(2) Improve the current deferred compensation plan.

(3) Establish a new program essentially replacing Social Security.

(4) Study the benefits under the Public Safety Employees Retirement Program in relation to benefits enhanced under PERS.

(5) Modify PERS in some specific aspects; for example, consider a retirement after 20 or 25 years, consider an increase in the benefit accrual formula above 2 percent, (perhaps 2 1/2 percent) and finally, consider the addition of a cost of living adjustment like Social Security.

(6) Examine the disability provisions of PERS particularly in relation to the difference between the occupational and nonoccupational categories and perhaps also consider an increase in the disability benefit. In considering the disability situation, it was suggested that disability benefits from all sources be considered before arriving at any recommendations for alterations in the PERS benefit. Also consider a temporary extension for employees who leave the State.

(7) Specifically what would the current 5.85 percent of Social Security contributions buy under the PERS program? It might be considered to have the employee contributions sent directly to a deferred compensation system with the State's share of the contributions going directly to PERS to improve that program.

(8) Consider a fully-paid-for medical benefit program.

(9) It was mentioned that perhaps there might not be too much concern about specifically what additional benefits are being provided but rather that the employee would like to get more benefits for the dollars that are being contributed.

(10) Consider establishing a new deferred compensation plan along the guidelines of those recommended by Robert Gates in his August 14, 1977 letter.

Mr. Winkenwerder indicated that he would begin preliminary studies to analyize the current system and would report at the next regular meeting of the study group. The date for the next meeting is to be set by a call of the Chairman upon further consultation with Mr. Winkenwerder.

Respectfully submitted,

James L. Baldwin

James L. Baldwin
Legislative Counsel

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

CHANGES THAT COMMITTEE SUBSTITUTE FOR SB 25 WOULD MAKE IN THE BILL

By SB 25 Sections

Section 2.	AS 39.35.160(b)	The substitute would exclude provision D(ii) which provides that other than military service credit, only service after 1/1/80 may be credited.
Section 6.	AS 39.30.170	
	(a)(4)	The substitute deletes the words"... and are not covered under PERS." from section (a)(5) and re-numbers making this section (a)(4)
	(a)(5)	Adds the words, "...and not included in groups described in (3) and (4) of this subsection. and re-numbers making this section (a)(4).
	(b)	Changes sentence which states that groups under (a) covered by PERS shall be considered as one group to Groups under (a) covered by PERS the cost of the additional benefits shall be actuarially determined on an annual basis.
	(c)(2)	Changes sentence which states that deducted from account for (a)(1) PERS employees an additional 7.1% of gross monthly compensation for each employee in that group to

CS for SB25

SECTION 1 - AS 39.35.160(b)	SAME
SECTION 2 - AS 39.35.680(21)	EXCLUDES PROVISION (ii) providing that other than mil. svc. credit, only service after 1/1/80 may be credited.
SEC. 3.	SAME
SEC. 4	SAME
SEC. 5	SAME
SEC. 6 - SEC. 39.30.170	SAME UP TO 39.30.170
a) 415	a) 415
4) [illegible] temporary employees not covered under PERS or TRS	(4) MT [illegible] whom Relates "... and are not covered under PERS,
5) MT employees on state ferry system who are covered by a maritime retirement and covered by PERS	(5) adds "... and not included in groups desc. in (3) or (4) [IRS] MT.

AS 39.30.170

b) For each group in a, cont. det. by % age of payroll

Groups under (a) covered by PERS should be considered 1 group.

For each group in (a) cost of prov. surv. & disab. benefits should be det.

for

For Groups under (a) covered by PERS the cost of the add. benefits shall be actuarially determined on an annual basis. Costs det. under this sec. shall be expressed as % age of payroll

DEDUCT.

c) (2) ca(1) from act.

for P ers employees add 7 1/2% of gross mo. comp. for each employee in that group.

for Pers (a)(1) the actuarially det. cost of prov. benefits for each emp. in that group.

d) amts dep. in ind. def. comp. accts in names of employees.

d) amounts shall be dist. (refunded) to emp. no less frequently than annually. Shall be regarded as refund if deduct does not exceed amt which employee cd rec in (a) should be credited from payment if dist exceeds amt of comp under (a) it may not be regarded as comp. for ret. purposes.

Wages as with hourly
Savings of 1% of payroll

Progress coordinators –

Nurse time out –

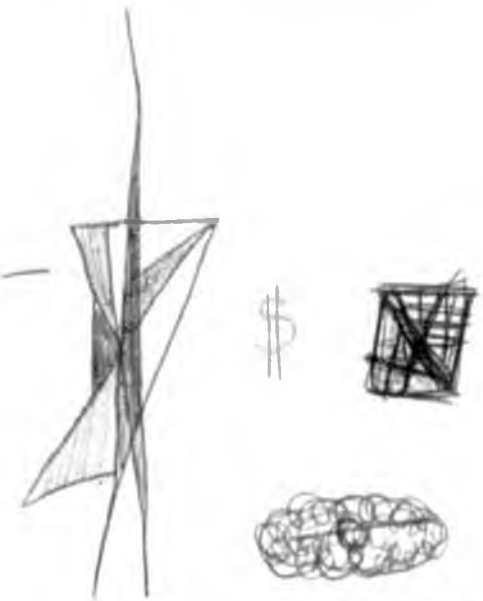
Group benefits

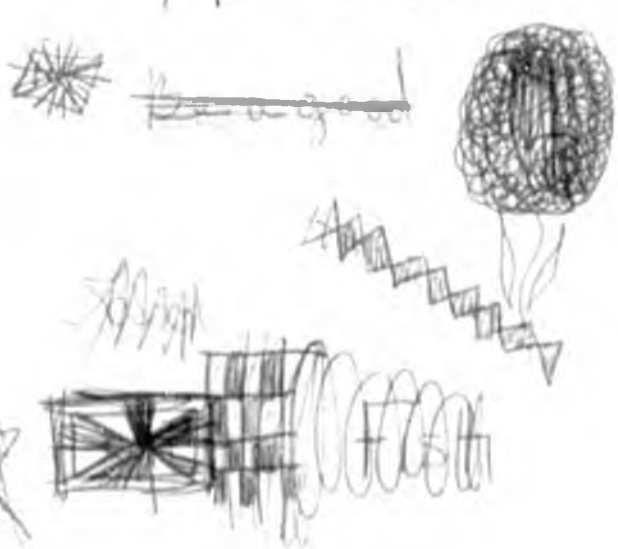
What about temps?

~~Term~~ Merit plan

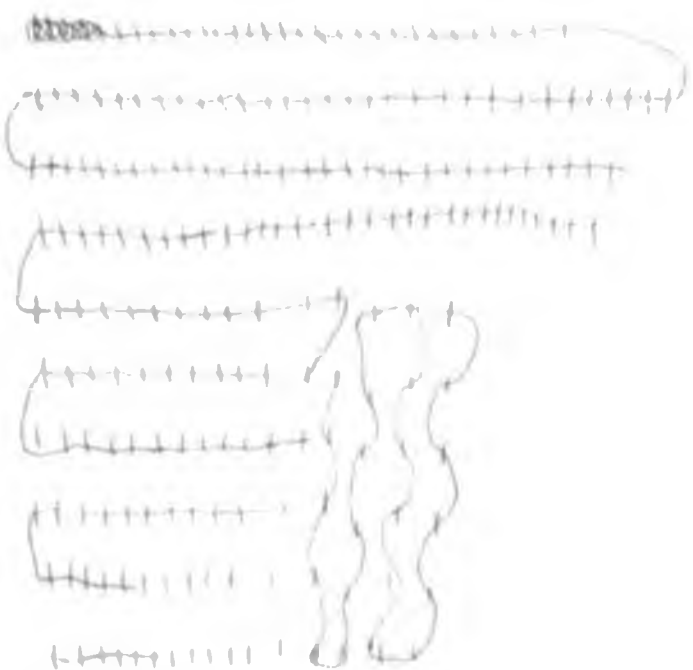
Cost of Strategic Direct

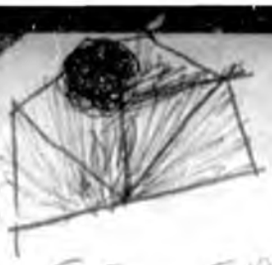
Maximum Price In





1.00
(1)51 +9.26
(2)55 2.26 1.50
3.10





CS - SB25

1. [illegible] - Employer / employee info menu

2. [illegible]

ESTIMATED STATE EMPLOYEES AFFECTED BY SB 25

TOTAL NUMBER OF STATE EMPLOYEES (Does not include University of Alaska or ASHA employees)	-	10,597	
AVERAGE LENGTH OF SERVICE WITH STATE	-		3.86 years
TOTAL NUMBER OF EMPLOYEES WITH AN AVERAGE LENGTH OF SERVICE OF LESS THAN FIVE YEARS (Gen. Govt., P.S., Labor, Exempt)		9,076	(85%)
TOTAL NUMBER OF EMPLOYEES WITH AN AVERAGE LENGTH OF SERVICE OVER FIVE YEARS (Excluded, Marine Trans., Supervisory)		1,521	(15%)
TOTAL NUMBER OF TEMPORARIES WITH STATE (Mostly Gen. Govt., Exempt, Labor)		1,157	

*Source: Dept. of Administration, Division of Personnel

ALASKA PUBLIC EMPLOYEES ASSOCIATION

TOTAL NUMBER OF MEMBERS	-	*8,000	
NUMBER OF STATE EMPLOYEES IN APEA		*6,579	(82%)
NUMBER OF APEA EMPLOYEES WITH AN AVERAGE LENGTH OF SERVICE OF LESS THAN FIVE YEARS (General Government Unit)		*5,709	(87%)
NUMBER OF APEA EMPLOYEES WITH AN AVERAGE LENGTH OF SERVICE OVER FIVE YEARS (Supervisory Unit)		*870	(13%)

*Source: Cherie Shelley, APEA

As law now stands PERS benefits do not become vested until after five years of service with the State. If a member terminates employment with the State he has the choice of being refunded his contributions (employer's contribution stays in PERS) or keeping them in PERS to be collected when he retires.. Under SB 25, members who terminate employment with the State would be automatically refunded their contributions.

PERS is mandatory when one becomes a state employee, except for the following who have their own retirement systems: MT (Inland Boatman), Teacher's Retirement System, Judicial Retirement System, emergency, temporary or casual workers.

Employees affected by SB 25.

Area Personnel

TOTAL NUMBER OF STATE EMPLOYEES AS OF FEBRUARY 2, 1979

Does not include University of Alaska employees (about 1,000) or Housing Authority employees (2 DEC.): ↓ MOSTLY UNDER TRS

TRS & PERS NO CONTACT W/STUDENTS

TOTAL NUMBER OF EMPLOYEES: 10,597

AVERAGE LENGTH OF SERVICE WITH STATE: 3.86 AVERAGE WAGE 22,906

TOTAL NUMBER OF EMPLOYEES WITH AN AVERAGE LENGTH OF SERVICE LESS THAN FIVE YEARS: 9,076 = 85% AVERAGE WAGE = $23,840.

TOTAL NUMBER OF EMPLOYEES WITH AN AVERAGE LENGTH OF SERVICE OVER FIVE YEARS: 1,521 = 15% (Mainly marine trans, excluded and supervisory employees)

AVERAGE WAGE: $34,325. ↑ (8.5 yrs)

TOTAL # OF TEMPS WORKING FOR STATE = 1,157

P.E.R.S benefits do not become vested until after 5 years of service. If you terminate before five years you are refunded all your P.E.R.S. contributions. Employers contribution stays in fund. OR You can keep it in - (with NO TEMPORARY benefit) unless you go back to work for state at which time you can repurchase. Social Security is portable. Thus 85% of employees would not really benefit from withdrawal. Long term employees would.

* Large turnover, many temporary people.

SUPPLY - ~~[illegible]~~

Engineering Main & House Attdn

Exempt: Const. Leg. & Part. emp } 1531

63 Teachers FEIS | Excluded - 5

70 Sup.

342 cops PEACE OFFICERS

646 MAT. TECHNOS. 10,597

1258 LABOR TRADECRAFTS

147 Confid emp - Personnel off & Employment Payroll staff

G.C. 5709

DIV B-U TYP	NAME	S.S.N.	CLASS	PCN	STUS	HIRE	OT	LOC	RNG	STP	SCH	RATE	MONTHLY	YEARLY	YTD

********** DEPARTMENT TOTALS **********

NUMBER OF EMPLOYEES = 507 AVERAGE PAY = MONTHLY - 1,734.40 YEARLY - 20,812.80 AVERAGE LENGTH OF SERVICE IN YEARS - 3.46

						TOTAL
BARGAINING UNIT	A					A
	E					E
	G					G
	K					K
	L					L
	M					M
	S					S
	T					T
	X	506	1,736.83	20,841.96	3.46	X
SALARY SCHEDULE	A	273	1,601.95	19,223.40	3.19	A
	B					B
	C	13	1,357.58	16,290.96	3.79	C
	D	24	1,647.52	19,770.24	3.32	D
	E	74	1,626.73	19,520.76	3.51	E
	F	2	1,404.00	16,848.00	.44	F
	G	5	1,637.85	19,654.20	.51	G
	H	9	1,658.97	19,907.64	1.26	H
	I	6	1,323.79	15,885.48	1.67	I
	X					X
	9	100	2,278.03	27,336.36	4.72	9

********** STATEWIDE TOTALS **********

NUMBER OF EMPLOYEES - 10498 AVERAGE PAY - MONTHLY - 1,908.90 YEARLY - 22,906.80 AVERAGE LENGTH OF SERVICE IN YEARS - 3.66

						TOTAL
BARGAINING UNIT	A	316	2,496.22	29,954.64	4.55	A
	E	5	3,510.20	42,122.40	9.58	E
	G	5739	1,643.10	19,717.20	3.03	G
	K	146	1,632.14	19,585.68	3.66	K
	L	1267	1,788.75	21,465.00	4.65	L
	M	658	2,198.75	26,385.00	5.42	M
	S	876	2,872.58	34,470.96	8.55	S
	T	63	2,116.09	25,393.08	3.35	T
	X	1389	2,244.24	26,930.88	3.27	X
SALARY SCHEDULE	A	5979	1,851.54	22,218.48	3.61	A
	B					B
	C	314	1,697.20	20,366.40	1.22	C
	D	344	1,868.84	22,426.08	3.49	D
	E	1027	2,118.95	25,427.40	4.09	E
	F	60	2,116.06	25,392.72	2.43	F
	G	151	2,103.23	25,238.76	2.47	G
	H	108	2,252.48	27,029.76	2.98	H
	I	162	1,604.45	19,253.40	2.77	I
	X	1265	1,790.10	21,481.20	4.67	X
	9	28	1,551.73	18,620.76	3.58	9
	9	1079	2,232.36	26,788.32	4.85	9

85% State employees have 2 or less than 5 years average length of service (3.86)

A - P.S.
E - EXCLUDED
G - Gen Gvt
K - Crafts
L - Labor rates
M - Prof & Tech
S - Supervisory
T - temp
X - exempt

E. EXCLUDED
M. MANAGERIAL
S. SUPERVISORY

4
FIRE 1521
VS 9,076

TOTAL = 10,597

8920

TOTAL = 10,457

SB 25

IF PASSED WOULD AFFECT EVERYONE PAYING INTO SOCIAL SECURITY.

1. PERS MEMBERS except P.O. & firemen
2. P.O. & FIREMEN
3. JRT MEMBERS
4. Emer. temp or casuworkers not in PERS or TRS
5. MINERAL TRANS.

PERS

ALLOW - EVERYONE BUT MT, JRT, EM. TEMP OR CAS OR TRS

HISTORY OF SBL

SB 429	HB 579	5-96

AK. LOANS
FIND OUT
GET COPY

Copy of SB 122 - 1771

HB 596

CONF COMM APPOINTED
SCS CS (RULES)

HB 579 - DIED P.F. Committee

HB 596 - DIED FCC. House

SB 429 - Became Law

Temp

Copy 342

1 Temp

675 TEMP

Confid

115 TEMP

115 Temp

X -

362 Temp

396 - Temp

387

Total 1,101

APEA - ~~Glen Kent~~ - 5709 > 6,579
Supervisors - 870
2 Lks NS. & City OF DOME

SB 25 - WITHDRAWAL FROM FEDERAL SOCIAL SECURITY

INTERESTED PARTIES

1. Senator Bill Ray, Sponsor

2. Department of Administration
   Division of Retirement & Benefits
   Paul Arnoldt, Director

3. Alaska Public Employees Association
   Pat Murphy, Executive Director
   Cherie Shelley, Representative of APEA & Confidential Unit

4. Local 71, AFL-CIO - CHECK TRADES & CRAFTS

5. Marine Transportation

6. ~~Inland Boatman's Union~~

7. Federal Social Security

8. Office of the Governor

9. Mike Miller, was chairman of the Legislative Council Study Group on Withdrawal from Social Security

10. Robert Penman. 7730 Honeysuckle St., Anchorage, Alaska 99502. Wrote a letter to legislators expressing his views on SB 25.

FISCAL NOTE: Requested 1/21/79

Net wage package

ALTERNATIVE TO SENATE BILL 25
(Withdrawal From Federal Social Security)

present

I. Freeze social security contributions at present levels. (6.13% employee and 6.13% employer on salaries up to $22,900).

II. Increase employees wages equal to social security contributions. (Employee deduction for social security would be discontinued, and employer contribution to social security would be paid to the employee).

III. Establish a "menu" of supplemental benefits from which an mandatory employee can elect to participate. (Deductions for the supplemental benefits would be taken from employee's wages).

(1) No election (employee receives equivalent of social security contributions).

(2) Supplemental Health Benefits.

(3) Supplemental Death Benefits.

(4) Supplemental Disability Benefits.

(5) Supplemental Survivor Benefits.

(6) Supplmental Annuities.

existing contributions, mandatory participation with list - no cost bill opportunity

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

SOCIAL SECURITY SYSTEM

I. Old Age, Survivors and Disability Insurance (OASDI)

II. Hospital Insurance Benefits & Supplemental Medical Insurance Benefits (Medicare)

I. OASDI

a. All participants covered

b. Both employer & Employee pay into social security

c. Retirement benefits provided on a non-reduced basis at age 65

"Special Minimum Benefit" application for low earning level workers with long service.

Deferred retirement-if retirement is delayed beyond age 65, benefit increases for old age insurance benefits only.

Early retirement-as early as age 62 with benefits reduced by 5/9 of 1% for each month that retirement precedes age 65.

Earnings test-$2,760 per year may be earned before benefits are reduced.

Wife or dependent husband benefits-will receive at age 65, 50% of spouses benefit. May commence at age 62 but will be reduced. Wife may receive full benefits at any age if she is caring for a child entitled to child's benefits.

Child's benefits-each child until age 18, unless a student and then until age 22, or if disabled.

d. Disability benefits-member must be fully insured (minimum of 6 and maximum of 40 quarters of coverage)

Disability benefit is equal to the Primary Insurance Amount computed as though the worker had attained age 62. If worker is under 62 benefits may be reduced if he is receiving workman's compensation..

Disability benefits shall commence at the end of five months throughout which the worker has been disabled. Benefits end when recipient dies, reaches 65 or becomes no longer disabled.

Disability (Con't)

Wife or dependent husband benefits-commencing at age 65-50% of spouses benefit amount.

Child's benefits - 50% subject to a maximum family benefit.

e. Death Benefits

Widow or dependent widower's benefits - 100% of deceased's accrued benefits.

Mother's benefits - Payable to widow if not married, not getting widow's benefits and has care of a child of deceased entitled to a child's benefit equal to 3/4 of benefits of decesaed.

Child's benefits - 3/4 of decesaed benefits subject to maximum family benefit.

Parent's benefits - if parent is 62 or older and received 1/2 support from deceased and has not married since individual died and has filed an application for parent benefits, he receives 82½% of deceased's bebefits.

Lump sum death payments - $225.00 to widow/widower if applied for within 2 years of death.

2 paragraphs of SS. which would impact replacement of SS. Benefits.

1) General Considerations

(a) SS. - temporary employment status ~~quota~~ purpose - not

(b) SS - Portable status - not.

(c) Recurring withdrawals in a single day from (1) SSI benefits will be counted and (2) optical medical problems during [illegible] benefits based on the withdrawals, and benefits once lost will be quite limited

2.) (illegible) - Benefits

(a) Portability - funding in SS.

Difficult - Proposed separate accounts benefits to be carefully [illegible] the [illegible] separate-

(i) Maintain a small [illegible] amount per recipient to replenish [illegible] provide these withdrawals to the beneficiaries e.g. medical emergencies, natural disasters

3) CCRA - SS benefits objected accordingly (illegible) - [illegible] SS. provide [illegible]

MISC

Max Limit on Family Thrift currently 150 - 120% of PIA

Add limit to be adj by CPI if increase is at least 3%

1976

Fed S.S. System

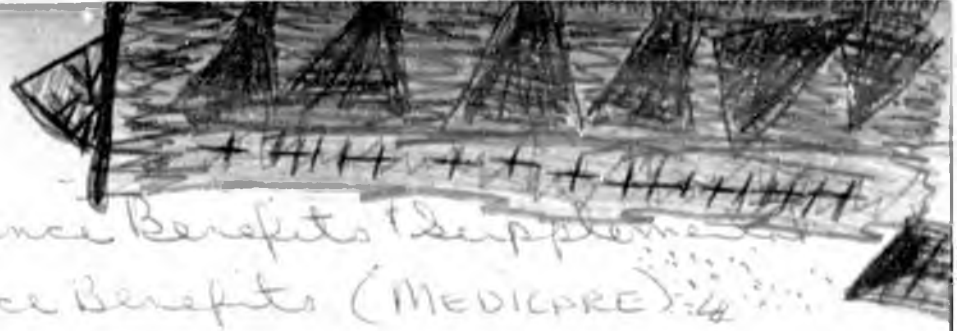
1) Old Age, Survivors & Disability Insurance (OASDI)

A - OASDI - Provides benefits like PERS

1) COVERAGE - ALL PARTICIPANTS
2) Taxes - both employee & employer pay
3) Retirement - benefits provided on a new retirement age 65

	1976 - 4.95%
1977 -	5.85%
1978 -	6.05%
1979 -	6.13%

4) Benefits - Survivor benefits, retirement paid people live higher ... provide benefits, dependent ... young people & children
5) Vesting - fully portable
6) Death Benefits - 7% ... of primary insurance ... to ... widow ... dependent children, ... child, dependent ... a lump ... of $255 (1976)
7) Disability Benefits - total ... person ... receive benefits = to what they would ... retirement ... at 65 on basis of ... service ... at early retirement - benefits may be payable to spouse ... children.



B. Hospital Insurance Benefits (Supplementary Medical Insurance Benefits (MEDICARE))

1) HOSPITAL INSURANCE

Broad coverage for inpatient hospital & Nursing & post hospitalization. Tax rate is .9% for employee

1978-80 1.10%

81-2017 1.35%

86-2010 1.50%

Benefits include:

a) IN-HOSPITAL BENEFITS - 2-4 bed, semi-private room & board, general nursing & miscellaneous hospital services & supplies

(i) 90 days for each benefit period

(ii) annual deductible ~~of~~ $104 (1976)

(iii) deductible paying for 61st-76th day = $26 (1976)

b) Skilled Nursing facility after 3 days of hospitalization coverage for 100 days in facility - 100 days of $13.5 (1976) for each day's use of 20 days.

c) Home health services after 100 days with limit of 100 visits. Includes nursing services, home health aide services, medical supplies, appliances.

(i) 65+ & receiving S.S. benefits,

(ii) -65 - disabled S.S. beneficiaries for 24 mo.

(iii) 65+ & not receiving S.S. benefits but eligible for R.R. Retirement (same as above)

- ~~also~~ effective from 7/1/76 - 6/1/77

2. Supp. Med. Ins - eligible for H.I. or enrolled in Pt B, Monthly premium $4.70 as of 1976/mo.
Broad coverage, includes:
a) Physicians
b) Drug. Surg.
c) X-ray & radium therapy
d) Med. equip, splints, devices
e) Ambulance
f) therapy
g) Services provided under arrangement with providers
h) other health services

Benefits: Premiums paid to insurance carrier
after $60.00 annual deductible

Aid: to aged, blind, disabled persons
in transition

ENVY

(2) Survivor Benefits:

A Primary Benefits

ECIC - Provides "family income" level 1 GTW of coverage

Lump Sum Death Payments — $225.00 to widow/widower if applied for within 2 yrs of death.

Widow or Dep Husband benefits at age 65 - 50% of spouses benefit amount.

Child's benefit - 75%
and paid to surviving parent

(3) Parent's benefit

Widow or Dep widower benefits at 65-100% of deceased earned benefits

(4) Widow/er Re-Married to widow/er of retirement, subject to work history and disability [illegible]
= to 3/4 of PIA for life of spouse.

Survivor 3/4 PIA only if dependent for life of parent - if 60, may be applied for reduced benefit at age 60, must be disabled, must be dep for parent benefit, = to 50% of PIA.

S.S

SB 25

Retirement Benefits

A. Primary Benefits

1) Benefit @ 65 is = to the Primary Insurance Amount (monthly benefit before application of delayed ret. credit)

"Special Minimum Benefit" applies for low earnings levels workers w/ long service

2) Deferred Ret. - if retire after age 65 - benefit increases for old-age and survivors only

3) Early retirement at age 62 - monthly benefit reduced by 5/9 of 1% for each mo. the ret. precedes age 65.

EARNINGS TEST -

4) $2,760/yr earning limit for old age benefits under 65

B. W. ... on Rep. Husband Benefit will rec. at 65, 50% of spouses benefit. May commence at age 62 but will be reduced. Widow(er) benefit would be unreduced at age 65

C. Child's benefit – [illegible] and child's benefit ceases when ... attains age 18 (19 if ... full-time ... H.S.) ... 50% ... P.I.A.

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

SOCIAL SECURITY WITHDRAWAL

A REPORT TO

ALASKA PUBLIC EMPLOYEES



PREPARED BY:

ALASKA PUBLIC EMPLOYEES ASSOCIATION
COMMITTEE ON SOCIAL SECURITY WITHDRAWAL
MIKE MURRAY, CHAIRMAN

ALASKA PUBLIC EMPLOYEES ASSOCIATION

STATE HEADQUARTERS: 130 SEWARD STREET, SUITE 508, JUNEAU, ALASKA 99801 • TELEPHONE: (907) 586-2334

March 1977

Dear State Employee:

Enclosed is a report prepared by the Alaska Public Employees Association regarding an issue of vital interest to all state employees. With the help of concerned members across the state, APEA has intensively reviewed the question of the State of Alaska's withdrawal from the Social Security system. After eight months of study, it is our conclusion that state employees will greatly benefit from Social Security withdrawal if the funds which are currently contributed to that system are re-invested elsewhere.

This report contains a comparison of Social Security benefits with those of the Public Employees' Retirement System as well as a list of recommended improvements to the P.E.R.S. made possible through the investment of former Social Security contributions. Most of the questions you may have regarding the future of Social Security, its funding problems, and the real worth of the benefits it promises, are answered in this study. We feel confident that when you have read this report and studied the issues you will agree that withdrawal from Social Security is a wise decision.

At the request of APEA, legislation has been introduced requiring that the decision concerning continued participation in the Social Security system be left to state employees. If it is successful, that legislation will establish an employee referendum to determine the issue and will secure all contributions to the Social Security system, both the employer's and the employee's, for future investment in other retirement systems.

The advisory ballot included at the beginning of this report is designed to demonstrate the concern of state employees regarding this issue. When you have reviewed the facts, please mark your ballot, tear out, and drop in the nearest mailbox. No postage is necessary. Recommendation corresponding to the questions on the ballot are contained on pages 15-17, 24-25, 30, 34-38, 39-40.

Please do not delay. The option to withdraw from Social Security is a once-in-a-lifetime opportunity to provide substantial security for your retirement years. If you would like more information on the subject or would like to organize a special meeting to discuss the issue, contact APEA Headquarters.

Sincerely,

Michael E. Murray, Jr.
Chairman
APEA Committee on Social Security Withdrawal

ANCHORAGE FIELD OFFICE
308 W 6th STREET SUITE 120
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 274-1666

FAIRBANKS FIELD OFFICE
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FAIRBANKS ALASKA 99701
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JUNEAU ALASKA 99801
TELEPHONE (907) 586-2334

ALASKA PUBLIC EMPLOYEES ASSOCIATION

REPORT

TO ALL EMPLOYEES OF THE STATE OF ALASKA CONCERNING THE DESIRABILITY OF WITHDRAWAL FROM THE SOCIAL SECURITY SYSTEM;

AND

A BALLOT WHEREBY EMPLOYEES OF THE STATE OF ALASKA MAY ADVISE THE ALASKA PUBLIC EMPLOYEES ASSOCIATION:

A. WHETHER PUBLIC EMPLOYEES WANT TO OPT-OUT OF THE SOCIAL SECURITY SYSTEM;

B. WHAT BENEFITS, IF ANY, SHOULD BE IMPROVED WHICH MAY BE LOST TO SOME EMPLOYEES BECAUSE OF WITHDRAWAL FROM THE SOCIAL SECURITY SYSTEM.

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PLEASE TEAR OUT, FOLD, AND MAIL.

ADVISORY BALLOT

Check One

( ) Member of General Government Unit

( ) Supervisory Unit

( ) Other Bargaining Unit

( ) Not Organized

Do you favor withdrawal from the Social Security System. yes ( ) no ( )

If you voted yes to the first question; is your vote based on the condition that the money which the State of Alaska and the employees of the State of Alaska are contributing to Social Security be used to improve the benefits of the Public Employees Retirement System. yes ( ) no ( )

Please indicate order of priority: First priority mark #1; second priority mark #2; third priority mark #3, etc. If you are opposed to any item mark no, note additional comments on back of ballot.

( ) Increase retirement compensation to 2½% for each year of credited service.

( ) All state employees become eligible for retirement after 20 years credited servic

( ) Equal benefits for occupational/non-occupational death & disability.

( ) Increase death & disability benefits to 50% of monthly earnings.

( ) Extend death & disability benefits to employees who leave state service.

( ) Provide death and disability insurance for temporary employees.

PLEASE TEAR OUT, FOLD, AND MAIL.

1185 SSA SB 29

1185

COMMENTS:

FIRST CLASS
PERMIT No. 81
JUNEAU, AK.

Postage Will Be Paid By—

ALASKA PUBLIC EMPLOYEES ASSOCIATION

130 Seward Street, Suite 508

Juneau, Alaska 99801

HISTORY

Being the representative of the largest group of state employees, APEA has over the years received considerable input from these employees and others expressing their desire to withdraw from the Social Security system. With this in mind, APEA negotiators entered into an agreement with the State of Alaska to jointly conduct a study to determine the desireability of terminating participation in the Social Security system for employees of the State of Alaska. The result of this agreement is the report prepared by William M. Mercer, and is referred to hereafter as the Mercer Report.

The federal law which establishes the Social Security system provides that a public employer may withdraw from the Social Security system after two years advance notification of withdrawal is given. The State of Alaska gave such notification in December, 1975 and, unless the State advises the Social Security Administration otherwise, the employees of the State of Alaska will not make contributions to that system after December, 1977.

This report is not intended to be an in-depth study of the Social Security system but, rather, to make recommendations based on the Mercer Report, a report prepared by the professional staff of APEA, information published by the Social Security Administration, the Public Employees Retirement System, the U.S. Senate Subcommittee on Aging, and other information gathered concerning other public employers who have withdrawn from the Social Security system. More importantly, however, this report also contains a ballot which gives the employees of the State of Alaska what may very well be a once-in-a-lifetime opportunity to express their wants

and needs concerning their future security and retirement.

The information collected from this ballot will be used, as much as is practical, to formulate a list of priorities for the purpose of drafting legislation that will effectuate those priorities. APEA's main lobbying effort during the 1977 session of the legislature will be the passage of this legislation. If the employees of the State of Alaska actually do opt-out of the Social Security system, assuming that they vote to withdraw, the benefit they may derive from that action will depend greatly on the success or failure of this legislation.

FOREWORD

Why do so many employees want to withdraw from the Social Security system? A recent survey conducted by APEA showed that 2/3 of the approximately 1500 employees who responded to that s vey wanted to "opt-out" of Social Security. Why is this? Is the system really th bad? There is no question that some employees want t> opt-out because they think that the system is "going broke." Others want to o, t-out because they think that after they have established their 40 quarter eligibili:y they will be eligible for the maximum benefits provided by Social Security; for those employees there is no point to pouring more money into the system since they think they will not get any more out of it.

Both of these groups of employees are mistaken. In the fi-st place, the system can -ever go broke. It is, quite literally, as strong as the U.S. Government itself. Or, to put it another way, it is as strong as the government's ability to collect taxes. What this means is that the government will simply raise Social Security taxes whenever the system needs more money to fund the programs it provides. As for the second group of employees who think they need only "40 quarters in," this report should clarify many of their misconceptions. However, it is safe to assume that the majority of employees who want to opt-out of Social Security do so because they feel they would receive greater benefits at retirement if the money that both they and the State are pr sently contributing to Social Security was invested, instead, in the Public Employees Retirement System.

There is no question that Social Security taxes are certain to increase dramatically in the future now that the taxable wage base is tied to the Consumer Price

Index. The tax (currently 5.85%) on the taxable wage base is also certain to increase. Although benefits are also tied to the Consumer Price Index, what these benefits will cost in the way of Social Security taxes to individuals cannot now be accurately predicted. With this "double indexing" of the Social Security benefit formula, some actuaries have projected Social Security benefit costs under the current system will reach as high as 30% to 50% of taxable pay in the years 2020 to 2050. That is, for many of us, eight to twelve times what we are now paying. Mr. A.H. Robertson, Chief Actuary of the Social Security Administration, in a speech he gave in October, 1975, said that, "Based on current projections of income to the Social Security system and benefit payouts, the current Social Security tax rates are insufficient to the extent that the Social Security Trust Fund could be depleted by 1982."

THE MAXIMUM BENEFIT PAYABLE TO AN INDIVIDUAL WHO RETIRED AT AGE 65 IN 1976 WAS $364 PER MONTH. THE SPOUSE OF THAT INDIVIDUAL WOULD RECEIVE 50% OF THAT BENEFIT, ALSO AT AGE 65.

It is difficult to imagine how anyone could live on this amount of money today. Nevertheless, many do, although it is common knowledge that the standard of living among retired persons, living entirely on Social Security, is one of the lowest in the United States. The monthly check from Social Security is barely enough to provide shelter for these individuals, let alone food or any luxuries. So it is little wonder many of them end up living out their lives in some old-age home or turning their Social Security checks over to some other institution so they can survive. It is a national disgrace that we, a nation of incredible wealth, systematically do this to our parents and grandparents. Perhaps, unconsciously or subconsciously, this is why many people want to get out of Social

Security. As most workers are unable to accumulate enough wealth during their working years to enable them to maintain their standard of living after retirement, it would be prudent indeed for any worker to take advantage of an opportunity that will assist him in providing security for his retirement.

Such an opportunity is now at hand. If the employees of the State of Alaska withdraw from the Social Security system and, if the money that both the employees and the State are now paying into Social Security is reinvested in the Public Employees Retirement system, retirement benefits from P.E.R.S. can be substantially improved.

AN EMPLOYEE WHO RETIRED FROM STATE SERVICE AFTER 30 YEARS WOULD RECEIVE 75% OF THE AVERAGE OF HIS THREE HIGH YEARS' EARNINGS IF THE BENEFIT FORMULA WERE INCREASED TO 2-1/2%. AN EMPLOYEE WHO RETIRED AFTER 20 YEARS' SERVICE WOULD RECEIVE 50%.

What may be even more important, especially to young employees, is that under the P.E.R.S. they are eligible for a pension while they are still relatively young. An increased benefit formula could provide the means for these employees to advance their education or to pursue other careers. In any case, it would provide any career employee a benefit which would allow him to retire with the confidence of knowing that his future is secure.

COMPARISON OF FUTURE RETIREMENT BENEFITS

PUBLIC EMPLOYEES RETIREMENT SYSTEM/SOCIAL SECURITY SYSTEM

We do not get a realistic picture of what retirement benefits are worth if we compare future Social Security benefits with future P.E.R.S. benefits. The numbers that these kind of projections produce are so inflated, few are able to recognize their relative value. Nevertheless, because the Mercer Report contains a table (see page 10 of this report) showing "estimated future monthly Social Security retirement benefits at age 65", it is necessary when considering withdrawal from Social Security, that employees be able to make a comparison between those benefits and what benefits they could receive from the P.E.R.S. in the future in the event of withdrawal from Social Security.

With this in mind, the Committee has included in this report a table (shown on page 7) showing estimated future monthly P.E.R.S. retirement benefits at age 55.

However, it must be noted that these benefits are based on a 2-1/2% benefit formula, (the present benefit formula is 2%) and that these benefits would apply only to those "hypothetical employees" listed in the two columns to the left of the table. Also, it should be noted that these benefits are based on the assumption that salaries will increase at the annual rate of 6%. The 6% figure was used to parallel the assumption made in the Mercer Report, i.e. that future increases in the taxable wage base would be at the annual rate of 6%. (As explained elsewhere in this report the taxable wage base is the maximum amount of annual earnings subject to Social Security tax. How much that amount will be increased is determined by the average increase in wages of workers from one year to the next.)

EXPLANATION OF FUTURE RETIREMENT BENEFITS

When first examining the table showing "Estimated Future Monthly P.E.R.S. Retirement Benefits at Age 55", most people find it difficult to accept the fact that these numbers represe· a realistic projection of what it will cost for employees who retire in the future to maintain the same level of retirement benefits as employees who are retiring now. Although these numbers are based on an increased benefit formula, it must be emphasized that most workers who receive these benefits in the future will not be eligible to receive Social Security benefits based on state service. That is, of course, assuming that the State of Alaska withdraws from the Social Security system. It must also be noted that the c st of providing the increased benefit formula will be paid for with the money that is presently going into the Social Security system, and will not he an additional cost to either the emplo·ees or the State of Alaska. In view of the fact that neither the employees or the Sate of Alaska have any control over what future Social Security costs will be, w'thdrawal from that ·ystem should result in a savings to both the employees and employer.

When examining future retirement benefits of the P.E.R.S., it may be useful to show what those benefits are worth in 1977 dollars. Page 6 of this report shows estimated monthly P.E.R.S. retirement benefits at age 55, with a 2-1/2% benefit formula, for employees who are eligible for retirement now. It can be assumed that these benefits have a relative value equal to the future P.E.R.S. benefits shown on page 7.

ESTIMATED CURRENT MONTHLY P.E.R.S. RETIREMENT BENEFIT

AT AGE 55 WITH 2-1/2% BENEFIT FORMULA

Years of Service at age 55	Est. P.E.R.S. Retirement benefit 3 high yr. average	Est. P.E.R.S. Retirement benefit 3 high yr. average	Est. P.E.R.S Retirement benefit 3 high yr. average	Est. P.E.R.S. Retirement benefit 3 high yr. average
	$15,300/yr	$20,000/yr	$25,000/yr	$30,000/yr
5	$159.38	$208.33	$260.42	$312.50
10	$318.75	$416.67	$520.83	$625.00
15	$478.13	$625.00	$781.25	$937.50
20	$637.50	$833.33	$1041.67	$1250.00
25	$796.88	$1041.67	$1302.08	$1562.50
30	$956.25	$1250.00	$1562.50	$1875.00

Assumptions:

(1) 2-1/2% benefit formula "X" 3 high year average

(2) Employee does not elect survivor option

ESTIMATED FUTURE MONTHLY P.E.R.S. RETIREMENT BENEFIT

AT AGE 55

Current Age	Years of Service at age 55	Est. P.E.R.S. Retirement benefit Current salary $15,300/yr	Est. P.E.R.S. Retirement benefit Current salary $20,000/yr	Est. P.E.R.S. Retirement benefit Current salary $25,000/yr	Est. P.E.R.S. Retirement benefit Current salary $30,000/yr	Year Employee becomes age 55
50	5	$201.21	$263.02	$328.77	$394.52	1982
45	10	$538.52	$703.95	$879.94	$1055.93	1987
40	15	$1081.00	$1413.07	$1766.33	$2119.60	1992
35	20	$1928.82	$2521.33	$3151.67	$3782.00	1997
30	25	$3226.50	$4217.65	$5272.06	$6326.47	2002
25	30	$5181.35	$6773.00	$8466.25	$10,159.50	2007

Assumptions:

(1) Future salary increases at annual rate of 6%.

(2) 2-1/2% benefit formula "X" 3 high year average

(3) Employee becomes age 55 while in state service.

(4) Employee does not elect survivor option.

Note: When comparing P.E.R.S. retirement benefits to those of Social Security, it should be noted:

(1) That full Social Security retirement benefits do not begin until age 65.

(2) That most employees will receive a Social Security retirement benefit at age 65 at some level, in addition to the P.E.R.S. benefit.

(3) That Social Security benefits are not subject to federal tax.

(4) That P.E.R.S. benefits are not subject to state and local taxes in Alaska.

(5) That P.E.R.S. benefits are not subject to federal tax until after retirement benefits paid to an individual exceed the individual's

(5) contributions to the P.E.R.S. system.

(6) That many employees will be in higher salary ranges before retirement age because of promotions.

(7) Employees who retire at age 55 under P.E.R.S. will receive payments from that system for 10 years (120 months) before Social Security benefits begin. That is, for employees with 30 years' service whose current salary is $15,300: $5181.35 x 120 months = $621,762.00 before Social Security benefits begin. For employees whose current salary is $30,000: $10,159.50 x 120 months = $1,219,140.00 before Social Security benefits begin. With a 4% annual cost of living adjustment, these 10 year totals would be increased by 148%. An employee whose current age is 25 and who is currently earning $15,300 annually, and who retires from the P.E.R.S. at age 55 at $5181.35 per month, would be receiving $7670 per month at age 65 if a 4% annual, post-retirement, cost of living adjustment were in effect when he retired.

Included in this report is a table from the Mercer Report showing estimated monthly Social Security retirement benefits at age 65. Although it is safe to assume that the Social Security benefits shown in that table are correct, based on the assumptions made, it would have been helpful if more information had been provided concerning Assumption #5, ie. "All workers remain eligible for Social Security benefit at some level." For instance: Line 1, Current age 30, in the column showing "Estimated Social Security Retirement Benefit -- Termination from OASDI ($400, to an individual/ $600 with spouse benefit).

The table shows that the worker terminated from Social Security at age 30. At that time he could have had as many as 10 or 12 years in the Social Security system while working for the state. He could then have continued working for the

state, after termination from Social Security, for another 20 years and retired under the P.E.R.S. at age 50. The question is: did that employee then go to work for an employer who was in the Social Security system? If he did, he would gain 15 more years of Social Security credits. The next logical question is: how many years did this worker contribute to the Social Security system and when, during his career, did he make the contributions which entitled him to a $400.00 retirement benefit?

WILLIAM M. MERCER

Table 1

Estimated Monthly Social Security Retirement Benefit
At Age 65

Current Age	Estimated Social Security Retirement Benefit - Continuation in OASDI	Estimated Social Security Retirement Benefit - Termination From OASDI	Social Security Retirement Benefit Lost in Termination	Social Security Retirement Benefit Lost - With Spouse Benefit
30	$ 3,824	$ 400/$600*	$ 3,424	$ 5,136
35	$ 2,793	$ 578/$867*	$ 2,215	$ 3,323
40	$ 1,968	$ 595/$892*	$ 1,373	$ 2,060
45	$ 1,423	$ 545/$817*	$ 878	$ 1,317
50	$ 1,068	$ 499/$748*	$ 569	$ 854

*with spouse's benefit

Assumptions

(1) Future increases in wage base at the annual rate of 6%.

(2) Future increases in the cost of living at the annual rate of 4%.

(3) Spouse is same age as worker.

(4) Worker's earnings in all years equal or exceed the wage base.

(5) All workers remain eligible for Social Security benefit at some level.

NOTE: In comparing the benefits of the alternative programs to those of Social Security, the column headed "Social Security Retirement Benefit Lost - With Spouse Benefit" should be used.

When considering withdrawal from the Social Security system, the question of portability invariably arises. That is, that benefit accrual is fully portable for employees who go from one employer to another, so long as those employers participate in the Social Security system. Whereas, under the P.E.R.S., when employees leave state service benefit accrual stops, although they still may be eligible to receive retirement and death benefits. It should be noted that, currently under the P.E.R.S., any employee who leaves state service before reaching retirement age and who has at least 5 years of credited service will still be eligible for a retirement pension at age 50 or 55 if he has not withdrawn his contributions from the system (i.e. a deferred, vested member). His retirement benefit will be based on his years of credited service.

It should also be noted that, should this same employee die before retirement and after leaving state service, the surviving spouse may, at his or her discretion, receive either the lump sum death benefit or the 50% joint and survivor option, based upon the deceased employee's credited service. In addition, any person who is receiving a retirement benefit from the P.E.R.S. is also entitled to major medical insurance coverage. But they do not accrue credited service when they leave state employment and they are not eligible for any disability benefit after leaving state service.

However, under the latest revisions in the P.E.R.S., the death and disability benefits for employees who either die or become disabled while in state service and whose death or disability resulted from occupational causes, are <u>not</u> based on credited service. In the case of death, the surviving spouse will receive 40% of the deceased employee's monthly earnings at the time of death, until such time, if the deceased spouse had lived, he would have been eligible to retire. At that time the surviving spouse will receive the normal retirement pension

based on the deceased employee's three high-year earnings, with service credit up to his retirement age, had he lived.

In the case of disability, the disabled employee also receives 40% of his current monthly salary until he is eligible for retirement. AT that time, he receives the normal retirement benefit based on his earnings at the time of disablement. The period of disability constitutes credited service.

It is the opinion of this committee that if the State of Alaska withdraws from the Social Security system and if the recommendations described elsewhere in this report concerning death and disability benefits affecting employees who leave state service are implemented, employees who leave state service will have adequate death and disability protection if they are not covered by Social Security and until such time as they may be eligible to receive these benefits from Social Security.

Another area of concern for some people is that the Federal Government will change the law which allows public employers to withdraw from Social Security or they will use general fund revenues to support the benefits of the Social Security system. The reason the Federal Government allows public employers a choice in participating in Social Security is due to the fact that it is questionable whether it is constitutional for the Federal Government to force public employers to belong. Even if the law is changed, it is doubtful whether it would apply to public employers who had already withdrawn.

As to the question of using general fund revenues to support Social Security benefits, this is quite possible. If this occurred after the State of Alaska withdrew from the Social Security system, public employees would, in fact, be

paying for some Social Security benefits by virtue of the fact that they pay federal taxes. If this were to happen, it is fairly safe to assume that Congress would, at the same time, make some benefits available to individuals who are not in the system, especially when one considers that there are so many federal employees, and they are not in the Social Security system.

As previously noted in this report, Social Security benefits are now tied to the Consumer Price Index. This was done, of course, to prevent inflation from reducing the buying power of retired workers living on Social Security. Now that this feature has been in effect for several years, there has been considerable concern expressed in the U.S. Congress about the cost of maintaining that provision. Thus, there is some possibility that Congress might put a limit on how much Social Security benefits will be increased due to inflation.

The fact that there is no automatic cost of living allowance built into P.E.R.S. benefits after retirement must be considered in regard to withdrawal from Social Security. It should be noted, however, that there is a provision in the P.E.R.S. whereby the Commissioner of Administration may authorize a cost of living adjustment for persons receiving benefits from the P.E.R.S., provided the financial condition of the retirement fund can permit it.

There is no question but that the cost of Social Security is going to increase substantially from now on, and it should not have to be pointed out that both the employee and the employer will pay the cost. In the event of withdrawal from the Social Security system, it would not be too optimistic to assume that any savings to both the employees and the State would be used to provide cost of living adjustments to retired employees.

THE BOTTOM LINE

STRUCTURE OF THE SOCIAL SECURITY BENEFIT FORMULA:

It is almost impossible to read anything about the Social Security system which doesn't express grave concern about the future of that system. There is no question but that the basic cause of this concern is the Social Security benefit formula. For many years it has been apparent that retired workers living on Social Security were one of the poorest classes of people in the United States. These people living on "fixed incomes" were going from bad to worse as each year went by because of increases in the cost of living. Finally, in 1972, Congress revised the Social Security law and established an automatic cost of living adjustment on Social Security retirement benefits by tying those benefits to the Consumer Price Index which reflects rises in the cost of living. At the same time, they also tied the taxable wage base to the benefit increases; that is, whenever retirement benefits are raised due to inflation, the taxable wage base is automatically increased by the same percentage that the average wages of the workers who are contributing to the system have increased, since the last increase in the taxable wage base.

Coincidentally, whenever the taxable wage base increases, the "average monthly wage" also increases and since the monthly benefits payable to an individual at retirement age is determined from a "schedule" based on "the average monthly wage", it also follows that as the average monthly wage increases, retirement benefits also increase. This is what is meant by "double indexing" of the benefit formula. That is, both the taxable wage base and the benefit are indexed. Or to put it another way, they are already scheduled.

However, neither the method of increasing the wage base, or the amount that retirement benefits are scheduled (indexed) to increase are integrated into any formula that will generate the revenue required to pay for these benefits.

Although the tax rate which is currently 5.85% is scheduled to increase to 6.05% in 1978, 6.30% in 1981, 6.45% in 1986 and to 7.45% in 2011, the Social Security Administration has stated that the tax rates are insufficient to fund the benefits.

Another concern is the fact that the taxable wage base is increasing at a greater rate than are the wages of many of the workers who are contributing to the system, and that every year more and more workers are not earning the maximum wage subject to Social Security tax.

Of course, if the tax rates increase as scheduled and double-indexing of the benefit formula continues, the inequities which already exist in the system will be greatly increased. That is, that workers who earn the maximum wages subject to Social Security taxes will be paying for an even greater share of the benefits paid to workers who do not earn the maximum amount subject to Social Security tax. By comparison, the retirement benefits paid to a worker under the P.E.R.S. are directly proportional to what that worker pays into the system.

In view of the fact that a worker may retire from the P.E.R.S. as early as age 50, or even earlier in many cases; and

---because that worker will almost certainly return to work for an employer who is in the Social Security system; and

---because retirement benefits for career employees are substantially greater

from the P.E.R.S. and will be even more so if the benefit formula is increased to replace any retirement benefit that may be lost to state employees after withdrawal from the Social Security system; and

---because short term staff employees would lose little, if any, Social Security retirement benefit; and

---because the Social Security retirement system contains numerous inequities which are discriminatory; and

---more importantly, because the cost of Social Security is certain to increase at a greater rate than benefits will be improved;

THIS COMMITTEE CAN FIND NO REASON OF SUFFICIENT CONCERN TO CAUSE STATE EMPLOYEES TO VOTE AGAINST WITHDRAWAL FROM THE SOCIAL SECURITY SYSTEM.

RECOMMENDATIONS IN GENERAL

I. It is recommended that the employees of the State of Alaska vote "yes" to the question "Should the employees of the State of Alaska terminate their participation in the Social Security system?", on the condition that the State of Alaska contribute a sum of money to the Public Employees Retirement System equal to, or greater than, the sum that the State is currently contributing to the Social Security system on behalf of its employees.

Such money shall be used, as much as is practical, to improve and/or replace those benefits which may be lost to employees because of their non-participation in the Social Security system, or as otherwise determined by the tally of the Advisory Ballot accompanying this report.

II. It is also recommended that the employees of the State contribute to the Public Employees Retirement system at least part of the money they are currently contributing to the Social Security system. Such amount shall be determined, as much as is practical, by the tally of the Advisory Ballot.

FACTORS WHICH MUST BE CONSIDERED BEFORE VOTING TO WITHDRAW FROM THE SOCIAL SECURITY SYSTEM

BENEFITS: (A) RETIREMENT

(B) SURVIVORS' BENEFIT

(C) DEATH & DISABILITY BENEFITS

(D) MEDICAL BENEFIT

The following discussion describes what benefits are provided by Social Security and how withdrawal from the Social Security system may affect state employees' eligibility for these benefits. This discussion also describes what benefits these employees may be eligible to receive from the P.E.R.S. Also included here are recommendations for improvement and/or replacement of benefits which may either be lost or decreased for some employees because of withdrawal from the Social Security system.

(A) RETIREMENT

1. SOCIAL SECURITY

---The normal retirement age for workers covered by Social Security is 65 years. A worker may retire at age 62 with a penalty of 5/9 of 1% for each month that he retires before his 65th birthday.

---To be "fully insured," a worker must have one "quarter of coverage" for each year after 1950 (or, if later, the year he reaches age 21) or before the year death occurs or, if earlier, the year he reached age 62.

---The maximum number of "quarters of coverage" required is 40. The minimum number required is 6. A quarter of coverage is a calendar quarter in which a worker has earned at least $50 in wages for employment covered under this law.

---The "taxable wage base" is the maximum amount of annual earnings subject to Social Security tax and used to calculate the average monthly wage. The taxable wage base in 1976 was $15,300. The Social Security tax in 1976 was 5.85% x $15,300 = $895.

---The monthly retirement benefit payable to an individual at full retirement age is determined from a "schedule" based on the "average monthly wage."

---The "average monthly wage" is the average wage subject to Social Security tax earned by a worker over his career after 1950.

---The "Primary Insurance Amount" is the monthly benefit payable to an individual at full retirement age before application of any delayed retirement credit. Such amount is determined from a schedule based on the Average Monthly Wage.

This means that an employee's earnings (up to the maximum taxable wage) for each year after 1950 or, if later, the year he reaches 21, up to the year he is 62, are totaled and then divided by that number of years. (If an employee becomes 21 years of age after 1950, that is 41 years until he becomes 62. It is also 164 quarters of coverage: 41 x 4 = 164.) There is a provision in the law to drop from this total the five lowest earning years, which means that the average monthly wage is based on 36 years of employment. That may be important, especially if, in those years, the contribution to Social Security was $0. The result of all the addition, subtraction and division is (when the total is divided by 12 months) the "average monthly wage."

The maximum average monthly wage possible up to 1976 was $585. The maximum retirement benefit, payable to an individual who retired before June 1976, was $364.

(i.e. primary insurance amount.) If the average monthly wage was one-half of the maximum possible (1/2 of $585) or approximately $293, the benefit from Social Security would be $229. That is 78% of the average monthly wage, whereas $364, the maximum benefit, is only 62% of $585. In this way, Social Security retirement benefits are far more profitable for those workers who do not earn the maximum amount subject to Social Security tax.

WIFE'S BENEFIT

A wife or dependent husband of a retired worker receives 50% of the spouse's benefit at age 65. A wife may receive this benefit at age 62, but her benefit will be reduced by 25/36 of 1% for each month before she is 65 years old that she receives the benefit. A wife may receive her benefit at any age if she is caring for a child entitled to a child's benefit. Payments cease when either spouse dies, or when they are divorced after less than 20 years of marriage, or there is no child entitled to a child's benefit and the wife is under age 62.

CHILD'S BENEFIT

Every child of a worker who is entitled to a retirement benefit will receive 50% of the worker's benefit until age 18, or age 22 if the child is a full-time student. Payments cease when the child either dies, is married, or is no longer a student. If the child's benefit is based on his being disabled, the benefit stops the third month following the month he ceases to be disabled.

There is also a maximum limit that Social Security will pay to any family. That limit is approximately 180% of the retirement benefit. For 1976 that figure was 180% x $364 = $655.

REDUCED BENEFITS BASED ON EARNINGS

Social Security retirement benefits are reduced $1.00 for every $2.00 earned in excess of $2760 in any year. However, benefits are not reduced in any month in which earnings are less than $230. The maximum earnings limit is subject to possible increase every year based on increases in the taxable wage base.

Income earned from stock dividends, interest on savings, other pensions, annuities, gain or loss from the sale of capitol assets, gifts or inheritances, or rental income, unless you are a real estate dealer, are not counted as earned income.

TO SUMMARIZE

A worker needs at least six (6) quarters of coverage, but not more than 40 quarters of coverage, to be eligible for a Social Security retirement benefit. The amount of that benefit is determined by the employee's "average monthly wage."

Because the taxable wage base is much greater during the worker's later years, his average monthly wage will be higher if he earns quarters of coverage just before reaching age 65.

The Social Security retirement benefit formula favors workers in the lowest income bracket; that is, those workers get a higher return on their money than do workers in higher income brackets. The taxable wage base on which Social Security contributions are based is currently $15,300. By 1980, based on assumptions regarding wage increases, it is scheduled to climb to $21,600. There is also a bill under consideration by the U.S. House Social Security Subcommittee which will further increase the taxable wage base to $25,000 without any guarantee that benefits will be raised proportionately. This trend will have a greater impact on Alaskans than on workers in other states since wages are higher here.

Many employees in state service are either already vested in Social Security or will become vested in that system in the future, regardless of Alaska's withdrawal from the program, because a high percentage of state employees work for the State for less than four years. However, some employees, because of their long-term employment with the State of Alaska after withdrawal from the Social Security system, will lose some Social Security retirement benefit.

This may happen to an employe who is vested in Social Security before the State withdraws from that system but who continues in state employment for some time (possibly 10 or 20 years) after withdrawal from Social Security, and who does not contribute to Social Security after leaving state service.

If an employee retires under P.E.R.S., the Social Security retirement benefit that he would receive would be based on the "average monthly wage" he earned while he was contributing to the Social Security system. It follows, then, that the employee would receive a smaller Social Security retirement benefit at age 65 than he would have received had he remained in that system until his retirement age. This is true since the "average monthly wage" would have been higher if the employee had contributed to Social Security during his highest-earning years of employment.

However, if that employee left state service at age 40 or 50 or even 55 years of age (regardless of whether he received a retirement benefit from P.E.R.S.), and if he then went to work for an employer covered by the Social Security system, that worker would then add quarters of coverage to his Social Security earnings which would increase his average monthly wage. This is especially true at this time because the taxable wage base will normally be much higher during a worker's later years of employment. Consequently, an employee who leaves the Social Security system and later returns to it may receive, on retirement, a benefit only slightly reduced.

Also, it must be pointed out that single workers and married working women pay into the Social Security system for retirement benefits they may never receive.

That is, single workers pay for spouse and child benefits that they cannot possibly collect because they are not married. Also, a married working woman pays for full benefits but she can only receive 50% of her husband's benefit unless he dies. At that time she receives her own, or his full benefit, whichever is greater.

(A) RETIREMENT

2. P.E.R.S.

Unlike the Social Security system, the retirement benefit that an employee receives from the Public Employees Retirement System is directly proportional to what that employee pays into the system. State employees are currently contributing four and one-quarter percent of their earnings to the P.E.R.S. An employee is vested in this system after five years service. The benefit formula is: 2% X number of years of service X the average of three consecutive high year earnings. Normal retirement age after vesting is 55 years, with an option for retirement at age 50. An employee who elects to retire before his 55th birthday will lose 1/2 of 1% of his normal benefit for each month that he retires before his 55th birthday. That is to say, a 6% penalty for each year of early retirement. Also, it should be noted that any employee may retire without penalty after 30 years of service regardless of age, except that peace officers, firemen, correctional officers, and Fish and Game field biologists and technicians may retire after 20 years of service without penalty, regardless of age.

It is also worth noting that teachers and other employees who are required to hold a teaching certificate have their own retirement system. This system is the "Teachers Retirement System" and these employees may retire without penalty after 20 years of service regardless of age.

Employees who retire from state service under the P.E.R.S. may elect, at their at their own option, any one of three survivor options. Ordinarily, upon death after retirement, there will be no continuing benefit for the spouse unless the employee applies for 30 days prior to retirement. Under each of these options, normal retirement benefits are actuarially reduced, with the spouse continuing to receive payment after the employee's death in accordance with the plan that is chosen.

An employee who retires and wants to provide a continuing benefit to the spouse in the event of his own death may elect:

A. 75% joint and survivor option; or

B. 50% joint and survivor option; or

C. 66 and 2/3% last survivor option.

An employee who elects either (A) or (B) above will have his normal retirement benefit actuarially reduced based on the age of the spouse at the time of the employee's retirement. Upon the employee's death, the spouse will receive either 75% or 50% of his reduced pension for life, whichever was chosen before retirement.

An employee who elects (C) above will have his normal retirement reduced also but, upon the death of either employee or spouse, the survivor receives 66 and 2/3% of the reduced benefit for life.

The difference between (C) and either (A) or (B) is that retirement benefits under (A) and (B) will not change on the death of the spouse. However, under option (C), either survivor receives 66 and 2/3% of the reduced benefit.

In selecting any of these options, an employee should keep two general principles in mind: (a) the lower the age of the spouse at the time the employee retires, the greater the reduction in the normal retirement benefit; and (b) the lower the continuing payments to the spouse, the smaller the reduction will be to normal retirement benefits.

Another option is also available under the P.E.R.S. called the "level income option," whereby employees who retire under the P.E.R.S. before they are eligible for Social Security retirement benefits, may have their P.E.R.S. benefit increased until their Social Security benefit payments begin. At that point, the P.E.R.S. benefit will be reduced proportionately. The result is a more "level income" throughout the retirement years.

It should be noted that any employee who leaves state service may withdraw all of his contribution plus interest from the system. Of course, if he does this he will not be eligible for any benefits. Additionally, there is a provision in the P.E.R.S. regulations whereby any employee who leaves state service and withdraws his contributions may be reinstated in the system at a later date without penalty, if he pays back his contributions plus interest.

(8) SOCIAL SECURITY SURVIVORS' BENEFIT

1. DEATH BENEFIT

A widow or dependent widower (who received at least half of his support from his wife) will receive at age 65 100% of the "primary insurance amount" the deceased spouse would have received at normal retirement age had he lived. The survivor may receive this benefit at age 60 with a penalty reduction of approximately 1/2 of 1% for each month that the survivor receives the benefit before she or he attains age 65. This benefit stops when the surviving spouse dies.

A widow not entitled to a widow's benefit may be entitled to a mother's benefit. (A widow must be at least 60 years old to receive a widow's benefit or 50 years of age if disabled.) A mother's benefit is payable to the widow of a worker who dies while fully insured (40 quarters of coverage) or currently insured (6 quarters of coverage in the 13 quarters period ending with the quarter in which the death of the worker occurred) provided the widow is:

(a) not married

(b) not entitled to widow's benefit

(c) has in her care a child of her deceased husband entitled to a child's benefit.

A woman need not be age 60 to qualify for a mother's benefit. The mother's benefit is equal to 3/4 of the "primary insurance amount" the deceased spouse would have received at normal retirement, had he lived. The mother's benefit ceases when she dies or remarries, or becomes entitled to a widow's benefit, or no longer has a child who is entitled to a child's benefit.

Social Security also provides a child's benefit for children under 18 years of age or 22 years of age, if the child is a student. Eligibility requirements and benefits are similar to a mother's benefit. That is the worker who dies must be fully or currently insured.

Parents are also eligible for a Social Security benefit if they are dependent (receive 1/2 of their support) on a worker who dies. For the parent to be eligible, the worker who dies must be fully insured.

In addition to the benefits already mentioned, Social Security pays a one-time lump sum benefit of $255.00 to the widow or widower of a worker who dies while fully or currently insured.

MAXIMUM LIMIT OF FAMILY BENEFITS

The total monthly benefit payable to any family from Social Security is approximately 180% of the primary insurance amount.

(B) P.E.R.S. SURVIVOR BENEFITS

DEATH BENEFIT

If an employee's death is the result of non-occupational causes, and if he has at least five years of service, his beneficiary may elect a lump sum death benefit or the 50% joint and survivor option, based on credited service. If death occurs before he has one year of service, his beneficiary will receive a refund of his contributions, plus interest.

LUMP SUM DEATH BENEFIT (Non-occupational Cause)

After one year of service, but less than five years of service, an employee's beneficiary will receive $1000.00 plus $100.00 for each year of service up to the time of his death, plus the balance of his contributions to the fund.

50% JOINT SURVIVOR OPTION (Non-occupational Cause)

After five years of service, an employee's beneficiary will receive 50% of: 2% X the average of his three high consecutive years' earnings X the number of years service he had until the time of his death. This amount is subject to actuarial reduction which is based on the age of the beneficiary or beneficiaries.

Additional death benefits are payable to beneficiaries of employees in the P.E.R.S. who are covered by medical insurance and/or collective bargaining agreements. In most cases, these benefits are lump sum payments.

P.E.R.S. DEATH BENEFIT BEFORE RETIREMENT

If death is a result of occupational causes in the performance of an employee's duties while in state service, the surviving spouse will receive 40% of the deceased employee's monthly compensation at the time of death, until such time, if the deceased employee had lived, he would have been eligible to retire. At that time the surviving spouse will receive the normal retirement pension based on the deceased employee's 3 high year earnings, with service credit up to his retirement age, had he lived. If there is no surviving spouse, the pension will be paid to surviving children who are under 19 years of age or 23 years of age if full-time students. Payments cease when there is no surviving spouse or child.

To be eligible to receive any death benefit from Social Security, a widow must be at least 60 years old unless she has a child who is entitled to a child's benefit. Even then her deceased spouse must have died while "fully" or "currently" insured.

In the event the State of Alaska withdraws from the Social Security system, the employees most likely to lose this benefit are employees who are not vested under Social Security and who die while in state service. These employees may often be young people who may very well have children. Unless these employees have been in state service for a considerable number of years, their benefit under the P.E.R.S. would be less than what they could receive from Social Security had they been covered by that system. It is assumed the employee dies from non-occupational causes.

RECOMMENDATION:

It is recommended that should the State of Alaska withdraw from the Social Security system, the following revision be made in the P.E.R.S.:

Beneficiaries of employees who have five years or more of credited service, who die while in state service before retirement, and whose death results from non-occupational causes, shall be provided the same death benefit as provided when death is a result of occupational causes.

The above recommendations will certainly provide greater benefits to beneficiaries of employees who die while in state service than are provided from Social Security. This is especially true when one considers that under Social Security the surviving wife must be 65 years old to get a full benefit unless

she has dependent children. Also, the husband will get nothing from Social Security if his working wife dies and he was not dependent on her while she was alive.

Under the P.E.R.S. a spouse will receive a pension regardless of his or her age and whether or not he or she was dependent.

It should be noted that under P.E.R.S., if there is no surviving spouse, this same pension will go to a surviving minor or minors (equally divided) until they are age 19 or 23, if full time students.

(C) SOCIAL SECURITY DISABILITY BENEFIT

To be eligible to receive any disability benefit from Social Security an individual must be unable to engage in any substantial gainful activity by reason of medically determined physical or mental impairment which can be expected to result in death, or has lasted, or can be expected to last, for a continuous period of not less than 12 months. In addition, a worker must be "fully insured", that is, have 40 quarters of coverage (ten years) and also have had not less than 20 quarters of coverage (5 years) during the ten years prior to becoming disabled. However, special exceptions apply in the case of individuals who become disabled prior to age 31 and in the case of the blind. Individuals who become disabled before age 24 need 6 quarters of coverage in the 13 quarter period ending with the quarter disability occurs. Individuals who become disabled between age 24 and age 30 need credit for half the period between age 21 and the time disability occurs.

The disability benefit payable from Social Security is based on average earnings subject to Social Security tax after 1950 with provisions for excluding lowest earning years based on age. The monthly benefit is approximately equal to the normal retirement benefit computed as though the worker had attained retirement age. A worker must wait 5 months before he receives any disability payment.

The wife or dependent husband of a disabled worker receives 50% of the spouse's benefit at age 62. A wife may receive a 50% benefit at any age if she is caring for a child entitled to a child's benefit. A child of a disabled worker is entitled to a 50% benefit also, if he is under 18 years old or 23 years old, if he is a student.

Maximum family benefit is approximately 175% of the disabled worker's normal retirement benefit.

(C) P.E.R.S. DISABILITY BENEFIT

Eligibility:

If an employee incurs a physical or mental condition which permanently prevents him from satisfactorily performing the duties of his position, or any other position for which he is qualified by education and training and which is made available by his employer, and if he is not eligible to retire:

Non-occupational disability (with 5 or more years credited service)

Benefit: 2% X (the average of the 3 consecutive high year earnings)
X number of years credited service.

OR

Occupational disability (no minimum service requirement)

Benefit: 40% of current monthly earnings while disabled or until employee is eligible for a retirement benefit. Service credit granted for entire period of occupational disability when computing retirement benefit. Upon the death of a retired employee who is receiving or is entitled to receive an occupational disability pension, a surviving spouse's pension equal to 40% of his average monthly compensation shall be paid to the surviving spouse. If there is no survivingspouse, the survivor's pension shall be paid in equal parts to his children who are under 19 years of age or, if full-time students, under 23 years of age. On the date normal retirement would have occurred if the employee had lived, monthly payments shall equal the monthly amount of the normal retirement benefit to which the employee, had he lived and continued his employment until his normal retirement date, would have been entitled with an average monthly compensation existed at his death and the credited service to which he would have been entitled.

It should be noted that under Social Security there is no distinction between occupational and non-occupational disability, but in order to receive any benefit a worker must have 40 quarters of coverage (10 years) and half of this must be in the 10 years prior to becoming disabled. (Unless under 31 years of age.)

In other words, "fully insured" employees in state service now, who are eligible for a Social Security disability benefit, if they become disabled, would still be eligible for that benefit for five years after withdrawal from the Social

Security system. They would also receive a disability benefit from P.E.R.S.

RECOMMENDATION

It is therefore recommended that, should the State of Alaska withdraw from the Social Security system, the following revision be made in P.E.R.S.:

Employees in state service who become disabled after completing 5 or more years of credited service and when such disability has resulted from non-occupational causes shall be provided the same disability benefit as provided when disability has resulted from occupational causes.

The most difficult situation that we have to deal with is: Should the P.E.R.S. provide a death or disability benefit to survivors or dependents of individuals who either die or become disabled after they leave state service but may not be eligible for death or disability benefits from Social Security because of the State's withdrawal from that system?

When answering this question, it should be remembered that even under Social Security a worker must be both "fully" and "disability" insured in order for him or his dependents to be eligible to receive any disability benefit. In the case of death a worker must be either "fully" or "currently" insured, for his dependents to be eligible for death benefits.

Nevertheless, there are undoubtedly some employees who are presently eligible for Social Security death and disability benefits who will lose eligibility for some of these benefits after they leave state service and after the State has withdrawn from the Social Security system.

For example, let us assume:

1. A worker who is fully insured under Social Security leaves state service and then dies. What benefits are lost?

   (a) The widow or widower of a dependent worker will lose no eligibility for retirement benefits at age 65 because of withdrawal from Social Security.

   (b) The widow will still be eligible for a mother's or a child's benefit.

2. A worker who is fully insured under Social Security leaves state service and then becomes disabled.

   (a) The worker or his dependents will lose no disability benefits if the worker had 20 quarters of coverage during the 10-year period prior to becoming disabled. That is to say, a fully insured worker is still eligible for Social Security disability benefits for five years after he stops contributions to that system.

Summarizing the above examples, we find that the benefits lost to fully insured individuals who leave state service after withdrawal from the Social Security system depends on their "disability" insured status. If these individuals, after leaving state service, go to work for an employer who is in the Social Security system, and if they had lost their "disability" insured status by the time they left state service, they would again be "disability" insured under Social Security

in 5 years if 31 years of age or older. If under age 31, they may be again eligible in only 1-1/2 years depending on age.

Another question that must be considered is the problem of employees who leave state service and are not covered by Social Security.

For instance: An employee enters state service after Alaska withdraws from Social Security and never contributes anything to that system. There are two major concerns regarding these employees:

1. Many of these employees who leave state service will have dependents who need protection; and
2. What meaningful protection can the P.E.R.S. provide for these employees that is fair and equitable, not only to those employees who leave state service but to the rest who stay with the state.

RECOMMENDATION

This Committee recommends that in the event the State of Alaska withdraws from Social Security system and, if the majority of employees, as indicated by the tally of the Advisory Ballot accompanying this report, vote to provide death and disability protection for employees who leave state service before retirement, the following revisions be made in the P.E.R.S.:

> When considering the following recommendations it should be remembered that employees in state service pay for these benefits every month.

Employees who, after completing at least five years of credited service and who then leave state service, shall remain eligible for death and disability benefits from the P.E.R.S. for a period not to exceed ten years from the

effective date of their termination from state service. The amount of death or disability benefit shall be based on the employee's earnings at the time of termination from state service.

Such eligibility shall be in effect only when all of the following requirements are complied with:

1. The employee is not eligible for retirement under P.E.R.S.

2. The employee or his beneficiaries must provide proof of disability or death as required by the Division of Retirement.

3. The employee must leave his contributions in the P.E.R.S. when he leaves state service.

4. The employee must make contributions to the P.E.R.S. on a monthly basis up to the time of his death or disability. The amount of such contribution shall be determined by the Division of Retirement. Such amount shall be the cost of those benefits, determined on an actuarial basis (i.e. the same amount that employees in state service will be required to pay, if the recommendation is implemented).

   The employee may authorize the Division of Retirement to make monthly deductions from his contributions being held in the Retirement fund.

   The employee shall refund to the P.E.R.S. those deductions with interest when he becomes eligible for retirement under the P.E.R.S.

5. Benefits under this section cease under the same conditions

affecting employees in state service.

It is also recommended that the provision which presently exists in the P.E.R.S. (section 39.25.420) insofar as it affects a deferred vested member of the P.E.R.S., be maintained. That is; if the death of a deferred vested member occurs before appointment to retirement and after completing at least 5 years of credited service, the surviving spouse may, at his or her discretion, receive either the lump sum death benefit or the 50% joint and survivor option based on credited service to the date of the employee's termination from state service.

However, no employee may simultaneously receive a pension under more than one section of the P.E.R.S.

(D) SOCIAL SECURITY MEDICAL BENEFIT

The full level of Social Security hospital insurance benefits is available to any individual who is age 65 and is receiving any retirement benefit from Social Security. In addition, supplementary medical insurance benefits are available, on an elective basis, to any individual who is eligible for hospital insurance. This means that any individual who is eligible for Social Security retirement benefits at any level will lose no Social Security medical care benefits because of withdrawal from the Social Security system. However, it must be noted that individuals who retire early are not eligible for Social Security medical benefits until they reach age 65.

It is possible that some individuals who become disabled while employed by the state or after leaving state service may not be eligible for Social Security

medical benefits. Medical benefits are provided for any individual who is under age 65 and has received Social Security disability benefits for at least 2 years. That is to say, the individual must be both fully and currently insured.

RECOMMENDATION

It is the opinion of this Committee that, should the recommendations given in the previous section of this report affecting employees who leave state service be adopted, no other changes be made in the P.E.R.S. affecting these employees.

(D) P.E.R.S. MEDICAL BENEFIT

Employees who retire from state service receive the same medical coverage that they received before retirement.

RECOMMENDATION

As most employees will be eligible for Social Security medical benefits after retirement based on either service with the state or service with other employers and, because employees who retire from state service receive medical insurance coverage from the P.E.R.S., no changes are recommended in the P.E.R.S. affecting employees who retire from state service.

TEMPORARY EMPLOYEES

Temporary employees do not participate in the P.E.R.S. However, they do contribute to the Social Security system and thus, earn "quarters of coverage" in

that system. Nevertheless, because the turnover rate of these employees is extremely high, it is not desirable to include them in the P.E.R.S. This would increase the administrative burden of that system substantially. It is, however, desirable to provide some benefit coverage for these employees.

RECOMMENDATION

This Committee recommends that, in the event the State of Alaska withdraws from the Social Security system, the State of Alaska shall provide a lump sum death benefit to beneficiaries of temporary employees who die while in state service. The amount of such benefit shall be equal to one full year's salary computed as though the employee had worked 12 continuous months.

The State of Alaska shall also provide a disability benefit to temporary employees who become disabled while in the employ of the state and when such disability has resulted from occupational causes. The disability benefit shall be equal to 40% of the disabled employees' monthly salary at the time disability occurs. Disability benefits begin the first month following the month disability occurs. The last payment shall be for the month in which: (1) The death of the disabled employee occurs; or (2) The month in which the disabled employee recovers from disability; or (3) The month in which the disabled employee ceases to be eligible for disability benefits under the Social Security Act; or (4) The month the disabled employee becomes eligible to receive a retirement pension from the P.E.R.S. (based on prior service).

APEA
130 Seward Street, Suite 508
Juneau, Alaska 99801

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G.G.U. EVALUATION QUESTIONNAIRE

583 of the 5,187, or eleven (11) per cent, Alaska Public Employees Association members of the General Government Unit responded to the ballots sent out in the 'Report to Alaska Public Employees on Social Security Withdrawal.' The following is a break down of those returned G.G.U. membership ballots:

1) Do you favor withdrawal from the Social Security system.

   A) 480 or 82% responded yes

   B) 95 or 16% responded no

   C) 8 or 1% had no opinion

2) If you voted yes to the first question; is your vote based on the condition that the money which the State of Alaska and the employees of the State of Alaska are contributing to Social Security be used to improve the benefits of the Public Employees Retirement System.

   A) 415 or 71% responded yes

   B) 63 or 10% responded no

   C) 105 or 18% had no opinion

3) Please indicate order of priority:

   First priority mark #1; second priority mark #2; third priority mark #3, etc. If you are opposed to any items mark no, write additional comments on the back of the ballot.

   A) Increase retirement compensation to 2 1/2 percent for each year of credited service.

B) Equal benefits for occupational/non occupational death and disability.

C) Increase death and disability benefits to 50% of monthly earnings.

D) All state employees become eligible for retirement after 20 years credited service.

E) Extend death and disability benefits to employees who leave state service.

F) Provide death and disability insurance for temporary employees.

Generally, very little comment was received on the back of the Advisory Ballots. Below is a cross section of the most stated comments.

1. I would prefer other alternatives to putting the monies into our retirement fund. One of my alternatives would not be to just receive the extra monies as cash on each monthly paycheck.

2. I believe the 20 year retirement option is of vital importance as older employees will lose a minimum of social security income and younger employees will have an opportunity to qualify for benefits.

3. I would like to see retirement compensation increased to 3% for each year of credited service. Additionally, retirement compensation should be adjusted twice annually to compensate for changes in the Consumer Price Index (C.P.I.), similar to Federal Civil Service. Also the number of years necessary to qualify for vested rights should be reduced from five (5) to two (2) years.

4. I feel an automatic cost of living allowance should be built into P.E.R.S. benefits after retirement, irregardless of whether or not the State of Alaska withdraws from the Social Security system. This should not be left to the discretion of the Commissioner of Administration.

SUPERVISORY UNIT EVALUATION QUESTIONAIRE

165 of the 816, or twenty (20) per cent, Alaska Public Employees Association members of the Supervisory Unit responded to the ballots sent out in the 'Report to Alaska Public Employees on Social Security Withdrawal.' The following is a break down of those returned S.U. membership ballots:

1) Do you favor withdrawal from the Social Security System.

   A) 147 or 89% responded yes

   B) 14 or 8% responded no

   C) 4 or 2% had no opinion

2) If you voted yes to the first question; is your vote based on the condition that the money which the State of Alaska and the employees of the State of Alaska are contributing to Social Security be used to improve the benefits of the Public Employees Retirement System. (P.E.R.S.)

   A) 129 or 78% responded yes

   B) 16 or 9% responded no

   C) 20 or 12% had no opinion

3) Please indicate order of priority: First priority mark #1; second priority mark #2; third priority mark #3, etc. If you are opposed to any item mark no, note additional comments on back of ballot.

   A) Increase retirement compensation to 2 1/2% for each year of credited service.

   B) All state employees become eligible for

retirement after 20 years credited service.

C) Equal benefits for occupational/non-occupational death and disability.

D) Increase death and disability benefits to 50% of monthly earnings.

E) Extend death and disability benefits to employees who leave state services.

F) Provide death and disability insurance for temporary employees.

Contrary to the General Government Unit, the Supervisory Unit provides more comment on their Advisory Ballots. Below is a cross section of their comments.

1) I believe that prior to unilaterally transferring Social Security payments to P.E.R.S., a study should be conducted to determine the wage percentage necessary to parallel Social Security benefits.

2) Contributions now going to Social Security should be used to increase payments to P.E.R.S. — both state and employee contributions should be increased in the future by the amount Social Security contributions would have increased. If, in the future, the P.E.R.S. fund improves its position, benefits for retirees should be increased; no decrease in contributions should be allowed the state or employees.

3) I am currently (1976) putting 62% of the amount I am putting into P.E.R.S. in F.I.C.A.. In other words for every one (1) dollar I put into P.E.R.S., I am also putting $.62 in F.I.C.A. If the state is also contri-

buting to F.I.C.A. at the same rate that I am (an assumption), then I don't see how channeling all of it to P.E.R.S. will only increase the benefit formula from 2% to 2 1/2%. I think we need more facts on this magic number (2.5%) before we divert our investments to P.E.R.S.

4) I would like to see retirement based on 3% for each year of credited service, with possible a 75% of top three years ceiling. This should be affordable if we opt-out of Social Security.

5) Being a Supervisor and concerned about what the legislature is attempting to do with our Contract that was executed, at least by the Supervisors, in good faith leads me to believe that if we concur with the administration in dropping out of Social Security will we derive any benefits from this change? They could, as they are attempting to do with the Supervisors, give lip service to encourage an agreement then the next session revise it to our loss. Without and iron-clad irrevocable agreement my opinion is to say no. If they agree to the iron-clad bit I'd be agreeable. How about a commitment from the Administration before putting this to a vote.

6) Have sick leave not used, credited toward retirement at the time of retirement.

SB

81

COMMITTEE REPORT

SENATE

FURTHER: Finance

1/29/79

Date: Feb 12 1979

Mr. President:

The Committee on STATE AFFAIRS has had SB 81

supplemental appropriation to Office of the Governor, Division of Budget & Management

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

Tom Kelly

Dick Manley

MEMBERS HAVING
OTHER RECOMMENDATIONS:

N/Rec

CHAIRMAN

S 60 (Rev. 12/78)

Alaska State Legislature

Senate

Committee on State Affairs

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

NAME	AFFILIATION	TESTIFY	SB 81
Jimmy L. Vogt	Dept of Labor		
John P. Cook	Dept of Labor - Work Comp.		
Grace Wilson	Dept of Labor Employment Trend		
Dick Holden	(By mail) DOT		

NAME	AFFILIATION	TESTIFY	SB 87

NAME	AFFILIATION	TESTIFY	SB 91

STATE OF ALASKA

OFFICE OF THE GOVERNOR

JAY S. HAMMOND, GOVERNOR

BUDGET & MANAGEMENT

POUCH AM — JUNEAU 99811
PHONE 465-2213

February 5, 1979

The Honorable Senator Mulcahy
Chairman, State Affairs Committee
Alaska State Senate

Dear Senator Mulcahy:

Due to an error in my office we did not have any one at your meeting of February 5, 1979 to consider SB 81, the supplemental appropriation request, related to the RCA rate increase. Your staff notified us of the meeting, however, it simply was not properly noted by us.

I would appreciate if you could reconsider this supplemental at your earliest convenience and I am sorry for the inconvenience caused by our failure to appear.

Sincerely,

Ron Lind

Ron Lind, Director
Division of Budget and Management
Office of the Governor

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

Funding Information:
General Fund: $ 2,911,200
Other Funds: 483,000
$ 3,394,200

Introduced: 1/29/79
Referred: State Affairs and Finance

IN THE SENATE

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

SENATE BILL NO. 81

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making a supplemental appropriation to the Office of the Governor, Division of Budget and Management; and providing for an effective date."

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

* Section 1. The sum of $3,394,200 is appropriated to the Office of the Governor, Division of Budget and Management, for payment of additional communication costs as a result of the RCA interim intrastate rate increase. This sum is appropriated from the following funds:

General Fund	$2,911,200
Second Injury Fund	1,600
Federal Fund	363,900
Sick and Disabled Fisherman's Fund	1,500
Public Employees Retirement Fund	3,800
Teacher's Retirement Fund	3,800
International Airport Revolving Fund	19,200
Highway Working Capital Fund	8,600
Veterans Revolving Loan Fund	3,600
Fish and Game Fund	77,000

* Sec. 2. The unexpended and unobligated portion of the appropriation made in sec. 1 of this Act lapses June 30, 1979.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.-10.070(c)

SENATE STATE AFFAIRS COMMITTEE
February 5, 1979

SB 81 An Act making a supplemental appropriation to the Office of the Governor, Division of Budget and Management; and providing for an effective date.

SUMMARY

The purpose of this supplemental appropriation is to meet additional communication costs to state agencies as a result of the 87% RCA interim rate increase which went into effect May 19, 1978. The act would take affect immediately - have a lapse date of June 30, 1979.

FISCAL

The appropriations will come from the funds stated in the bill.

Ron Lind, Director
Division of Budget & Management
Office of the Governor

January 10, 1979

Robert Shelley, Budget Analyst
Division of Budget & Management
Office of the Governor

RCA Rate Increase
Supplemental Appropriation

Displayed below is a breakdown by agency in the executive branch of state government of the FY 79 authorized long distance, leased line, and leased terminal expenses and the resulting effect on each agency of the 87% RCA interim intrastate increase, and six month interstate 10% reduction of charges. These figures were obtained in response to your memorandum of October 30, 1978, requesting such information.

RS/crb

RCA RATE CHANGE SUPPLEMENTAL BREAKDOWN
($ in Thousands)

	FY 79 Auth Long Distance Intrastate	FY 79 Auth Long Distance Interstate	FY 79 Auth Leased Line Charges	FY 79 Auth Leased Term. Charges	Intrastate Increase Effect	Interstate Decrease Effect	Net Rate Change Effect
DOT/PF	373.5	81.7	52.0	17.1	385.6	-4.1	385.5
U of A	262.4	117.7	15[illegible].0	-0-	359.7	-5.9	353.8
Military Affairs	44.8	5.0	-0-	-0-	40.0	-.3	39.7
Revenue	74.2	54.6	-0-	-0-	64.5	-2.7	61.8
Community and Regional Affairs	71.2	8.0	.9	-0-	62.0	-.4	62.4
Law	98.7	26.8	-0-	4.0	89.5	-1.3	88.2
Education	127.6	22.9	-0-	-0-	111.1	-1.1	110.0
Public Safety ✓	153.1	10.2	94.3	447.9	604.9	-.5	604.4
Community and Economic Development	91.8	30.9	38.3	-0-	79.9	-1.5	111.7
Governor's Office	158.8	51.9	13.9	19.6	167.3	-2.6	164.7
Labor	150.9	10.8	-0-	138.5	251.8	-.5	251.3
Administration	95.2	16.8	127.6	19.1	210.4	-.8	209.6
Health and Social Services	490.4	216.2	-0-	49.1	469.4	-10.8	458.6
Natural Resources	122.1	42.3	-0-	-0-	106.2	-2.1	104.1
Fish and Game	339.4	59.7	-0-	1.9	297.0	-3.0	294.0
Environmental Conservation	49.6	24.4	46.0	18.8	99.6	-1.2	98.4
TOTAL	2,703.7	779.9	524.0	716.6	3,398.9	-38.8	3,394.2

Executive Branch Intrastate/Interstate Ratio 78/22

3,394.2 Amount of Supplemental Request for Executive Branch
- 363.9 Less Increase Chargeable to Federal Funds
- 119.1 Less Increase Chargeable to other than General or Federal Funds

2,911.2 Amount of Supplemental Request Chargeable to General Funds

Art Peterson
Assistant Attorney General
Department of Law

January 10, 1978

Ron Lind, Director
Division of Budget & Management
Office of the Governor

Supplemental Appropriation

Please prepare a bill for the Governor's introduction making a supplemental appropriation in the amount of $3,394,200 to the Office of the Governor, Division of Budget and Management, for the purpose of meeting additional communication costs to state agencies as a result of the 87% RCA interim intrastate rate increase which went into effect on May 19, 1978.

This $3,394,200 should be appropriated from the following funds in the respective amounts shown:

General Fund	$2,911,200
Second Injury Fund	1,600
Federal Fund	363,900
Sick and Disabled Fisherman's Fund	1,500
Public Employees Retirement Fund	3,800
Teacher's Retirement Fund	3,800
International Airport Revolving Fund	19,200
Highway Working Capital Fund	8,600
Veterans Revolving Loan Fund	3,600
Fish and Game Fund	77,000

This act should take effect immediately and include a lapse date of June 30, 1979.

RL/RS/crb

capital fund.

The 1978 legislature inadvertently omitted funding for FY 79 to pay the costs of arbitration of grievances with the Alaska Community Colleges' Federation of Teachers. The appropriation in sec. 2 of this bill is solely for the purpose of paying for arbitration costs.

Sincerely,

Jay S. Hammond
Governor"

SB 81

SENATE BILL NO. 81 by the Rules Committee by request of the Governor, entitled:

"An Act making a supplemental appropriation to the Office of the Governor, Division of Budget and Management; and providing for an effective date."

was read the first time and referred to the State Affairs Committee and the Finance Committee.

Governor's transmittal letter follows

"January 27, 1979

The Honorable Clem Tillion
President of the Senate
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill making a

SB 81 supplemental appropriation to the Office of the Governor, Division of Budget and Management.

This amount is required to pay additional communications expenses of all departments as a result of the 87 per cent RCA interim intrastate rate increase which went into effect May 19, 197[illegible]

Sincerely,

Jay S. Hammond
Governor

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

SB

91

A further breakdown is needed

I Fire Insurance Premiums

A) No fire insurance for Fairbanks

B) $1,100 for Yukon

$4,800 for Kodiak

*$1,000 short between the two of them

II Addresses

Kodiak 521 Maple

Yukon Box 119 ?

3/5/79
Already in House.

STATE AFFAIRS COMMITTEE

February 4, 1979

The meeting was called to order by chairman, Bob Mulcahy.

He introduced SB 81. There was no one present from the Governor's Office to testify. Bradley recommended the bill be put aside.

Judy Crondell from the Department of Administration testified on SB 91.

She said the reason the amount they were asking for was unbudgeted was was because the department was not aware of the additional expenses. The total amount needed for the additional ASHA costs was $17,300.

The labor relations figure last session was $55,000 - prior to the amendment an appropriation request was submitted, the amendment was then added then the department changed its mind and dropped two positions. The Governor vetoed the amendment back to the original cost. Now the Labor Relations positions were back and the additional funding was needed.

The expenses are both incurred and to be incurred.

No one was present from the Labor Relations Board to explain the expenses.

Rodey said the way labor relations is handled by the state needs to be looked into.

Richard Holden from DOT spoke favoring SB 87. Holden said as a result of a flood on the Tanana River the state was building a series of dikes to help the severe erosion problem at the Fairbanks Airport. Because the Tanana was changing its course there was lost ground and the river was now within 50 feet of the runway - if it breaks any further there is a chance of losing the runway. He said DOT is working with the Corp of Engineers to change the course of the flood. If the Corp does more work it can only be done in the winter. During the interim an ice revetment would keep the high water off of the bank.

Holden said the money would go to the Airport fund not the general fund. He proposed that the money not be appropriated to design and construction as the design was 2/3 complete.

Senator Rodey said he was familiar with the department's recommendation and supported it - if for no other reason to protect the state's investment in the airport.

The meeting was adjourned.

STATE AFFAIRS COMMITTEE
February 5, 1979

SB 91 An Act making a supplemental appropriation to the Department of Administration for ASHA (Alaska State Housing Authority) payment and LRA services. and providing for an effective date.

By Rules by request of the Governor

SUMMARY

The Department of Administration has requested $30,800 from the general fund to be appropriated in the following manner.

1) The $17,300 allocated to the Office of the Commissioner will be used to cover unbudgeted ASHA costs and related fire insurance premiums for Kodiak and Fort Yukon combined facilities and the Fairbanks Regional Office Building

2) The $13,500 allocated to Labor Relations Agency will be used to conduct more investigations on complaints, verifying election ballots and covering increased costs related to copying hearing transcripts.

MEMORANDUM State of Alaska

TO: DATE: August 15, 1978

Ronald B. Lind, Director
Division of Budget and Management
Office of the Governor

FILE NO:

TELEPHONE NO:

FROM: Commissioner B. B. Allen
Department of Administration

SUBJECT: FY 79 Supplemental Requests

Please revise Robert S. Gates' memorandum to you of August 1, 1978 on the above subject to include the following matters.

Attached you will find a copy of a letter from the Deputy Director of Data Processing which indicates they will need approximately 179.6 for the Telecommunications Network (component 02-95-6-02-04-00) in order to meet the RCA increases effective this year.

We will soon be contacting the University of Alaska regarding their intentions to delegate this Department authority to negotiate a collective bargaining agreement on their behalf and whether they intend to fund the costs of our services. However, we seriously doubt if funding is available since the University did not ask for the participation of the Department of Administration. In any event, the Department of Administration is required to participate in negotiations between the Board of Regents and funding will be required under both relationships to comply with AS 23.40.212. This Department cannot absorb these responsibilities without seriously diluting its efforts in settling seven contracts which will be coming up for negotiation this year. Costs are estimated in the attached letter from Hunt to Lind of August 9, 1978 and a supplemental appropriation will be necessary..

You will also note in the attached letter from Bradley to Lind of August 9, 1978 that a supplemental need exists in the federal surplus property program to cover deficits incurred during FY 77 and FY 78. A deficit first occurred late in FY 77. The lack of an adequate amount and quality of federal surplus property led to a reduction in receipts. This deficit was first realized late in FY 77 but promises by the federal government to increase the amount of property available for donation caused us to continue the program. Yet, these increased revenues came late in FY 78 and were not sufficient to offset past or existing fiscal year deficits. In addition, our accounts receivable collection controls were inadequate. We are now implementing more effective controls to insure timely payments. We anticipate a revenue surplus during FY 79 based upon an improved

02-001 (Rev. 8/75)

program and more effective financial controls. Consequently, we are requesting a supplemental appropriation for about 24.0.

In addition, we are estimating a need for between 5 and 10.0 additional for the Labor Relations Agency. Per our conversations with Steve Hafling this date he has advised that our original estimates noted to you in Commissioner Allen's attached letter of July 7, 1978 are valid. He advises that Jim Lucas will require about 30.0 and Nutshell will expend about 2.0 per month. Expenditures last year were 28.0 for Lucas and 14.0 for Nutshell. The increase in expenditures for Nutshell Business Service is largely a result of a need to conduct more investigations on complaints and verification of election ballots. Since these amounts alone equal the total FY 79 budget of 55.0 it leaves no funds for travel and other incidental costs. These amounted to almost 5.0 in FY 78. Due to this limitation we have restricted the Nutshell Business Service Contract to 20.0 pending availability of the supplemental request.

Due to an oversight we failed to budget for ASHA and fire insurance costs at the Kodiak and Fort Yukon combined facilities. ASHA costs were 3.0 and 8.0 respectively, while fire insurance amounted to 1.0 for both facilities. In addition, we were advised that H&SS failed to budget for 6.0 in ASHA and fire costs related to space the Division of Personnel occupies in the Fairbanks Regional Office building. This space had been assigned at budget preparation time to the Department of Health and Social Services. I have been advised that Kip Roloff has been asked by Ron Lehr to confirm whether funds were budgeted or not. If not, a supplemental will be needed or use of the Governor's contingency fund. Other funds cannot be made available without seriously jeopardizing program objectives or current plans in progress upon which substantial efforts have been devoted.

BBA/KNS/mjc
CC: C. R. "Steve" Hafling
George Crowder
Patrick L. Hunt
Richard C. Bradley
G-17

Jay S. Hammond
Governor

November 21, 1978

ATTN: Mike Harper
Administrative Assistant
to the Governor

B. B. Allen, Commissioner
Department of Administration

Contingency Fund Payment
for ASHA Debt Service -
FY79

Due to reallocation of space within ASHA facilities without subsequent reallocation of budgeted ASHA payments, we find that the ASHA Debt Service has been underfunded by the amounts indicated on the attached voucher. The amount entered for Bond X(3,3) deals with a transfer of space within the Valdez Court and Office Building from the Department of Commerce to the Department of Health & Social Services. The amount entered for Bond IX(3,3) deals with a transfer of space in the Fairbanks Regional Office Building from the Department of Health & Social Services to the Department of Administration.

We respectfully request your approval of the attached Adjustment Voucher to transfer this amount from the contingency fund to the appropriate Debt Service Account.

Thank you.

cc: Leasing & Facilities Management

Division of Budget & Management

MEMORANDUM State of Alaska

TO: Ron Lind, Director
Division of Budget and Management
Office of the Governor

DATE: December 20, 1978

FILE NO:

TELEPHONE NO:

FROM: Robert S. Gates, Deputy Commissioner
Department of Administration

SUBJECT: FY 79 Supplemental Requests

In response to your December 7, 1978 memorandum, attached are the FY 79 Supplemental Request Analysis forms for the Department of Administration except for the Pioneers' Homes delete/add supplemental. That information is still being gathered and will be submitted under separate cover by December 27.

As has been indicated in your previous memo dated October 4, 1978 or in previous conversations my staff has had with budget analysts, the following supplemental requests have already been recommended as approved by Budget and Management.

A total of 12.3 was requested to cover unbudgeted ASHA costs and related insurance for the Kodiak and Fort Yukon combined facilities as was noted in my letter to you dated 8/15/78. However, an additional 8.6 is needed as indicated in Commissioner Allen's letter (attached) to you dated 11/21/78. We originally requested funding from the Governor's Contingency Fund as this was the past procedure. In subsequent conversations with Alison Elgee it has been suggested that these two requests be handled similarly. I also believe it is necessary that in the future an agency be required to budget for their space on the basis of their allocation at the time of the budget, and that Budget and Management should confirm this to avoid future problems of this nature. Please advise if you are not able to do this and any thoughts you have to resolve the problem.

In my memo to you dated 8/15/78, the importance of getting a supplemental for the Labor Relations Agency was pointed out. Because of the need to conduct more investigations on complaints, verification of election ballots, and increased costs related to copying hearing transcripts contractual services will be overexpended by 16.5. However, less than anticipated expenditures in travel will offset 3.0 of that shortfall so the total need is 13.5.

It is requested that Governor Hammond and you approve these requests and submit them to the legislature for their approval.

BRA/bc
9-0

SB91

Avrum Gross
Attorney General
Department of Law

January 12, 1979

ATTN: Art Peterson

Ron Lind, Director
Division of Budget & Management
Office of the Governor

Supplemental Appropriation
for Department of Administration

Please prepare a bill for the Governor's introduction making a supplemental appropriation to the Department of Administration to be allocated as follows:

- $17,300 general funds should be appropriated to the Office of the Commissioner for the purpose of covering unbudgeted ASHA bond payments and related fire insurance premiums;

- $13,500 general funds should be appropriated to the Labor Relations Agency to cover increased costs of professional services contracts.

This act should take effect immediately and include a lapse date of June 30, 1979.

RL/AE/crb

cc: Kellus Sewell
Department of Administration

02/0018 (Rev. 10/76)

STATE of ALASKA

MEMORANDUM

TO: Ron Lind, Director
Division of Budget & Management
Office of the Governor

DATE: January 12, 1979

FILE NO.

TELEPHONE NO.

FROM: Alison Elgee, Budget Analyst
Division of Budget & Management
Office of the Governor

SUBJECT: Department of Administration
Request for Supplemental Funds
to cover ASHA Bond Payments

The Department of Administration has requested $20,600 general funds to cover unbudgeted ASHA costs and related fire insurance premiums for Kodiak and Fort Yukon combined facilities, the Fairbanks Regional Office Building, and the Valdez Court and Office Building.

After reviewing the request I have determined that all but the Valdez Court and Office Building space were in fact unbudgeted costs. The Department of Health and Social Services has restricted funding in the Social Services Southcentral Region budget which apparently was budgeted for the Valdez space but not paid as they are no longer utilizing that space. However, I have spoken to Ken Ryals about utilizing that funding to cover $3,300 of the ASHA obligations due to the Valdez building, and I therefore, am recommending a reduction of the supplemental request to $17,300.

cc: Kellus Sewell
Department of Administration

Ken Ryals
Department of Health and Social Services

FY 79 SUPPLEMENTAL REQUEST ANALYSIS

	FY 77 ACTUAL	FY 78 FINAL AUTH.	FY 78 ACTUAL	FY 79 GOV. BUDGET	FY 79 INITIAL AUTH.	FY 79 CURRENT AUTH.	EXPENDITURES + ENCUMBRANCES 7/1/-11/30	OTHER OBLIGATIONS 7/1/-11/30	PROJECTED EXPENDI-TURES + ENCUMBRANCE 12/1-6/30	FY 79 (DEFICIT) EXCESS	FY 80 CONTINUATION
PERSONAL SERVICES	216.7	230.8	211.2	226.2	228.9	199.5	95.6	<6.5>	120.1	.3	235.0
TRAVEL	17.1	23.0	11.6	11.4	11.4	11.4	5.3		7.4	<1.3>	12.1
CONTRACTUAL SERVICES	414.5	362.2	359.3	84.1	84.1	>362.5	141.3		211.2	-	94.9
COMMODITIES	2.9	1.7	1.6	5.3	5.3	3.1	.7		.9	1.5	6.4
EQUIPMENT	5.1	12.9	3.8								1.2
LANDS, BLDG. ...	939.5	708.2	708.2	601.1	601.1	601.1	613.6		-	<12.5>	864.2
GRANTS, CLAIMS											
MISCELLANEOUS											
TOTAL	1594.8	1338.8	1306.7	928.1	925.8	1167.6	846.5	<6.5>	339.6	<12.0>	902.9
FEDERAL RECEIPTS											
REQUIRED OF MATCHING											
OTHER GENERAL FUND	1318.2	1045.0	1021.8	928.1	925.8	929.7	745.1	<6.5>	200.0	<12.0>	902.9
INTER-AGENCY RECEIPTS	252.3	293.8	285.2			237.9	98.3		139.6	-	
	24.3										

The FEA request for FY79 reflects FY77 actuals as all of these funds for D.S. However, the Central Expenditures were funded by interagency receipts of 252.3. The 1 No from VA does not reflect 293.8 expenditures for centers which were funded by inter agency receipts of 285.2. The Includes 237.9 of Cutting RSA's that have processed since 11/30/78, additional RSA's that will, when billed by these projects, will have no effect on the final figures.

AGENCY: Administration BRU: Office of the Commissioner COMPONENT: Commissioner's Office Director REVISED: 1/2/79 JH

FY 79 SUPPLEMENTAL REQUEST ANALYSIS

	FY 77 ACTUAL	FY 78 FINAL AUTH.	FY 78 ACTUAL	FY 79 GOV. BUDGET	FY 79 INITIAL AUTH.	FY 79 CURRENT AUTH.	EXPENDITURES + ENCUMBRANCES 7/1/-11/30	OTHER OBLIGATIONS 7/1/-11/30	PROJECTED EXPENDITURES + ENCUMBRANCES 12/1-6/30	FY 79 (DEFICIT) OR EXCESS	FY 80 CONTINUATION
PERSONAL SERVICES											
TRAVEL	2.8	8.0	3.4	8.0	8.0	8.0	1.5		3.5	3.0	
CONTRACTUAL SERVICES	56.5	46.2	44.9 ◊	46.2	46.2	46.2	40.6	2.3	19.8	<16.5>	
COMMODITIES	.2	.8	.1	.8	.8	.8	∅		.8	∅	
EQUIPMENT											
LANDS, BLDG. ...											
GRANTS, CLAIMS											
MISCELLANEOUS											
TOTAL	59.5	55.0	48.4	55.0	55.0	55.0	42.1	2.3	24.1	<13.5>	
FEDERAL RECEIPTS											
REQUIRED GF MATCHING											
OTHER GENERAL FUND	59.5	55.0	48.4	55.0	55.0	55.0	42.1	2.3	24.1	<13.5>	
INTER-AGENCY RECEIPTS											

◊ Actual 4 year figures do not reflect .7 for phone bills which in error were not charged against the Labor Relations Agency but to the Division of Administrative Services instead. This has been corrected for FY 79 and estimated expenditures include this amount resulting in FY 79. The revised totals for FY 78 are 45.6 for contractual services and 49.1 for the total.

AGENCY: Administration BRU: Labor Relations Agency COMPONENT: _____ REVISED: _____

SB 91

Unbudget items - ($3,000) ($8,000)
nal award of Kodiak & Yukon
$17,300 Combined facility ($1000 for both for inventory)
Transfer of space in Fish Reg Ops for
($5.300)

$3,500 Budget amendt at end of session
but Gov Vetoed back to his original plan
W/ recm that we come back this yr w/
request for this $$$.

SB

182

COMMITTEE REPORT

SENATE

2/13/79

FURTHER: Finance

Date: 2/21/79

Mr. President:

The Committee on STATE AFFAIRS has had SB 182
relating to pompensation of public officers and employees; effective date

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

[Y] 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

S 60 (Rev. 12/78)

SB 182

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 obtained 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 $51,088 annually for the Lieutenant Governor of Alaska.

B. Beginning January 1, 1980, 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, [illegible], 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.

Alaska State Legislature

Senate

Committee on State Affairs

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

re: SB 182

TO: Senator Kelly
Senator Bradley
Senator Ziegler
Senator Rodey
Senator Mulcahy

FROM: Mike Thompson
State Affairs Administrative Assistant

SUBJECT: Provisions for Director's Salaries relating to SB 182

Will director's salaries be addressed if the current CSSB 182 is adopted? Legislative Affairs opinion is that since the Alaska Salary Commission recommends that director's salaries remain on the state pay plan that by not addressing their salaries, CSSB 182 will have a "no change effect" in the review of director's salaries.

STATE AFFAIRS COMMITTEE

CSSB 182 Colletta

SUMMARY

The committee substitute for SB 182 abolishes the Alaska Salary Commission and maintains salaries.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM February 13, 1979

SUBJECT: Salaries of public officials and employees: (Work Order No. 6482)

TO: Senator Mike Colletta

FROM: Kenneth E. Vassar, Legislative Counsel KEV

You have requested a comparison of the salaries which would be established for certain public officials and employees under work order 6156 with the salaries of those public officials and employees established under recommendations of the Alaska Salary Commission.

In the following table, the column "ASC" indicates the salary recommended by the Alaska Salary Commission and approved by the Legislature in 1977; the column headed "6126" indicates the salary which would be established under work order 6126, subject to future amendments to the salary schedule in AS 39.27.011.

	ASC	6126 (SB 152)
Alaska Commercial Fisheries Entry Commission Members	41,068	+ 41,872
Supreme Court Justices	52,992	+ 54,029
Superior Court Judges	48,576	+ 49,526
District Court Judges	41,068	+ 41,872
Members of the Legislature	11,750	+ 14,858
Governor	52,992	- 50,000
Lieutenant Governor	47,304	- 44,000
Executive Department Heads	47,304	+ 49,526
Deputy Department Heads	42,372	- 38,868 - 45,02

	ASC	6126
Alaska Public Utilities Commission	39,372	41,872
Alaska Pipeline Commission	39,372	41,872

The figures in the table above have been rounded to the nearest dollar. The listed salaries do not include any allowances for per diem, longevity pay increases, bonuses or other emoluments which may have been added to the base salary by recommendation of the salary commission or by work order 6126.

KEV:nem

I. REQUEST

Bill/Resolution No. SENATE BILL NO. 182

Title Relating to Public Officers and Employees

Requested by Senate State Affairs Date 2/28/79

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		240.7	240.7	240.7	240.7	240.7
200	TRAVEL		(25.6)	(25.6)	(25.6)	(25.6)	(25.6)
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL		215.1	215.1	215.1	215.1	215.1

FUNDING (Thousands of Dollars)

GENERAL FUND		215.1	215.1	215.1	215.1	215.1
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		-0-				
PART TIME						
TEMPORARY						

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

Sec. 24.15.010(1) (200) savings of $25,536

(2) no change

24.15.020 (100) salary $195,480

(100) F.I.C.A. $11,982

(100) Benefits $33,232

24.15.030 no change

IV. DATE 2/28/79 PREPARED BY Warren W. Endicott, Director

AGENCY Legislative Affairs Agency

ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 182
Title Relating to compensation of public officers and employees
Requested by _____ Date 2/15/79

II. FISCAL DETAIL
Agency Affected Executive and Judicial Branches
Program Category Affected all catagories
Budget Request Unit(s) Affected Office of the Governor
(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		246.1	246.1	246.1	246.1	246.1
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL		246.1	246.1	246.1	246.1	246.1

FUNDING (Thousands of Dollars)

GENERAL FUND		246.1	246.1	246.1	246.1	246.1
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
This fiscal note shows the funds needed to add to the FY 80 budget for the impact of SB 182 on executive and judicial branches only. Impact on the legislature would be prepared by the legislative affairs agencies. Funds in this fiscal note would be appropriated to the Governor's Office for further distribution.

By contrast, the FY 80 impact of HCR 2 on the executive and judicial branches, fully implementing Salary Commission recommendations, is $509,200. The salary schedule used in calculating the figures herein is the schedule proposed in HB 220. The fiscal note for HCR 2 assumed a 7.0% COLA adjustment effective 1/1/80. If a similar assumption is made for SB 182, so that all salaries expressed as a percentage of range 24 E are increased by 7% on 1/1/80, then this fiscal note would be increased by $166,100 to a total of $399,300 for FY 80 and subsequent years.

IV. DATE 2/21/79 PREPARED BY Jeff Morrison
AGENCY Division of Budget and Management
PHONE 465-4580

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

This fiscal note revises and replaces fiscal note dated 2/21/79

33-001 (Rev. 10/78)

Positions affected	Current Salary	SB 182 Salary***	Differences
1 Governor	52,992	50,000	(2,992)
1 Lt. Governor	47,304	44,000	(3,304)
14 Commissioners	47,304	51,018	51,996
19 Deputy Commissioners	varies*	46,380	20,563*
5 APUC Commissioners	39,372	43,133	18,805
3 APC Commissioners	39,372	43,133	11,283
3 CFEC Commissioners	39,372	43,133	11,283
		Sub-total	107,634
		17.25% benefits	18,566
		Total Executive Branch	126,200
5 Supreme Court Justices	52,992	55,656	13,320
Pay differential impact**			400
20 Superior Court Judges	48,576	51,018	48,840
Pay differential impact**			2,600
17 District Court Judges	41,068	43,133	35,105
Pay differential impact**			2,000
		Sub-total	102,285
		17.25% benefits	17,644
		Total Judicial Branch	119,929

Total executive and judicial: $232,900

* Calculations for Deputy Commissioners made on individual basis because several positions currently exceed maximum.

** SLA 78, CH 80 allowed up to 5 pay steps of 3.5% each for judge and justices pay differential. Only positions located outside Anchorage, Ketchikan, and Juneau receive this differential.

*** All salaries (except Governor and Lt. Governor) are expressed in SB 182 as a percentage of Range 24E. The schedule used in preparation of this fiscal note is the one included in HB 220. If HB 220 fails to pass, all salaries expressed as a percentage of Range 24E would be reduced to an amount based on the current schedule in AS 39.27.011, and the fiscal note would be reduced accordingly by $109,000 to a total of $137,100.

Dated 2/27/29
Replaces Fiscal Note dated 2/21/79

Work Order #6156
Vassar

Original sponsors: Colletta, Hackney,
Hohman, et al

IN THE SENATE

CS FOR SENATE BILL NO. 182

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: 'An Act relating to compensation of public officers and employees; and providing for an effective date."

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

* Section 1. AS 16.43.060 is amended to read:

Sec. 16.43.060. COMPENSATION OF MEMBERS OF THE ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION. Members of the commission are in the exempt service and shall receive an annual salary of $33,500 payable in equal monthly installments [AS ESTABLISHED UNDER AS 39.23].

* Sec. 2. AS 22.05.140(a) is amended to read:

(a) The annual salary for the chief justice and each associate justice is $52,992. The compensation is payable monthly in 12 equal installments [THE CHIEF JUSTICE AND EACH ASSOCIATE JUSTICE ARE ENTITLED TO RECEIVE ANNUAL COMPENSATION PRESCRIBED IN ACCORDANCE WITH AS 39.23]. Compensation of the chief justice or of an associate justice may not be diminished during his term of office, unless by general law applying to all salaried officers of the state.

* Sec. 3. AS 22.10.190(a) is amended to read:

(a) The annual salary for each superior court judge is $4o,576. The compensation is payable monthly in 12 equal installments [EACH SUPERIOR COURT JUDGE IS ENTITLED TO RECEIVE ANNUAL COMPENSATION PRESCRIBED IN ACCORDANCE WITH AS 39.23]. The compensation of a judge may not be diminished during his term of office, unless by general law applying to all salaried officers of the state.

* Sec. 4. AS 22.15.220(a) is amended to read:

(a) The annual salary for each district judge is $41,068. The compensation is payable monthly in 12 equal installments [EACH DISTRICT JUDGE IS ENTITLED TO RECEIVE ANNUAL COMPENSATION PRESCRIBED IN ACCORDANCE WITH AS 39.23]. The compensation of a judge may not be diminished during his term of office, unless by general law applying to all salaried officers of the state.

* Sec. 5. AS 24.15.010 is repealed and re-enacted to read:

Sec. 24.15.010. LEGISLATIVE PER DIEM. For each day of the legislative session and for each day on official legislative business between sessions, legislators (1) on travel status and away from home overnight shall be allowed, instead of their actual expenses for subsistence, a per diem allowance of $48 for each day; (2) not away from home overnight shall receive an allowance of $35 for each day. The per diem allowance is also payable for each day of necessary travel.

* Sec. 6. AS 24.15.020 is amended to read:

Sec. 24.15.020. ANNUAL LEGISLATIVE SALARIES. The annual salary for each member of the legislature is $9,000 [EACH MEMBER OF THE LEGISLATURE IS ENTITLED TO RECEIVE ANNUAL COMPENSATION PRESCRIBED IN ACCORDANCE WITH AS 39.23] to be paid in approximately equal monthly installments. The president of the senate and speaker of the house of representatives are each entitled to an additional $500 a year during tenure of office [ANNUAL SUM PRESCRIBED IN ACCORDANCE WITH AS 39.23].

* Sec. 7. AS 24.15.030 is amended to read:

Sec. 24.15.030. ADDITIONAL ALLOWANCES. In addition, each member of the legislature is entitled to an annual allowance of $4,000 [PRESCRIBED IN ACCORDANCE WITH AS 39.23] for postage, stationery, stenographic services and other expenses.

* Sec. 8. AS 39.20.010 is amended to read:

Sec. 39.20.010. ANNUAL SALARY OF GOVERNOR. The annual salary of

the governor is $50,000 [SHALL BE PRESCRIBED IN ACCORDANCE WITH AS 39.23].

* Sec. 9. AS 39.20.030 is amended to read:

Sec. 39.20.030. ANNUAL SALARY OF LIEUTENANT GOVERNOR. The annual salary of the lieutenant governor is $44,000 [SHALL BE PRESCRIBED IN ACCORDANCE WITH AS 39.23].

Sec. 10. AS 39.20.080 is amended to read:

Sec. 39.20.080. SALARY OF EXECUTIVE DEPARTMENT HEAD AND DEPUTY. (a) The annual salary of the head of each principal executive department of the state upon appointment and confirmation is $40,000. The compensation is payable monthly in 12 equal installments [SHALL BE PRESCRIBED IN ACCORDANCE WITH AS 39.23].

(b) The salary of the deputy head of each principal executive department of the state upon his appointment is not less than $32,328 and may not exceed $37,452 [SHALL BE PRESCRIBED IN ACCORDANCE WITH AS 39.23].

* Sec. 11. AS 42.05.091 is amended to read:

Sec. 42.05.091. COMPENSATION OF MEMBERS OF THE ALASKA PUBLIC UTILITIES COMMISSION. Members of the commission are in the exempt service and shall receive an annual salary of $33,500 to be paid in equal monthly installments [AS ESTABLISHED UNDER AS 39.23].

* Sec. 12. AS 42.06.090 is amended to read:

Sec. 42.06.090. COMPENSATION OF MEMBERS OF THE ALASKA PIPELINE COMMISSION. Members of the commission are in the exempt service described in AS 39.25 and receive an annual salary of $33,500 to be paid in equal monthly installments [AS ESTABLISHED UNDER AS 39.23].

* Sec. 13. AS 39.23.010 - 39.23.130 and AS 39.50.200(L.I.) are repealed.

* Sec. 14. This Act takes effect July 1, 1979.

POSITION	SALARIES EFFECTIVE 1/1/77	SALARIES UNDER SB 182	COMMITTEE SUBSTITUTE SB 182	SALARY COMM. RECOMMENDATIO 1/1/79
Governor	$52,992.00	$50,000.00	$50,000.00	$57,231.00
Lieut. Governor	47,304.00	44,000.00	44,000.00	51,088.00
Chief Justice	52,992.00	54,029.00	52,992.00	57,231.00
Associate Justice	52,992.00	54,029.00	52,992.00	57,231.00
Superior Ct. Judge	48,576.00	49,526.00	48,576.00	52,462.00
District Ct. Judge	41,068.00	41,872.00	41,068.00	44,353.00
House Speaker	12,250.00	14,858.00	9,500.00	13,190.00
Representative	11,750.00	14,858.00	9,000.00	12,690.00
Senate President	12,250.00	14,858.00	9,500.00	13,190.00
Senator	11,750.00	14,858.00	9,000.00	12,690.00
Commissioner	47,304.00	49,526.00	40,000.00	51,088.00
Deputy Commissioner	42,372.00	38,868.00-45,020.00	32,328.00-37,452.00	45,762.00
Chairman, ACFEC	39,872.00	41,872.00	33,500.00	44,853.00
Commissioner, AFEC	39,372.00	41,872.00	33,500.00	44,353.00
Chairman, APUC	39,872.00	41,872.00	33,500.00	44,853.00
Commissioner APUC	39,372.00	41,872.00	33,500.00	44,353.00
Chairman, APC	39,872.00	41,872.00	33,500.00	44,853.00
Commissioner APC	39,372.00	41,872.00	33,500.00	44,353.00

Introduced: 2/13/79
Referred: ~~State Affairs~~ and Finance

BY COLLETTA, HACKNEY, HOHMAN, STURGULEWSKI AND SUMNER

IN THE SENATE

SENATE BILL NO. 182

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to compensation of public officers and employees; and providing for an effective date."

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

* Section 1. AS 16.43.060 is amended to read:

Sec. 16.43.060. COMPENSATION OF MEMBERS OF THE ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION. Members of the commission are in the exempt service and shall receive an annual salary equal to that of a district court judge [AS ESTABLISHED UNDER AS 39.23].

* Sec. 2. AS 22.05.140(a) is amended to read:

(a) The annual salary for the chief justice and each associate justice is 20 per cent above Step E, Range 24 of the salary schedule established in AS 39.27.011 for Anchorage, Alaska. The compensation is payable monthly in 12 equal installments [THE CHIEF JUSTICE AND EACH ASSOCIATE JUSTICE ARE ENTITLED TO RECEIVE ANNUAL COMPENSATION PRESCRIBED IN ACCORDANCE WITH AS 39.23]. Compensation of the chief justice or of an associate justice may not be diminished during his term of office, unless by general law applying to all salaried officers of the state.

* Sec. 3. AS 22.10.190(a) is amended to read:

(a) The annual salary for each superior court judge is 10 per cent above Step E, Range 24 of the salary schedule established in AS 39.27.-011 for Anchorage, Alaska. The compensation is payable monthly in 12 equal installments [EACH SUPERIOR COURT JUDGE IS ENTITLED TO RECEIVE ANNUAL COMPENSATION PRESCRIBED IN ACCORDANCE WITH AS 39.23]. The compensation of a judge may not be diminished during his term of office,

unless by general law applying to all salaried officers of the state.

* Sec. 4. AS 22.15.220(a) is amended to read:

(a) The annual salary for each district judge is 93 per cent of Step E, Range 24 of the salary schedule established in AS 39.27.011 for Anchorage, Alaska. The compensation is payable monthly in 12 equal installments [EACH DISTRICT JUDGE IS ENTITLED TO RECEIVE ANNUAL COMPENSATION PRESCRIBED IN ACCORDANCE WITH AS 39.23]. The compensation of a judge may not be diminished during his term of office, unless by general law applying to all salaried officers of the state.

* Sec. 5. AS 24.15.010 is repealed and re-enacted to read:

Sec. 24.15.010. LEGISLATIVE PER DIEM. For each day of the legislative session and for each day on official legislative business between sessions, legislators (1) on travel status and away from home overnight shall be allowed, instead of their actual expenses for subsistence, a per diem allowance of $48 for each day; (2) not away from home overnight shall receive an allowance of $35 for each day. The per diem allowance is also payable for each day of necessary travel.

* Sec. 6. AS 24.15.020 is amended to read:

Sec. 24.15.020. ANNUAL LEGISLATIVE SALARIES. The annual salary for each member of the legislature is 33 1/3 per cent of Step E, Range 24 of the salary schedule established in AS 39.27.011 for Anchorage, Alaska [EACH MEMBER OF THE LEGISLATURE IS ENTITLED TO RECEIVE ANNUAL COMPENSATION PRESCRIBED IN ACCORDANCE WITH AS 39.23 TO BE PAID IN APPROXIMATELY EQUAL MONTHLY INSTALLMENTS]. The president of the senate and speaker of the house of representatives are each entitled to an additional $500 a year during tenure of office [ANNUAL SUM PRESCRIBED IN ACCORDANCE WITH AS 39.23].

* Sec. 7. AS 24.15.030 is amended to read:

Sec. 24.15.030. ADDITIONAL ALLOWANCES. In addition, each member

of the legislature is entitled to an annual allowance of $4,000 [PRESCRIBED IN ACCORDANCE WITH AS 39.23] for postage, stationery, stenographic services and other expenses.

* Sec. 8. AS 39.20.010 is amended to read:

Sec. 39.20.010. ANNUAL SALARY OF GOVERNOR. The annual salary of the governor is $50,000 [SHALL BE PRESCRIBED IN ACCORDANCE WITH AS 39.23].

* Sec. 9. AS 39.20.030 is amended to read:

Sec. 39.20.030. ANNUAL SALARY OF LIEUTENANT GOVERNOR. The annual salary of the lieutenant governor is $44,000 [SHALL BE PRESCRIBED IN ACCORDANCE WITH AS 39.23].

* Sec. 10. AS 39.20.080 is amended to read:

Sec. 39.20.080. SALARY OF EXECUTIVE DEPARTMENT HEAD AND DEPUTY. (a) The annual salary of the head of each principal executive department of the state upon appointment and confirmation is 10 per cent above Step E, Range 24 of the salary schedule established in AS 27.011 for Anchorage, Alaska. The compensation is payable monthly in 12 equal installments [SHALL BE PRESCRIBED IN ACCORDANCE WITH AS 39.23].

(b) The salary of the deputy head of each principal executive department of the state upon his appointment is not less than Step A, Range 24, nor shall it exceed Step E, Range 24, of the salary schedule set out in AS 39.27.011. AS 39.27.022 may not be applied to the salary of a deputy department head in such a way that his salary would equal or exceed that of a department head [SHALL BE PRESCRIBED IN ACCORDANCE WITH AS 39.23].

* Sec. 11. AS 42.05.091 is amended to read:

Sec. 42.05.091. COMPENSATION OF MEMBERS OF THE ALASKA PUBLIC UTILITIES COMMISSION. Members of the commission are in the exempt service and shall receive an annual salary equal to that of a district

court judge to be paid in equal monthly installments [AS ESTABLISHED UNDER AS 39.23].

* Sec. 12. AS 42.06.090 is amended to read:

Sec. 42.06.090. COMPENSATION OF MEMBERS OF THE ALASKA PIPELINE COMMISSION. Members of the commission are in the exempt service described in AS 39.25 and receive an annual salary equal to that of a district court judge to be paid in equal monthly installments [AS ESTABLISHED UNDER AS 39.23].

* Sec. 13. AS 39.23.010 - 39.23.130 and AS 39.50.200(LL) are repealed.

* Sec. 14. This Act takes effect July 1, 1979.

Alaska State Legislature

SENATE CALENDAR

March 23, 1979
Friday
10:00 a.m.

OFFICIAL BUSINESS OF THE SENATE

SIXTY-EIGHTH LEGISLATIVE DAY

Chaplain: Lieutenant Floyd Bacon of the Salvation Army Church

SECOND READING OF SENATE BILLS

SB 199 Public school foundation program
_____ eff date
(HESS offered CS, new title, pg 500, Finance offered CSSB 199(Fin), new title, pg 503, new F.Y. note SS&12)

SSSB 227 Insurance for alcoholism and drug dependence
_____ eff date
(HESS offered CS pg 468, Jud report pg 486)

SB 228 Excise tax on and license fees for sale of intoxicating liquors
_____ eff date
(HESS report pg 436, Fin offered CS, new title, pg 511, Rules offered CSSB228(Rls), new title, 3/22)

SECOND READING OF HOUSE RESOLUTIONS

HCR 3 am Enforcement of the Antiquities Act
(Judiciary report pg 403)

HCR 5 am Urging the Judicial Council to complete its review and make recommendations about judicial sentencing practices
(Judiciary offered amd pg 474)

SENATE CALENDAR

OFFICIAL BUSINESS OF THE SENATE

Friday
10:00 a.m.
March 23, 1979

SIXTY-EIGHTH LEGISLATIVE DAY

In addition to the Regular Calendar:

CITATION CONSENT CALENDAR

In Memory of Charlie Lunsford
by Senator Colletta

Honoring Nat Cole on Retirement (from education field)
by Senators Kerttula, Ray and Stimson

Honoring University of Washington Medical School
(outstanding efforts for modern medical education - WAMI)
by Senators Kerttula and Colletta

Honoring Dr. Geroge W. Rogers (1979 Humanist of the Year)
by All Members of the House

Honoring Haines Merchants Basketball Team
(Gold Medal Class A Champs)
by Senator Ray

Recognizing Alaska National Alert Patrol (voluntary community service)
by Senator Ray

Honoring Yakutat ANB Basketball Team
(Gold Medal Class B Champs)
by Senator Meland

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 February 15, 1979

SUBJECT: Committee Substitutes for HB 3

TO: Representative Charles H. Parr, Chairman
House Judiciary Committee

FROM: Richard A. Bradley, Legislative Counsel

Peggy Berck has requested two alternate committee substitutes for your committee's review. They are enclosed; I believe them to be responsive to your request.

Some comments on the contents of the two bills:

1. Definition of "felony involving moral turpitude." I did a computer run on the phrase moral turpitude. It occurs some 40 or more times in Alaska Statutes. Somewhat significantly, the only time the Legislature sought to define the term is in present AS 15.05.030. The closest I came to a definition in the encyclopedias that I view as useful and accurate was found at 22 C.J.S., Criminal Law, §8; there the suggestion was offered that the concept of crimes mala in se [immoral as wrong in itself as opposed to merely prohibited in law] was substantially identical to the concept of crimes involving moral turpitude.

A modification of that concept is found in the bills that are enclosed. See AS 15.05.035(d) in each bill. I found it useful to give some examples of the crimes found to involve moral turpitude. The list is obviously partial and expressed in common law concepts. If the committee is dissatisfied with that approach, the only significant improvement that I can offer would be an encyclopedic recital of the actual crimes viewed by the Legislature as constituting felonies involving moral turpitude.

If the committee does not find the definition offered adequate, then I will undertake a comprehensive listing.

2. The problem of out-of-state imprisonment. As I see this question, it has two aspects:

(a) Persons convicted of a crime in the state courts of Alaska. Whether they are imprisoned in Alaska or elsewhere, they remain during their entire imprisonment in the "custody of the commissioner of Health and Social Services." AS 33.30.090. As such, a direction to the commissioner as under draft secs. AS 11.05.075(c) and AS 15.05.035(c) seems a complete answer to the concern.

(b) Persons convicted in a court other than an Alaska state court. If the individual was not an Alaska resident before his conviction or if he had been but was convicted by a court other than an Alaska court, I see no mechanism for advising him that his rights have been restored. Obviously, of course, the election offices will have the correct information and on attempts to register or obtain information, they will provide it. That seems an adequate mechanism and, as it is implicit in the election code, no specific provision is suggested in the bills.

3. I believe that the phrase "position of private trust" has well established meanings. Black's Law Dictionary states that a trust it describes is:

> "One established or created for the benefit of a certain designated individual or individuals, or a known person or class of persons, clearly identified or capable of identification by the terms of the instrument creating the trust, as distinguished from trusts for public institutions or charitable trusts."

As such it describes the role of trustee for a private trust [but not, I think, the role of the trustor or beneficiary].

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

TO: SENATE STATE AFFAIRS COMMITTEE

Senator Kelly
Senator Bradley
Senator Ziegler
Senator Rodey
Senator Mulcahy

FROM: Mike Thompson, State Affairs Administrative Assistant

SUBJECT: Provisions for Director's Salaries relating to SB 182

Will director's salaries be addressed if the current CSSB 182 is adopted? Legislative Affairs opinion is that since the Alaska Salary Commission recommends that director's salaries remain on the state pay plan that by not addressing their salaries, CSSB 182 will have a "no change effect" in the review of director's salaries.

cc: Senator Sackett

MT:bal

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SENATE BILL NO. 182
Title Relating to Public Officers and Employees
Requested by Senate State Affairs Date 2/28/79

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		240.7	240.7	240.7	240.7	240.7
200	TRAVEL		(25.6)	(25.6)	(25.6)	(25.6)	(25.6)
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL		215.1	215.1	215.1	215.1	215.1

FUNDING (Thousands of Dollars)

GENERAL FUND		215.1	215.1	215.1	215.1	215.1
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		-0-				
PART TIME						
TEMPORARY						

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

Sec. 24.15.010(1) (200) savings of $25,536
(2) no change
24.15.020 (100) salary $195,480
(100) F.I.C.A. $11,982
(100) Benefits $33,232
24.15.030 no change

IV. DATE 2/28/79 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. 10/78)

STATE AFFAIRS COMMITTEE

February 28, 1979

The meeting was called to order by Senator Tim Kelly.

The first bill on the agenda was CSHB 102 pertaining to works of fine art.

Bill author, Dick Eliason said that early in January a Sitka artist contacted him saying that if a work of art were in a gallery and the gallery went bankrupt, even though the work was on consignment it would be subject to seizure.

This bill would prevent the art from being seized. At present the best the artist can do to recover art under these circumstances is to litigate which is very costly, at worst to lose the art.

There were no questions. Senator Bradley recommended the bill "do pass".

SB 182 was introduced - a committee substitute by the sponsor had been distributed to each member. Bradely recommended for purposes of discussion that the substitute be used as the working draft for the meeting. There were no objections.

Senator Colletta explained the the original bill picked up and suggested inactment of what the people had voted to repeal a couple of years ago. The substitute corrected that but it still needed work. He explained the comparative list that was attached to each members bill.

Colletta said in essence the reason for the bill was that in the political arena salaries should be left up to political bodies.

The bill suggested that legislator's salaries be cut back to $9,000. This was a substantial reduction. Adjustments could be made with the committee substitute, however, not to reduce but to increase only when warranted. This would merely do away with an automatic blanket increase.

Ziegler said he'd always voted against an increase for his own salary but it would be difficult to favor a bill that would give him a decrease even though he agreed with the bill.

Colleta said the substitute would keep the same rate that "we're" on but would affect future pay increases.

Kelly recommended a work session.

Kay Diebels, chairman of the Salary Commission said she didn't care if they abolished the salary commission but she did have some concerns with the bill.

She pointed out that salaries reducing pay increases for the Governor and Lt. Governor could not take place constitutionally until there was a new Governor. She also questioned the fact that the bill would pay justices more than the Governor and said that all members of the committee felt the Governor should be the highest salaried person on the state payroll - even if that meant giving him $75,000 so he could make more than Alaska Ferry Engineers. She noted the bill addressed salaries of deputies but not directors and that these would have to be addressed at some point. She also noted that while other commissions were included in the legislation the Alaska Transportation Commission was not included.

She said the definition of the bill would make it hard to follow for someone who was interested in the bill - that since it was abolishing the Salary Commission it should state so in the title.

She also was concerned about legislative salaries - at the time the commission was formed it was done so because the public was upset with the large increase that the legislature had voted for itself.

Ziegler recalled that the Commission had made recommendations for salaries last fall and that the report had changed from the time it was written and the time it was introduced for public comments.

The chairman said that was true - an initial report had been drawn up in September and by the time it was released for public input in November had been altered.

Diebels said that new Presidential guidelines would not allow as much of an increase as they had originally thought - 7% per year average and 7% per multiple cntracts - one may assume an 8% cost of living increase.

Kelly said from the preliminary to the final had every figure been increased by 8%.

Diebels said yes, with the exception of the Regulatory Commission that was increased by 12.6% because they were behind the other commissions.

Kelly apologized for having the figures so late. He said there would be a working session and the committee would like the commissions suggestions. He said he didn't feel the Commission had done a poor job but since the legislature was taking the heat for setting salaries they might as well do the work also.

Diebels said no problem but the legislature was given an opportunity to reject the commission's final report.

Kelly put the bill aside until a work session could take place - he tentatively set a new hearing for Wednesday, March 7.

SB 191 was introduced by Kelly. This pertained to the appropriation for the Eagle River Road North. Kelly said that Parks and Recreation had set aside $220,000 to purchase Paradise Haven.

The road improvements are needed for easier access - the Iditerod Trail head is also at Paradise Haven.

The school bus also will not travel on the Eagle River Road at present so students are walking up to two miles to catch the school bus.

Senator Kelly read the report attached in the file. He explained if the bill were passed on to the Finance Committee that it would push for a bond package to finance the road, that he did not expect money.

Ziegler said he understood the need, that Kelly had explained the problem but where was the money?

Ziegler would not make the recommendation to move the bill out of committee, Bradley had been excused to testify at another meeting so Kelly gave the chair to Ziegler and moved the bill out of committee.

The meeting was adjourned.

STATE OF ALASKA
THE LEGISLATURE

POUCH V - STATE CAPITOL
JUNEAU ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM January 31, 1979

SUBJECT: Salary Commission
(Work Order No. 6156)

TO: Senator Mike Colletta

FROM: Kenneth E. Vassar, Legislative Counsel

Enclosed is the bill you requested repealing the salary commission statutes, and returning the statutory sections pertaining to salaries of certain public officers and employees to their pre-1976 status. There is, however, one difference between the pre-1976 language of these sections and the language I have used in the enclosed bill. Before 1976, the salaries of the top ranking state officials were tied to the salary schedule established in AS 39.27.010; specifically, they were typically tied to Step E, Range 28 of the salary schedule. As a result of a reorganization of the salary schedule, however, continuation of the reference to Step E, Range 28 would lead to a substantial boost in salary for these state officials. As an example, I would note the following changes in judicial salaries which would ensue from continuing the reference to Step E, Range 28:

(1) The salary commission's recommendation of 1977 (approved by Legislative Resolve 94) set salaries of supreme court justices at $52,992; a reference to Step E, Range 28 analogous to that before 1976 would result in a salary of $64,958.40;

(2) The salary commission's recommendation of 1977 set salaries of superior court judges at $48,576; a reference to Step E, Range 28 analogous to that before 1976 would result in a salary of $59,545.20;

(3) The salary commission's recommendation of 1977 set salaries of district court judges at $41,068; a reference to Step E, Range 28 analogous to that before 1976 would result in a salary of $50,342.76.

Since I did not believe these large salary increases were intended and since the state constitution restricts reductions in judicial salaries (see Article IV, sec. 13), I have taken the liberty of changing the reference to Step E, Range 24. This would result in salaries of $54,028.80 for supreme court justices, $49,526.40 for superior court justices, and $41,872.32 for district court justices. Please let me know if you would prefer the original reference to Range 28 or if you would like to discuss any other aspect of this bill with me.

KEV:nem

Enclosure

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM February 13, 1979

SUBJECT: Salaries of public officials and employees: (Work Order No. 6482)

TO: Senator Mike Colletta

FROM: Kenneth E. Vassar, Legislative Counsel KEV

You have requested a comparison of the salaries which would be established for certain public officials and employees under work order 6156 with the salaries of those public officials and employees established under recommendations of the Alaska Salary Commission.

In the following table, the column "ASC" indicates the salary recommended by the Alaska Salary Commission and approved by the Legislature in 1977; the column headed "6126" indicates the salary which would be established under work order 6126, subject to future amendments to the salary schedule in AS 39.27.011.

	ASC	6126
Alaska Commercial Fisheries Entry Commission Members	41,068	41,872
Supreme Court Justices	52,992	54,029
Superior Court Judges	48,576	49,526
District Court Judges	41,068	41,872
Members of the Legislature	11,750	14,858
Governor	52,992	50,000
Lieutenant Governor	47,304	44,000
Executive Department Heads	47,304	49,526
Deputy Department Heads	42,372	38,868 - 45,07

	ASC	6126
Alaska Public Utilities Commission	39,372	41,872
Alaska Pipeline Commission	39,372	41,872

The figures in the table above have been rounded to the nearest dollar. The listed salaries do not include any allowances for per diem, longevity pay increases, bonuses or other emoluments which may have been added to the base salary by recommendation of the salary commission or by work order 6126.

KEV:nem

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 182
Title Relating to compensation of public officers and employees
Requested by _____ Date 2/15/79

II. FISCAL DETAIL
Agency Affected Executive and Judicial Branches
Program Category Affected all catagories
Budget Request Unit(s) Affected Office of the Governor
(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		246.1	246.1	246.1	246.1	246.1
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		246.1	246.1	246.1	246.1	246.1

FUNDING (Thousands of Dollars)

GENERAL FUND		246.1	246.1	246.1	246.1	246.1
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
This fiscal note shows the funds needed to add to the FY 80 budget for the impact of SB 182 on executive and judicial branches only. Impact on the legislature would be prepared by the legislative affairs agencies. Funds in this fiscal note would be appropriated to the Governor's Office for further distribution.

By contrast, the FY 80 impact of HCR 2 on the executive and judicial branches, fully implementing Salary Commission recommendations, is $509,200. The salary schedule used in calculating the figures herein is the schedule proposed in HB 220. The fiscal note for HCR 2 assumed a 7.0% COLA adjustment effective 1/1/80. If a similar assumption is made for SB 182, so that all salaries expressed as a percentage of range 24 E are increased by 7% on 1/1/80, then this fiscal note would be increased by $166,100 to a total of $399,000 for FY 80 and subsequent years.

Fiscal Note for SB 182

Positions affected	Current Salary	SB 182 Salary***	Differences
1 Governor	52,992	50,000	(2,992)
1 Lt. Governor	47,304	44,000	(3,304)
14 Commissioners	47,304	51,018	51,996
19 Deputy Commissioners	varies*	46,330	20,563*
5 APUC Commissioners	39,372	43,133	18,805
3 APC Commissioners	39,372	43,133	11,283
3 CFEC Commissioners	39,372	43,133	11,283
		Sub-total	107,634
		17.25% benefits	18,566
		Total Executive Branch	126,200
5 Supreme Court Justices	52,992	55,656	13,320
Pay differential impact**			400
20 Superior Court Judges	48,576	51,018	48,840
Pay differential impact**			2,600
17 District Court Judges	41,068	43,133	35,105
Pay differential impact**			2,000
		Sub-total	102,285
		17.25% benefits	17,644
		Total Judicial Branch	119,929

Total executive and judicial: $232,900

* Calculations for Deputy Commissioners made on individual basis because several positions currently exceed maximum.

** SLA 78, CH 80 allowed up to 5 pay steps of 3.5% each for judge and justices pay differential. Only positions located outside Anchorage, Ketchikan, and Juneau receive this differential.

*** All salaries (except Governor and Lt. Governor) are expressed in SB 182 as a percentage of Range 24E. The schedule used in preparation of this fiscal note is the one included in HB 220. If HB 220 fails to pass, all salaries expressed as a percentage of Range 24E would be reduced to an amount based on the current schedule in AS 39.27.011, and the fiscal note would be reduced accordingly by $109,000 to a total of $137,100.

Dated 2/27/29
Replaces Fiscal Note dated 2/21/79

SB 182 An act relating to compensation of public officers and employees; and providing for an effective date.

Coletta
Hackney
Hohman
Sturgulewski
Sumner

SUMMARY

This bill abolishes the Salary Commission and redefines the annual salaries of the Governor, Lt. Governor, legislators, chief justices and associate justices, superior and district court judges, executive department heads and deputy heads, and members of the Commercial Fisheries Entry Commission, Alaska Public Utilities Commission and the Alaska Pipeline Commission. It also redefines the additional annual allowance to legislators for postage, stationary, stenographic services and other related expenses.

SUPPORTING INFORMATION

SB 182 returns the statutory sections pertaining to salaries of certain public officers and employees to pre-1976 status. There is one difference between the pre-1976 language of the statutes and SB 182. In 1975 salaries were set in accordance with Step E, Range 28 as established in AS 39.27.010 (Session Laws of Alaska, 1975).)

Step E, Range 24 is implemented in SB 182 rather than Step E, Range 28, because Range 28 would have substantially raised salaries which was not the sponsor's intent. However, Step E, Range 24 still increases salaries except for the Governor and the Lt. Governor. Range 24 was used because the State Constitution restricts reduction of judicial salaries (Art. IV, Sec. 13). The sponsor feels this bill is still not satisfactory and he is submitting a Committee Substitute which will be received before the meeting. The redraft ties salaries to the old pre-1975 salary schedule, giving specific

Under both SB 182 and CS for SB 182 commission chairmen will not receive the additional $500.00 for acting in that capacity. The President of the Senate and the Speaker of the House will still receive an additional $500.00 on top of their set salaries.

FISCAL NOTE

See attached.

RELATED LEGISLATION

HB 220, Rules, Compensation for certain state officers and employees. HCR 2, State Affairs approving recommendations of the Salary Commission.

ALASKA SALARY COMMISSION (Under Department of Administration)

Created in 1976 by statute, the Alaska Salary Commission consists of five members appointed by the Governor and serve four year staggered terms (one member serves one year and is replaced, one serves 2 years and is replaced, one member serves three years and is replaced, etc.) Public officers or employees cannot serve on the Salary Commission.

Members of the Commission are compensated with per diem and travel only.

It is the duty of the Commission to conduct on-going review of compensation and retirement benefits for:

Members of the legislature
Governor
Lt. governor
Commissioners
Deputy Commissioners
Division Directors
Alaska Public Utilities Commission
Alaska Pipelin Commission
Commercial Fisneries Limited Entry Commission
Judiciary (Chief Justice, Supreme court justices, superior and district court judges.)

Before 11/15/76 and every two years after that, the Commission shall submit its findings and recommendations to the presiding officers of each house of the legislature and to the chief justice of the supreme court..

ALASKA SALARY COMMISSION
KATHLEEN DIEBELS, CHAIRMAN
WILLIAM FELL
CLIFFORD HARTMAN
KARL JOHNSTONE

Retain salary & retirement benefits for public officials based upon equitable relationships being maintained among various positions.

Bill abolishing Salary Commission & returning the statutes pertaining to salaries of certain public officials & employees to their pre-1976 status

Salary Commission: 1976

Ray [redacted] Dierks
William Fell
Cliff Hakkinen

} APPOINTED BY GOV.

39.23

Make recommendation.

Admin Sal. Comm (with chairman)

5 members appointed by Gov - committee pers.
4 year staggered terms

per diem and travel

Coordinate appointment of new positions
Recommend to Gov. Office

Members of Leg
Gov.
Lt. Gov.
Commissioner
Dep Comm
Div Directors
APUC
Ex-Pay Schedules
Comm Jud
Exec Staff
Judiciary

Written 1/10/76
"
"
"
should submit
funding recom.
Office Equip
change number
of emp

STATE AFFAIRS COMMITTEE

CSSB 182 Colletta

SUMMARY

The committee substitute for SB 182 abolishes the Alaska Salary Commission and maintains salaries.

Bob
original sponsors
Colletta
Kaufman
Hohman
Sturgulewski
Sumner

SALARY COMMISSION RECOMMENDATION COMPARISON

POSITION	SALARIES EFFECTIVE January 1, 1977	SALARIES RECOMMENDED for January 1, 1979 FIRST RECOMMENDATION	SALARIES RECOMMENDED for January 1, 1979 SECOND RECOMMENDATION	SENATE BILL 182 July 1, 1979
Governor	$52,992.00	$62,000.00	$57,231.00	$50,000.00
Lieut. Governor	47,304.00	52,500.00	51,088.00	44,000.00
Chief Justice	52 992.00	62,000.00	57,231.00	52,992.00
Associate Justice	52,992.00	62,000.00	57,231.00	52,992.00
Superior Court Judge	48,576.00	57.500.00	52,462.00	48,576.00
District Court Judge	41,068.00	49,000.00	44,353.00	41,068.00
House Speaker	12,250.00	16,000.00	13,190.00	9,500.00
Represenatative	11,750.00	15,500.00	12,690.00	9,000.00
Senate President	12,250.00	16,000.00	13,190.00	9,500.00
Senator	11,750.00	15,500.00	12,690.00	9,000.00
Commissioner	47,304.00	56,500.00	51,088.00	40,000.00
Deputy Commissioner	42,372.00	52,500.00	45,762.00	32,328.00
Chairman, ACFEC	39,372.00	49,500.00	44,853.00	33,500.00
Commissioner, ACFEC	39,372.00	49,000.00	44,353.00	33,500.00
Chairman, APUC	39,872.00	49,500.00	44,853.00	33,500.00

SALARY COMMISSION RECOMMENDATION COMPARISON

POSITION	SALARIES EFFECTIVE January 1, 1977	SALARIES RECOMMENDED for January 1, 1979 FIRST RECOMMENDATION	SALARIES RECOMMENDED for January 1, 1979 SECOND RECOMMENDATION	SENATE BILL 182 July 1, 1979
Commissioner, APUC	$39,372.00	$49,000.00	$44,353.00	$33,500.00
Chairman, APC	39,872.00	49,500.00	44,853.00	33,500.00
Commissioner, APC	39,372.00	49,000.00	44,353.00	33,500.00
Division Director	37,020.00 (min)	55,000.00 (max)*	50,000.00 (max)*	

*Directors to remain on the State Pay Plan to a maximum of $55,000.00.

POSITION	SALARIES EFFECTIVE JAN. 1, 1977	SALARIES UNDER SB 182	SALARIES REDRAFT SB 182	SALARY COMM. RECOMMENDATION JAN 1, 1979
Governor	$52,992.00	$50,000.00	$	$57.231.00
Lieut. Governor	47,304.00	44,000.00		51,088.00
Chief Justice	52,992.00	54,029.00	44,000.00	57,231.00
Associate Justice	52,992.00	54,029.00	44,000.00	57,231.00
Superior Ct. Judge	48,576.00	49,526.00	33,000.00	52,462.00
Dist. Ct. Judge	41,068.00	41,872.00	33,500.00	44,353.00
House Speaker	12,250.00	14,858.00	9,500.00	13,190.00
Representative	11,750.00	14,858.00	9,000.00	12,690.00
Senate President	12,250.00	14,858.00	9,500.00	13,190.00
Senator Commissioner	11,750.00 47,304.00	14,858 49,526.00	9,000.00 40,000.00	12,690.00 51,088.00
Deputy Comm.	42,372.00	38,868.00-45,020.00	32,328.00-37,452.00	45,762.00
Chairman, ACFEC	39,872.00	41,872.00	33,500.00	44,853.00
Commissioner,AFEC	39,372.00	41,872.00	33,500.00	44,353.00
Chairman, APUC	39,872.00	41,872.00	33,500.00	44,853.00
Commissioner APUC	39 372.00	41,872.00	33,500.00	44,353.00
Chairman, APC	39,872.00	41,872.00	33,500.00	44,853.00
Commissioner APC	39,372.00	41,872.00	33,500.00	44,353.00

SB

395

COMMITTEE REPORT

SENATE

FURTHER: None

2/6/80

Date: Mar 7, 1980

Mr. President:

The Committee on STATE AFFAIRS has had SB 395

flood control project damages

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

S 60 (Rev. 12/78)

Corps asks priority for Alaska

Times Washington Bureau

Washington — The U.S. Army Corps of Engineers asked Congress today to give high priority to the potential for further development of hydroelectric resources in Alaska.

In testimony before a House subcommittee, Brig. Gen. Richard M. Wells, a division engineer, placed special emphasis on the Bradley Lake project, near the western end of the Kenai Peninsula, for which $1,315,000 is sought in fiscal year 1981.

Power from the project, which is still in pre-construction planning, would serve Anchorage and the Kenai Peninsula.

Wells also sought funds to continue studies on the feasibility of small hydropower facilities throughout Alaska, flood control projects and navigation improvements at several harbors in Alaska.

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

5/2/80

Senator Mulcahy:

Keith Specking tried to reach you yesterday to ask you to consider scheduling SB 395, liability for flood control, for hearing by the State Affairs Committee. Keith is away from the office today but is planning to return Monday.

I've attached a copy of Governor Hammond's transmittal letter which explains the need for the bill. Thank you for your consideration.

Rebecca Engen

February 6, 1980

SB 395

The Honorable Clem Tillion
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill repealing AS 44.80.020 - 44.80.050, relating to state liability for flood control and similar projects.

The statutes to be repealed now require the state to assume liability for damages resulting from the construction of federal flood control, river, channel, or harbor projects. These statutes were originally passed by the Territorial Legislature in 1949. No legislative history has been found, but it appears that the statutes were enacted in response to the federal Flood Control Act of 1936, 33 USC 701, et seq., which requires a state or political subdivision of a state to assume the federal government's liability for damages resulting from Corps of Engineer flood control projects.

There has been no judicial interpretation of the main liability statute, AS 44.80.020. Of special concern is the sentence "The liability of a private person is the measure of liability of the state for these damages." This creates the possibility of alternative measures or standards of state liability: the statute may have been intended to assume only the liability of the federal government for damages occurring as the result of a project. Alternatively, the statute could be construed to encompass strict liability for all damages as if the project had been constructed by a private, profit-motivated entity rather than by a governmental entity acting in the broad interests of the public. If the second alternative were to be accepted by a court, the state could incur enormous liability upon construction of flood control projects.

Flood control projects have as their main purpose, protection of public and private property in the vicinity of local municipalities. It is the local municipalities within known flood plains which generally request federal Corps assistance in flood control projects to protect local property values.

SB 395 A main criteria for seeking federal assistance should be a balancing of benefits against expenses incurred. Federally financed construction removes the cost of development as a concern to the local municipality involved. The present state statutes, AS 44.80.020 - 44.80.050 place on the shoulders of the state taxpayer the attendant property damage consequences of any local project. The result is that local municipalities need not consider the costs, only the benefits, and thus can be expected to seek local improvements in situations where costs to the statewide citizenry may far outbalance the local benefit to be derived from those projects.

Repeal of AS 44.80.020 - 44.80.050 will more equitably align local benefits with the attendant local costs and will assure that wise economic considerations be the predicate for local federal flood control projects and that the state will not be forced to incur multi-million dollar damage expenses whenever local municipalities obtain federal flood control assistance. Of course, there may well be occasions when flood control projects are necessary for the protection of life and property but, because of high costs, state assistance to the local municipality will be necessary. Under such circumstances, special state aid legislation, tailored to the special circumstances of each situation, can be considered, or the present AS 35.05.040(7), authorizing the Department of Transportation and Public Facilities to contract with the federal government on public works projects, could perhaps be employed to assume an appropriate level of state liability.

Sincerely,

Jay S. Hammond
Governor

SB 396 SENATE BILL NO. 396 by the Rules Committee by request of the Governor, entitled:

"An Act making supplemental appropriations to the Department of Health and Social Services, Division of Corrections; and providing for an effective date."

was read the first time and referred to the Finance Committee.

Article 2. Federal Construction of Flood Control Projects.

Section
20. Liability for damages
30. Hearing and determination of claims for damages
40. Payment of awards or judgments
50. Policy

Sec. 44.80.020. Liability for damages. The state assumes liability for damages arising out of the construction by the federal government of a flood control, river, channel or harbor project. The liability of a private person is the measure of liability of the state for these damages. The submission to and rejection by the Department of Administration of a claim is a condition precedent to the maintenance of suit against the state for the recovery of these damages. (§ 2 ch 110 SLA 1949)

Revisor's note. — The last sentence of this section as enacted read: "Provided further, that the submission to any rejection by the Territorial Board . . . shall be a condition precedent . . . " "Any" is assumed to be a typographical error and is changed to "and."

Am. Jur. reference. — 49 Am. Jur., States, Territories and Dependencies, §§ 72 to 79

Sec. 44.80.030. Hearing and determination of claims for damages. The Department of Administration may hear and determine claims for damages arising under § 20 of this chapter and may award fair and just compensation. The department may adopt procedure consistent with law for hearing and determining claims. (§ 3 ch 110 SLA 1949)

Sec. 44.80.040. Payment of awards or judgments. The payment of an award or judgment made under §§ 20 — 50 of this chapter shall be made from an appropriation for that purpose. (§ 4 ch 110 SLA 1949)

Sec. 44.80.050. Policy. It is the policy of the state to cooperate with the federal government in protecting the lives and property of the residents of the state by flood control and river and harbor improvements undertaken by an agency of the federal government and to save the federal government free from liability for damages arising from the construction of a flood control or river or harbor improvement. (§ 1 ch 110 SLA 1949)

February 6, 1980

The Honorable Clem Tillion
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill repealing AS 44.80.020 - 44.80.050, relating to state liability for flood control and similar projects.

The statutes to be repealed now require the state to assume liability for damages resulting from the construction of federal flood control, river, channel, or harbor projects. These statutes were originally passed by the Territorial Legislature in 1949. No legislative history has been found, but it appears that the statutes were enacted in response to the federal Flood Control Act of 1936, 33 USC 701, et seq., which requires a state or political subdivision of a state to assume the federal government's liability for damages resulting from Corps of Engineer flood control project

There has been no judicial interpretation of the main liability statute, AS 44.80.020. Of special concern is the sentence "The liability of a private person is the measure of liability of the state for these damages." This creates the possibility of alternative measures or standards of state liability: the statute may have been intended to assume only the liability of the federal government for damages occurring as the result of a project. Alternatively, the statute could be construed to

encompass strict liability for all damages as if the project had been constructed by a private, profit-motivated entity rather than by a governmental entity acting in the broad interests of the public. If the second alternative were to be accepted by a court, the state could incur enormous liability upon construction of flood control projects.

Flood control projects have as their main purpose, protection of public and private property in the vicinity of local municipalities. It is the local municipalities within known flood plains which generally request federal Corps assistance in flood control projects to protect local property values. A main criteria for seeking federal assistance should be a balancing of benefits against expenses incurred. Federally financed construction removes the cost of development as a concern to the local municipality involved. The present state statutes, AS 44.80.020 - 44.80.050 place on the shoulders of the state taxpayer the attendant property damage consequences of any local project. The result is that local municipalities need not consider the costs, only the benefits, and thus can be expected to seek local improvements in situations where costs to the statewide citizenry may far outbalance the local benefit to be derived from those projects.

Repeal of AS 44.80.020 - 44.80.050 will more equitably align local benefits with the attendant local costs and will assure that wise economic considerations be the predicate for local federal flood control projects and that the state will not be forced to incur multi-million dollar damage expenses whenever local municipalities obtain federal flood control assistance. Of course, there may well be occasions when flood control projects are necessary for the protection of life and property but, because of high costs, state assistance to the local municipality will be necessary. Under such circumstances, special state aid legislation, tailored to the special circumstances of each situation, can be considered, or the present AS 35.05.040(7), authorizing the Department of Transportation and Public Facilities to contract with the federal government on public

works projects, could perhaps be employed to assume an appropriate level of state liability.

Sincerely,

Jay S. Hammond
Governor

Resolution 80-4

Whereas, Senate Bill No. 395 has been introduced to repeal AS 44.80.020 to AS 44.80.050, an act relating to flood control project damages; and

Whereas, the existing legislation provides automatic liability on behalf of the State for any flood control project; and

Whereas, under existing legislation that measure of liability is that of a private party rather than that of the sovereign; and

Whereas, each individual federally funded flood control project requires an acceptance of only federal liability by the State or municipality upon completion.

Therefore be it resolved, that the Alaska State Water Resources Board strongly recommends passage of Senate Bill 395.

Date this 14th day of March, 1980

Richard H. Sims, Chairman

ALASKA WATER RESOURCE BOARD

Official Business

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

SB 395 - An Act relating to flood control project damages.

BY: Rules by request of the Governor

This bill repeals Article 2 (Federal Construction of Flood Control Projects) of AS 44.80 (State Government, Liability of the State). This article makes the State liable for damages arising out of construction, by the federal government, of a flood control, river channel or harbor project. The article also provides for hearing and determination of claims for damages, payment of awards or judgements, and state policy with regard to federal flood control and river and harbor improvements.

Generally, flood control projects are requested by municipalities and constructed by the federal government. The State often has no participation whatever. Yet under the present statutes the State is automatically held liable for any damages resulting from such projects. It is the position of the Governor and the Department of Administration, Division of Risk Management, that the State should not be in a position to assume liability when there is no State participation or control.

Please see Governor's letter of transmittal.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 395
Title Repeal of 44.80.020 - 44.80.050
Requested by Governor Date 11/14/79

II. FISCAL DETAIL
Agency Affected Administration
Program Category Affected Administrative Services to State Agencies
BRU, Program, or Subprogram(s) Affected Risk 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 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.	0	0	*	*	*	*
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)
The repeal of 44.80.020-44.80.050 is recommended due to tremendous potential liability, however, there have not been any claims to date under the provisions of this statute. There is presently no justification for maintaining this statute as it is not necessary to comply with Federal requirements for financing of flood control projects. The Corps of Engineers contracts with the local or State jurisdiction and agrees to assume the federal government's liability from damage due to the construction works. This is standard procedure and involve a consideration of the cost and benefits of various flood control alternatives. The State is not necessarily involved at all and should not be in a position to assume liability when there is not State participation or control.

IV. DATE 11/15/79 PREPARED BY
AGENCY Administration-Risk Management
PHONE 465-2180

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

33-001 (Rev. 12/78)

* Under the broad provision of this statute losses could arise out of the following sources: flooding of property, eminent domain and inverse condemnation, (increased cost of flood insurance and transportation; reduction in property values or commercial navigation, rerouting of common carriers, curtailment of industrial or governmental expansion, and other economic losses directly or indirectly related to a flood control project.)

Extensive review has been made of the State's liability insurance policies and there appears to be limited coverage under the policy. For this reason, it is vital that the State be in a position to review each project on its own merits and determine what the cost and benefits are in relation to the risk. This can only be accomplished through repeal of 44.80.020-44.80.050.

SB

470

1 p m Thursday

April 17

-5177H

MANAGER
ALYESKA
SKI CLUB

[illegible] with Van Dorhoff

[illegible]

RE: INHERANT RISKS OF SKIING

NOTIFY WHEN SCHEDULED:

John D. M. Grew
3413 Wesleyan Drive
Anch. AK 9504
333-8532

[redacted]

KNOWS

(Chris Vandorhoff
783-2222
(Wyatt Smith - Parent)
Jeff Calcetta
Rep Randolph

Alyeska RESORT

P.O. BOX 249 GIRDWOOD, ALASKA 99587

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

ALASKA USSA
UNITED STATES SKI ASSOCIATION - ALASKA DIVISION
P. O. BOX 4-2126
ANCHORAGE, ALASKA 99509

April 22, 1980

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 860, I must add there should also be a requirement 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, personnel 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 speaking to the inherent risk of skiing.

Sincerely,

Sam Hayes

Sam Hayes, President
U.S. SKi Association - Alaska Division

SH/mg

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
P.O. Box 1628, Juneau, Alaska 99802

The USDA Forest Service, Alaska Region concurs with the Legislature of the State of Alaska that the sport of skiing is practiced by a growing number of state residents and non-residents which contributes significantly to the economy of the state. We also agree that insurance carriers are reluctant to provide liability insurance to ski area operators and that the cost of insurance has increased sharply in recent years due to the problem concerning the skiers' risks inherent in the sport of skiing. We feel the skier must assume a high degree of personal responsibility for his or her own safety and the safety of others. It must be appreciated that not all hazardous conditions can be anticipated or eliminated by ski area operators.

Skiing is a recreational activity that poses varying degrees of hazard to the participant. The rugged mountain environment poses dangers of inclement weather, natural obstacles, and precipitous terrain. Degree of hazard varies with the skier's own skill and judgment, as well as snow conditions, terrain, and visibility. Clearly, state law is needed to define the liability and risk that the skier assumes when participating in the sport. Therefore, the USDA Forest Service, Alaska Region, concurs that there exists a definite liability problem between skiers and ski area operators. However, we also feel that in addition defining skiers inherent risks, the ski area operators responsibility and liability to the skier concerning safety on the ski slopes should be identified.

In conclusion, the USDA Forest Service, Region 10 - Alaska Region, clearly recognizes that state law is needed and would be valuable in defining responsibilities and risks of skiers using ski areas, and in defining the legal responsibilities of ski area operators and their employees. The law needs to clearly define the rights and liabilities existing between the skier and the ski area operator, and between skiers.

Statement of Tom S. Miller/Snow Ranger, U.S. Forest Service, Alaska Region, for presentation before the State Legislature on April 22, 1980 concerning HB 860 and SB 470.

April 22, 1980

We of the Sourdough Ski Patrol fully support Senate Bill No. 470 and House Bill No. 860. We also feel that this legislation is long overdue and is necessary for the well being of the financial structure of the ski area. The inherent risk of skiing should be the responsibility of the skier. Without this legislation we feel it is becoming increasingly difficult for the ski areas to continue in their operations due to financial stress.

Sincerely,

Martin Sherman

Martin Sherman
Patrol Leader
Sourdough Ski Patrol

To; Senate State Affairs and House Judiciary Committees

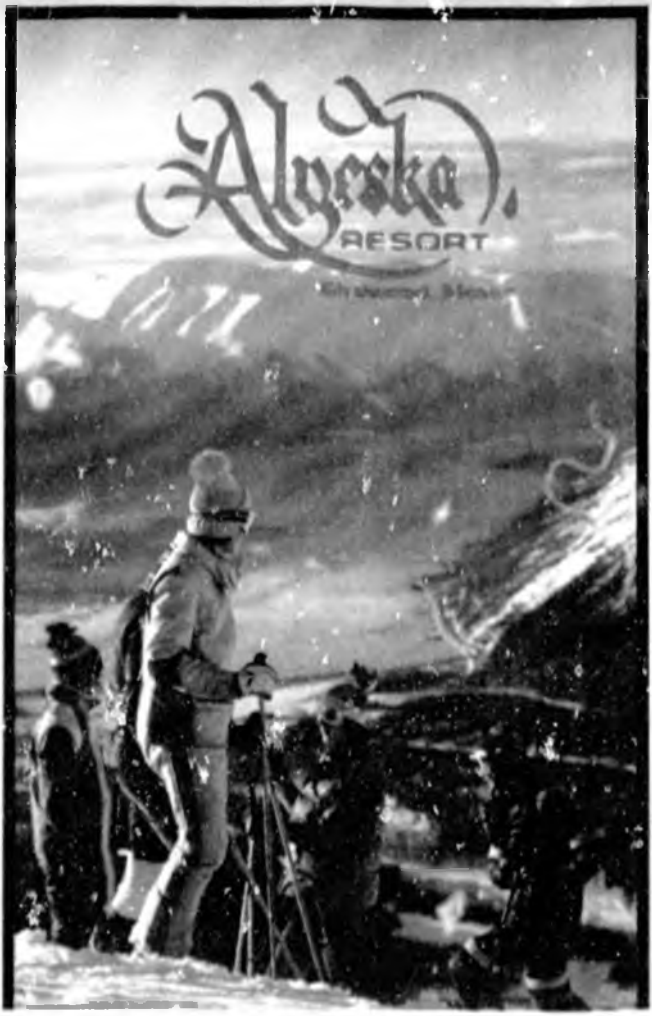
Ski areas nationewide have and are being sued for injuries which are inherent to the sport of skiing and all too often these injuries involve no negligence on the part of the ski areas. Consequently, liability insurance rates have steadily risen to where these costs now make up a significate portion of the cost of skiing. Only two major ski area liability insurance firms remain in the United States.

Several of the States have already passed legislation which sets out the responsibility of the skier towards himself and others. Proper legislation can help control unnecessary and unwarrented law suits and keep insurance rates at a reasonable level. Ski areas, through engineering standards, lift-codes and safe practices have made skiing a reasonably safe sport.

I support Senate Bill 470 and House Bill 860 and urge you to give favorable consideration to these bills.

Duane C. Luedke

Duane C. Luedke
Operator
Anchorage Ski Club
Arctic Valley
2710 Juneau St.,
Anchorage, Ak. 99504
4-22-80



Nancy Simmerman photo

1980
Ski Trail Map

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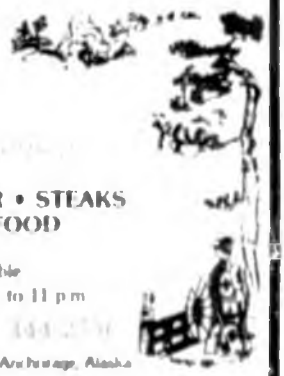
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● ● ●
● ● ● 3
(〒103)

SB 470
6 copies

MR. CHAIRMEN, AND MEMBES OF THE SENATE STATE AFFAIRS AND FINANCE COMMITTES: MY NAME IS BOB JANES, AND I AM TESTIFYING TODAY ON BEHALF OF THE NATIONAL SKI PATROL SYSTEM IN ALASKA, IN SUPPORT OF SENATE BILL NO. 470.

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 S.B. NO. 470 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 AREA OPERATOR.

(MORE)

Testimony presented by Bob Janes, Regional Director, Alaska 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.

.....

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

Rec 3-21-80



P.O. BOX 249 GIRDWOOD, ALASKA 99587

March 16, 1980

Senator Bob Mulcahy
Chairman, State Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Your help is needed to pass an important piece of legislation for the ski industry - S.B. 470 (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.

Alyeska RESORT INC.

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 your committee so it can come up before the Senate.

Sincerely yours,

Chris von Imhof
Executive Vice President and
General Manager

CVI/bbp
Attachments

Copy to Tim Kelly
Brad Bradley
Patrick Rodey
Robert Ziegler
Mike Colletta

Alaska State Legislature

SENATOR MIKE COLLETTA

SENATE MAJORITY LEADER

Senate

RECEIVED

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: SB302 Avalanche will pass the Senate within 10 days and there is no problem with it on the house side

Mike

SRA, BOX 1452 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

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ALYESKA RESORT, INC.

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 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 thereafter 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. 2975]

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.

(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.

(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 1951 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.

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 violator'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 brackets]* 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

S.B. No. 146

GENERAL SESSION

By [illegible]

IVAN M MATHESON
KARL N SNOW, JR
[illegible] JONES
RONALD E BELVERTON
[illegible] A HULLEN
[illegible]
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:

S.B. No. 146

(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 ERICKSON

Title: INHERENT RISKS OF SKIING

Summary: This 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 affect the insurance rates paid by ski area operators for liability insurance.

OFFICE OF THE LEGISLATIVE FISCAL ANALYST

1979

CHRIS YOU Should

FOR YOUR INFO.

Jim Hackett

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 statutes; 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 to 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 this article or any verbal instructions by the ski area operator regarding the proper or safe use of a passenger tramway unless such verbal instructions are contrary to this article or the

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 and 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 Track", "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 words

"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 shal 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 a.m.

Richard D. Lamm
GOVERNOR OF THE STATE OF COLORADO

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

SB 470 An Act relating to the inherent risks of skiing; and providing for an effective date.

BY: Senators Colletta and Kerttula

The intent of this legislation is to clarify the law concerning the natural, inescapable risks that are a part of the sport of skiing and to specify that a ski area operator is not liable for injuries resulting from these inherent risks.

A new article entitled LIMITATIONS ON CLAIMS ARISING FROM INHERENT RISKS OF SKIING is added to AS 09.10(Code of Civil Procedure-Limitations of Actions). Provides that a skier may not recover from a ski area operator for injury resulting from an inherent risk of skiing. Such risks are defined as dangers or conditions which are an integral part of skiing, including changing weather conditions, variations or steepness of terrain, snow or ice conditions, surface or subsurface conditions, collisions with structures or other skiers, and a skier's failure to ski within his own ability.

This article also provides that a claim against a ski area operator arising out of an injury is barred unless the ski area operator is notified of the injury within 90 days of its occurance or 90 days after the skier discovers the injury. In addition, a ski area operator shall promptly post signs listing the inherent risks of skiing and the limitation on the liability of the operator for injuries resulting from these risks

AS 05.20.012 (Amusements and Sports, Liability for Accidents in Skiing Areas, attached) is repealed.

BACKGROUND

This bill was introduced at the request of Chris Von Imhoff, General Manager of Alyeska ski resort. He states that insurance premiums for ski areas nationwide are skyrocketing, with Alyeska paying nearly $85,000 in liability premiums alone. He attributes the increase primarily to expensive settlements of nuisance claims against ski areas for injuries incurred by skiers through no fault of the area. He said "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.

Similar legislation has been passed in Washington, Oregon, Utah and Colordao. This bill is almost identical to the Utah statute.

House bill 860 currently in House Judiciary is identical to SB 470.

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, both of which groups significantly contribute 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 actively participates in that sport. It is the intent of the legislature in enacting this Act to clarify the law relating to skiing injuries, 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. 09.100.300. LIMITATIONS ON CLAIMS. A skier may not recover from a ski area operator for injury resulting from an inherent risk of skiing as defined in 09.10.320(1) unless the ski area operator fails to comply with 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 limitations on liability of the ski area operator provided by AS 09.10.300.

Sec. 09.10.315. SNOW SAFETY AND OPERATION PLAN. A ski area operator shall not operate a ski area except under a snow safety and operation plan approved annually by the State of Alaska or the United States Department of Agriculture, Forest Service, where the ski area is on national forest land.

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) collision with lift towers, other structures, and their components, unless the skier is on the lift;

(F) collision with other skiers; and

(G) a skier's failure to ski within the limits of his own ability;

(2) "injury" means a personal injury, property damage or loss;

(3) "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;

(4) "ski area" means all ski slopes or trails and other places under control of a ski area operator and administered as a single enterprise within this state;

(5) "ski area operator" means the operator of a ski area.

*Sec. 3. AS 05.20.012 is repealed.

*Sec. 4. This Act takes effect immediately in accordance with AS 01.01.070(c).

P.O. Box 1628
Juneau 99802
586-7510

Mr. Bob Jones
Forest Service

call when draft is
ready so he can
send letter.

The Forest Service is
sending your letter
stating their willingness
to do the natural
work with the state
having final approval
on the snow safety /
Operation plans, for
those sites mentioned
state, municipal or
private for 1.24 this
would be a cooperative
agreement between the
Forest Service & State.

NATIONAL SKI PATROL SYSTEM, INC.

Alaska DIVISION

TITLE

Testimony presented April 23, 1980, at a hearing of the Alaska Senate State Affairs Committee, by Bob Janes, Regional Director Southeast, Alaska Division, National Ski Patrol System, Inc.

MR. CHAIRMEN, AND MEMBERS OF THE SENATE STATE AFFAIRS AND FINANCE COMMITTES: MY NAME IS BOB JANES, AND I AM TESTIFYING TODAY ON BEHALF OF THE NATIONAL SKI PATROL SYSTEM IN ALASKA, IN SUPPORT OF SENATE BILL NO. 470.

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 S.B. NO. 470 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 DEFINITIONS ARE:

1. (C). EXPAND ON SNOW OR ICE CONDITIONS TO CLARIFY THAT VARIATIONS MAY OCCUR BECAUSE OF WEATHER FACTORS AND/OR HILL GROOMING.

FOR INSTANCE, STANDARD GROOMING PRACTICES COULD CAUSE VARIABLE SNOW SURFACE CONDITIONS WHICH SKIERS SHOULD ACCEPT AS NORMAL INHERENT RISKS ON A MANAGED SKI RUN. NEGLIGENT GROOMING PRACTICES COULD CAUSE UNSAFE CONDITIONS, SUCH AS LEAVING DANGEROUS BERMS OR CUTBANKS ON GROOMED RUNS. SKI AREA OPERATORS SHOULD NOT BE ABSOLVED FROM SUCH NEGLIGENCE.

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 AREA OPERATOR.

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, APPROVED BY THE APPROPRIATE LAND OWNER OR MANAGER, 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. James

Introduced: 2/18/80
Referred: State Affairs and Finance

IN THE SENATE

BY COLLETTA AND KERTTULA

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. 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) A skier may not recover from a ski area operator for injury resulting from an inherent risk of skiing.

(b) A claim against a ski area operator arising out of an injury to a skier is barred unless the ski area operator is notified of the injury within 90 days of its occurrence or within 90 days after the

skier discovers or through the use of reasonable diligence should have discovered the injury.

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, rocks, and stumps;

(E) collisions with lift towers, other structures, and their components;

(F) collisions with other skiers; and

(G) a skier's failure to ski within 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;

(4) "ski area" means an area designated by a ski area operator to be used for skiing;

(5) "ski area operator" means the operator of a ski area.

* Sec. 3. AS 05.20.012 is repealed.

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

(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.

INSERT 09.16.320 (4)

(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.

INSERT IN 09.16.326 (3)

(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

~~Ski area ops. plan approved by the Forest Supervisor~~

09.10.315

A ski area operator shall not operate a ski area except under a ~~Ski area safety~~ operating plan approved annually by the ~~Dept~~ Secretary of Agriculture or the ~~USDA Forest Service~~ USDA, USFS.

UNITED STATES SKI ASSOCIATION - ALASKA DIVISION
P. O. BOX 4-2126
ANCHORAGE, ALASKA 99509

April 22, 198[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 860, I must add there should also be a requirement 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, personnel 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 speaking to the inherent risk of skiing.

Sincerely,

Sam Hayes

Sam Hayes, President
U.S. SKi Association - Alaska Division

SH/mg

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

SB 470 - An Act relating to the inherent risks of skiing; and providing for an effective date.

SUMMARY:

The intent of this legislation is to clarify the law concerning the natural, inescapable risks that are a part of the sport of skiing and to specify that a ski area operator is not liable for injuries resulting from these inherent risks.

A new article entitled LIMITATIONS ON CLAIMS ARISING FROM INHERENT RISKS OF SKIING is added to AS 09.10 (Code of Civil Procedure-Limitations of Actions). Provides that a skier may not recover from a ski area operator for injury resulting from an inherent risk of skiing. Such risks are defined as dangers or conditions which are an integral part of skiing, including changing weather conditions, variations or steepness of terrain, snow or ice conditions, surface or subsurface conditions, collisions with structures or other skiers, and a skier's failure to ski within his own ability.

This article also provides that a claim against a ski area operator arising out of an injury is barred unless the ski area operator is notified of the injury within 90 days of its occurance or 90 days after the skier discovers the injury. In addition, a ski area operator shall promptly post signs listing the inherent risks of skiing and the limitation on the liability of the operator for injuries resulting from these risks.

AS 05.20.012 (Amusements and Sports, Liability for Accidents in Skiing Areas, attached) is repealed.

Effect of amendment. — The 1976 amendment inserted "labor, political" in paragraph (15) and added paragraphs (19), (20), and (21).

As the rest of the section was not affected by the amendment, it is not set out.

Chapter 20. Recreational Devices.

Section
10. Owners or operators to provide safe equipment
12. Liability for accidents in skiing areas

Sec. 05.20.010. Owners or operators to provide safe equipment. Every owner or operator of a device as defined in § 120 of this chapter shall construct, furnish, maintain and provide safe and adequate facilities and equipment with which to safely and properly receive and carry all persons offered to and received by the owner or operator of the device, and to promote the safety of the patrons, employees and the public. The owner or operator of ski equipment and devices is not considered a common carrier. (§ 1 ch 109 SLA 1960; am § 1 ch 25 SLA 1967)

Effect of amendment. — The 1967 amendment added the last sentence.

Legislative committee report. — For legislative committee report on ch. 25, SLA 1967 (CSSB 99), see House Journal (1967), pp. 369-370.

Sec. 05.20.012. Liability for accidents in skiing areas. No owner or operator of ski equipment may be held liable for the negligence of persons other than employees who use designated skiing areas owned or controlled by him, unless the owner or operator has negligently maintained the designated skiing areas or has furnished or supplied defective equipment, the use of which is the proximate cause of an injury sustained by a person while engaged in skiing activities within the designated skiing areas. (§ 2 ch 25 SLA 1967)

Legislative committee report. — For legislative committee report on ch. 25, SLA 1967 (CSSB 99), see House Journal (1967), pp. 369-370.

Chapter 25. Watercraft.

Article 3. General Provisions.

Section
60. Prohibited operation
100. Definitions

March 10, 1980

John D. McGre[illegible]
3413 Wesleyan Drive
Anch[illegible]ge, Alaska 99504

Dear John:

Thank you very much for your letter in which you express real concern with SB 470, Inherent risk of skiing. This bill is currently before the Senate State Affairs Committee which is chaired by Senator Bob Mulcahy.

At the present time, Senator Mulcahy has not scheduled a public hearing on this bill. I will copy him with your letter, and in the event he does hold a public hearing, I'm sure he would give you notice. I share your concerns with this piece of legislation, and appreciate your bringing it to my attention.

Kindest personal regards,

Arliss Sturgulewski
Senator, District 10-H

cc: Senator Mulcahy

Senator Arliss Sturgulewski
Pouch V
Juneau, Alaska 99811

Dear Senator Sturgulewski: February 28, 1980

Recently Senator Colleta introduced SB 470 entitled "Inherent Risk of Skiing" which will, if passed, protect an irresponsible ski area operator from taking normal safeguards to protect skiers from injury.

Many unsafe practices are currently practiced today in Alaska and elsewhere, and other state legislative bodies are enacting legislation to protect the public from such malpractice.

As skiers, we pay a very steep price to ski at Alyeska, $15.00 a day. Since this is a profit making operation controlled by Alaska Airlines, they, just as any other business, should not be protected by special interest legislation.

On behalf of the 450 members of the Alascom Ski Club, and its Board of Directors, we are asking you, as our representative to either amend SB 470 or work to get it defeated.

In the event this bill passes, injuries due to unsafe operating practices will rise in Alaska, with no recourse for those injured or killed due to such flagrant unsafe practices.

Very truly yours,

John D. McGraw

John D. McGraw
34 3 Wesleyan Drive
Anchorage, Alaska 99504
Hm. Ph. 333-8532

Alyeska RESORT

P.O. BOX 249 GIRDWOOD, ALASKA 99587

April 25, 1980

Ms. Allison Rickey
Senate State Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Ms. Rickey:

Tom Miller, Snow Ranger for the U. S. Forest Service, told me that you needed some further information pertaining to H.B. 470.

Enclosed please find a current copy of our Snow Safety Plan and a copy of the ANSI B77 Tramway Code both the original dated 1976 and an addendum dated 1978.

In addition, the different departments involved in our lift inspections are:

1. our insurance company
2. the U. S. Forest Service
3. the Department of Public Safety
4. the Department of Labor

If you have any further questions, please do not hesitate to call.

Sincerely,

Chris von Imhof
Executive Vice President and
General Manager

CVI/bbp
Enclosures 3

American National Standard

addendum to safety requirements for aerial passenger tramways

ANSI B77.1a-1978

ansi

american national standards institute, inc.
1430 broadway, new york, new york 10018

ANSI®
B77.1a-1978
Addendum to
ANSI B77.1-1976

Addendum to American National Standard Safety Requirements for Aerial Passenger Tramways

Secretariat
National Ski Areas Association

Approved January 17, 1978
American National Standards Institute, Inc

American National Standard

An American National Standard implies a consensus of those substantially concerned with its scope and provisions. An American National Standard is intended as a guide to aid the manufacturer, the consumer, and the general public. The existence of an American National Standard does not in any respect preclude anyone, whether he has approved the standard or not, from manufacturing, marketing, purchasing, or using products, processes, or procedures not conforming to the standard. American National Standards are subject to periodic review and users are cautioned to obtain the latest editions.

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Foreword

(This Foreword is not a part of Addendum to American National Standard Safety Requirements for Aerial Passenger Tramways, ANSI B77.1a-1978, but is included for information purposes only.)

This addendum revises parts of American National Standard Safety Requirements for Aerial Passenger Tramways, ANSI B77.1-1976. The complete standard was first approved in 1960 and revisions were developed and approved in 1970, 1973, and 1976.

The present addendum, which was approved by ANSI on January 17, 1978, brings the standard up to date. A revision of the entire standard ANSI B77.1-1976 is now underway.

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 submitted for approval 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:

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Stanley Judge, Vice-Chairman
Cal Conniff, Secretary

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Steinman, Boynton, Gronquist & Birdsall	Blair Birdsall
U.S. Forest Service	Charles F. Dwyer
U.S. Steel Corporation	Harold T. Chester
Western Areas Ski Insurance Program	Howard R. Anderson
Wire Rope Technical Board	R. P. Ramsey

Addendum to American National Standard Safety Requirements for Aerial Passenger Tramways

On page 9, replace 1.2.4 with the following:

1.2.4 Existing Installations. Installations operating prior to the approval date of this revision 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.

On page 11, following 1.8.11, add new subsection 1.8.12, to read as follows:

1.8.12 Electrical Control Circuits

1.8.12.1 Emergency Stop Circuit. An electrical control circuit that when interrupted will automatically cut the motive power and apply braking to stop the tramway within a minimum acceptable distance.

1.8.12.2 Operating Control Circuit. An electrical control circuit that governs the starting, speed, and normal stopping of the tramway.

On page 15, insert the following as the next-to-last paragraph of 2.1.7.1:

Track strand in which the outer shaped wires are supported by a layer comprised solely of round wires shall not be used.

On page 16, replace 2.1.7.4.2 with the following:

2.1.7.4.2 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 and the rope may be continued in service under the following conditions:

(1) Prior approval shall be obtained from the authority having jurisdiction for such repairs.

(2) A competent wire rope splicer shall verbally advise 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 shall be 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 shall be outside of an existing splice, and both new tucks shall be at least 96 times the nominal rope diameter from the end tuck of an existing splice.

(5) The repaired area shall be inspected daily for the first five days of operation, then once weekly for a period of six weeks of operation; thereafter, it shall be subject to routine wire rope inspection. The wire rope must be removed from operation immediately if core collapse, pulling, high stranding, or other significant distortions occur.

(6) Documents showing the splice diagrams and overall length of the patch, as prepared by the competent wire rope splicer, shall be filed with the authority having jurisdiction and shall also be placed in the owner's wire rope log for that rope.

On page 16, replace 2.1.7.5.1 with the following:

2.1.7.5.1 Haul Ropes — Bicable Systems. End connections shall be capable of developing the full strength of the rope to which they are attached. See 2.1.7.5.4.

On page 16, replace 2.1.7.5.2 with the following:

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. See 2.1.7.5.4.

On page 16, following 2.1.7.5.3, add new subsection 2.1.7.5.4:

2.1.7.5.4 Types and Methods. Any end attachments may be used provided the design and meth-

od of the attachment have the approval of the authority having jurisdiction. Some common devices and information concerning their attachment follow:

(1) Poured sockets

(a) Zinc, if used, shall be of ASTM Grade B-6 High Grade (or higher) and shall be attached in accordance with the procedure in American Petroleum Institute API-RP9B or American National Standard Specifications for and Use of Wire Ropes for Mines, ANSI M11.1-1960

(b) Resin, if it has been proved suitable, shall be attached in accordance with the manufacturer's instructions

(c) Field socketing by means of zinc or resin shall be performed by or under the supervision of a competent person or facility (see Note)

(2) Swaged sockets: Swaged sockets shall be attached by a competent person or facility (see Note) using fittings of a design in general acceptance and in common use by wire rope manufacturers and with attention to the following minimum particulars:

(a) Rope shall be inserted to the bottom of the hole.

(b) The bottom of the hole shall be one rope diameter beyond the swaged section.

(c) Critical dimensions: Outside diameter before swaging, outside diameter after swaging, inside diameter, depth of hole

(d) Swaged sockets shall be applied only to wire rope having a steel center in the section of rope inserted to the bottom of the hole. Fiber core rope shall have the fiber core removed from this section and a proper diameter IWRC or strand installed before swaging.

(3) Wire rope clips and thimbles

(a) Wire rope clips and thimbles shall be limited to bicable haul ropes, counterweight ropes, and guys

(b) Wire rope clips shall be of forged steel

(c) Wire rope clips and thimbles shall be used in number and spacings stipulated by the wire rope clip manufacturer

(d) Wire rope clips of the single saddle type shall be installed with the U bolt against the "dead end" and the saddle against the "live end"

(e) Torque values and retightening procedures shall conform to the wire rope clip manufacturer's instructions

(f) The radius of curvature of the rope in combination with the correct clip application shall be designed to achieve a minimum attachment efficiency of 80%

(g) 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 and reused as part of the section under load

(4) Mechanical thimble splices. Mechanical thimble splices are of two types:

(a) Flemish thimble splice with swaged metal sleeve(s)

(b) Fold-back, or return loop, with thimble and swaged metal sleeve(s)

Proof loading of any end connection to 40% of nominal rope breaking strength shall be required in accordance with Table A.

Documentation shall be provided by the facility or person for any end connection stating that it has been fabricated in accordance with the provisions of ANSI B77.1-1976 and ANSI B77.1a-1978. This document shall become a part of the wire rope log.

NOTE: An acceptable method of establishing the competence of a facility or person is to perform a breaking strength test of a length of IWRC wire rope prepared in a manner that will be used in the working assembly. The minimum breaking strength for this test specimen shall be 97-1/2% of the nominal strength of the rope tested. The purpose of this test is to establish the *ability* of the facility or person to make a proper connection. The test does not preclude any requirement for a proof load of the working assembly.

On page 22, replace 2.2.4.2 with the following:

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 a rate as not to endanger the carrier or the passengers. 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) Provisions shall be made for an overhauling load so that the system shall 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.

Where the provision made for an overhauling load consists of regenerative capability or a similar char-

Table A
Proof Loading of End Connections

End Connection	When Used On			
			Track Cable	
	Haulage	Counterweight	Strand	Rope
Swaged socket	Not required	Not required	Not applicable	Not required
Poured socket	Required	Required	Not required	Required
Wedge socket	Not required	Not required	Not applicable	Not required
Plug-type	Required	Required	Not applicable	Required
Clips and thimbles	Not required	Not required	Not required	Not required
Mechanical thimble splices:				
Flemish thimble splice with swaged metal sleeve(s)	Not required	Not required	Not applicable	Not applicable
Fold-back or return loop with thimbles and swaged metal sleeve(s)	Required	Required	Not applicable	Not applicable
Wedges and thimbles	Not applicable	Not applicable	Not required	Not applicable
All other	Required	Required	Not applicable	Required

acteristic in the prime mover itself, the auxiliary prime mover provided shall have a comparable capability.

(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 .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 s s, summer operation with foot passengers, etc).

Where the tramway is not rated for downhill passenger traffic, the following number of loaded chairs, loaded no more closely than every fourth chair, shall be permitted for the carrying of authorized persons downhill, the requirements for a safety gate (2.2.11 2.2.11) beyond the downhill unloading area and for slowing and stopping the lift drive automatically as set forth in condition (2) above shall be waived:

Total Number of Carriers on Chair Lift (both sides)	*Maximum Number of Loaded Carriers on Downhill Rope*
Less than 60	2
60 to 120	3
Over 120	4

For the purpose of this section only, "authorized persons" is defined to include all persons, whether employees of the tramway owner or not, who are authorized by the owner or his representatives to be carried on the chair lift.

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.

On page 22, revise the first sentence of the second paragraph of 2.2.5.1.1 to read as follows:

The brake shall be automatically applied by springs or weights except in cases where another type of fail-safe brake has been specifically approved by the authority having jurisdiction.

On page 23, change 2.2.5.2 to read:

2.2.5.2 **Aerial Lifts.** Each aerial lift shall have the brakes designated in 2.2.5.2.1 through 2.2.5.2.3.

On page 23, revise the first paragraph of 2.2.5.2.2 to read as follows:

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 that would require the operator, in order to operate the controls, to pass through the path of moving carriers. Operation of the emergency brake shall automatically stop the prime mover or other power source. This brake shall act automatically if the speed of the rope can exceed the design value by 15% in the

forward direction on lifts with overhauling loads or a reverse rotation exceeding that which normally activates the backstop.

On page 27, change title of 2.2.11.2 (b) to read:

(b) Terminal unloading areas – uphill and downhill:

On pages 28 and 29, replace 2.3.2.2 with the following:

2.3.2.2 Aerial Lifts. All towers shall be equipped with guards to prevent contact of any parts of the carriers with a tower structure or tower machinery and to maintain minimum clearance between carriers and tower structures; however, such guards or minimum clearance shall not be required if contact does not occur when the carrier is swung laterally 15 degrees from the vertical position. Minimum clearance is specified in the following paragraph.

A carrier must be capable of swinging 8 degrees laterally before engaging a guard or encroaching upon the following minimum clearance with a tower structure:

(1) On chair lifts and monocable lifts: 12 inches between the innermost point on chair structure and the tower clearance line or surface

(2) On gondola lifts with open windows on the tower side: 18 inches between the innermost point of cabin and the tower clearance line or surface

Guards may be placed to limit the swing of carriers between 8 and 15 degrees as required to maintain the above clearance.

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.

On page 30, modify the second paragraph of 2.3.3.1.3(1), beginning "When," to read as follows:

When the tower top in question lies below the straight line joining the adjacent tower tops the haul rope shall not leave the groove of sheaves under either of the following conditions:

(a) When the haul rope tension is 1.5 times its maximum design value at the point, using unloaded carriers in adjacent spans or, in the case of detachable systems, no carriers in adjacent spans

(b) When a rope is under tension of the counterweight alone (bare rope) or with any arrangement or number of empty chairs or hangers on the line

On page 31, following 2.4.2.1, add new subsection 2.4.2.2 to read as follows:

2.4.2.2 Track Strand Installation. Track strand is easily damaged! The designer of the tramway shall provide detailed information concerning handling and installation of the track strand. These instructions shall be consistent with the track strand manufacturer's recommendations. Any handling after installation shall be in accordance with this advice.

On page 35, replace 3.2.2.3.1 with the following:

3.2.2.3.1 Exceptions

(1) The authority having jurisdiction may permit surface lifts to be operated with a single operator at the loading surface provided the following conditions are met:

(a) The length of the lift, measured from the loading area to the safety gate, shall not exceed 800 feet

(b) The entire tow path and the entire haul rope system shall be visible to the operator

(c) The lift shall have a clearly identified stop switch located at the unloading area, in addition to the required safety gate (see 2.2.11.4.2)

(d) The operator shall have all lift controls immediately available to him

(e) Restarting of the lift following actuation of a safety or stopping device shall be impossible until clearance is assured and the safety or stopping device(s) has been reset by an authorized person

(f) There shall be no obstructions at the top bullwheel area that could come into contact with a passenger who might fail to unload

(2) Surface lifts provided with television surveillance of sections of the tow path not visible to the operator do not require an unloading attendant, provided conditions (c) through (f) are enforced and the lift has an optimum unloading area.

Exception – platter lifts with single-passenger telescoping tube hangers do not require television surveillance.

On page 35, replace 3.2.2.4 with the following:

3.2.2.4 Tows. A single operator may operate a tow provided the following conditions are met:

(1) The length of the tow, measured from the loading area to the safety gate, shall not exceed 800 feet

(2) The entire tow path and the entire haul rope system shall be visible to the operator

(3) The operator shall have all the tow controls immediately available and shall be able to start the tow while maintaining the surveillance required in condition (2)

(4) Restarting of the tow following actuation of a safety or stopping device(s) shall be impossible until clearance is assured and the safety or stopping device(s) has been reset by an authorized person

(5) The stop switches at the loading and unloading areas shall be clearly identified

If these conditions are not met, an additional attendant(s) is required. Each attendant shall be furnished with a stopping device and shall be able to communicate with the operator.

On page 35, following 3.2.2.4, add new subsection 3.2.2.5:

3.2.2.5 **Exceptions.** The authority having jurisdiction may permit one attendant to serve the unloading of more than one surface lift or tow where such an attendant is normally required by other sections of this standard, provided the following conditions are met

(1) All unloading areas shall be visible to the attendant and shall be within a 90-degree cone of sight from his station

(2) The distance from the attendant's station to the most distant safety gate point at the unloading area shall not exceed 100 feet and shall be readily accessible

(3) Whenever the attendant must leave his station, all lifts or tows under his surveillance shall be stopped

(4) The attendant cannot serve as an operator on any of these lifts or tows

(5) All safety gates shall be effective and shall comply with the requirements of 2.2.11.2.2 and 2.2.11.4.2

On page 37, insert the following as the second sentence of 3.3.2, condition (2):

The annual inspection shall be made by a competent wire rope or track strand inspector who may be an employee of the owner. For the purpose of this requirement a competent inspector is a person who by his knowledge, experience, and training in the field of rope or strand application is capable of judging the current condition of the wire rope or track strand.

On page 38, in 3.3.2.1, replace the second paragraph following condition (10), beginning with the last line in column one, with the following:

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 under the conditions specified in 2.1.7.4.2.

On page 38, delete 3.3.2.1.1 and renumber 3.3.2.1.2 as 3.3.2.1.1

On page 38, renumber old 3.3.3 as 3.3.4 and insert the following as new 3.3.3:

3.3.3 **Track Strand.**

NOTE: When wire rope is used as track cable refer to 3.3.2(2) and 3.3.2.1 for inspection criteria.

3.3.3.1 **Special Inspection and Maintenance**

3.3.3.1.1 At an interval established by the tramway designer the track strand shall be moved so as to place a different section of strand over the saddles, and the strand shall be carefully checked for abrasion, wire breaks, corrosion, and other damage. This provision shall also apply to wire rope if used as track cable.

3.3.3.1.2 When track strand is moved, it shall be moved a distance approximately equal to the longest arc of contact plus 15 feet.

3.3.3.1.3 After movement each section moved off a saddle shall be given an additional detailed inspection prior to operation.

3.3.3.1.4 Lubrication type and frequency shall be as recommended by the track strand manufacturer or designer. Lubrication at saddles and other points of support require special consideration.

3.3.3.2 **Track Strand Broken Wires**

3.3.3.2.1 If a wire in a track strand is broken, the strand and tramway manufacturer shall be contacted immediately, and an opinion shall be obtained regarding repair or other corrective action.

3.3.3.2.2 If two adjacent wires within one lay are broken, the tramway shall be shut down. The strand shall be replaced or repaired to the satisfaction of the strand manufacturer, tramway manufacturer, or a qualified engineer.

3.3.3.2.3 Any repairs shall be in accordance with explicit instructions from the strand manufacturer.

3.3.3.2.4 If more than two broken wires occur within one lay, the tramway shall be shut down, and the track strand shall be replaced.

3.3.3.2.5 Track *strand* shall be retired from service when there is any indication that exterior wire may come out of lock or when the reduction in nominal metallic cross section due to wire breaks, wear, or corrosion amounts to 10% in any length of 200 strand diameters or 5% in any length of 30 strand diameters. Repeated breaks in the same wire shall count as a single break.

On page 39, replace 3.4.2 with the following:

3.4.2 **Inspection of Wire Rope and Track Cable (Reversible Aerial Tramways, Aerial Lifts, Surface Lifts, and Wire Rope Tows).** A detailed inspection of wire rope and track cable shall be made upon a recommendation resulting from the general inspection (see 3.4.1) or immediately after any accident affecting

the possible integrity of the wire rope or cable. The detailed inspection shall be made by a qualified wire rope or cable inspector for the component involved. A written report of the inspection shall be filed with the owner, and a copy shall be included in the wire rope and cable log (see 3.5.2).

On page 39, replace 3.5.2 with the following:

3.5.2 **Wire Rope and Cable Log.** A log book shall be maintained for each tramway, lift, or wire rope tow giving the following information on each rope and cable.

(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 and cable inspection (see 3.4.2)
(8) Report of accidents or injury to rope
(9) Documentation of end attachment (see 2.1.7.5.4)

On page 41, replace 4.1.2.2 with the following:

4.1.2.2 **Track Strand.** The strength of strand on which the designer shall base the calculations for a safety factor shall not be more than the nominal breaking strength shown in Table B.

Table B
Locked Coil and Half-Lock Track Cable
Nominal Breaking Strength in Tons of 2000 Pounds

Nominal (inches)	Diameter (mm)	Construction	
		Locked Coil	Half-Lock
3/4	19	39.4	40.7
7/8	22	51.8	54.3
1	26	65.7	72.5
1-1/8	29	82.5	88.5
1-1/4	32	101.2	105.6
1-3/8	35	125.0	131.0
1-1/2	38	150.8	159.0
1-5/8	42	175	183
1-3/4	45	206	214
1-7/8	48	234	236
2	51	269	272
2-1/4	57	350	333
2-1/2	64	432	418
2-3/4	70	525	—
3	77	625	—
3-1/4	83	725	—
3-1/2	90	863	—
3-3/4	96	982	—
4	103	1098	—

On page 43, 4.2.1.5.3, replace the sentence in parentheses with the following:

(For round wires this is equal to three times the wire diameter; for shaped wires it is three times the longest possible diagonal dimension.)

American National Standards

The standard in this booklet is one of nearly 8500 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.

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For a free list of all American National Standards, write:

American National Standards Institute, Inc
1430 Broadway
New York, N.Y. 10018

SB

474

"OUSE RESEARCH AGENCY

SLIDING SEVERANCE TAX PROPOSAL

Existing Law

$ELF = (1 - PEL/TP)$

ELF = economic limit factor
PEL = production at economic level
TP = total production

Severance Tax = 12.25% X E F X GP X .875

GP = Gross value of production

Introduce Accrued Value Factor (AVF)

$AVF = \frac{OPI}{BI}$

OPI = oil price inflation
$= 1 + \frac{PP - BP}{BP}$

PP = present oil price
BP = base oil price

BI = base inflation
$= 1 + \frac{PCPI - BCPI}{BCPI}$

PCPI = present consumer price index
BCPI = base consumer price index

AVF = 1 if oil price inflation = base inflation
= 2 if oil price inflation = twice the base inflation rate
= 3 if oil price inflation = 3 times the base inflation rate

Scale Factor = $\frac{AVF - 1}{AVF}$ = SF

AVF=	SF=
1.1	.09
1.2	.16
1.5	.33
2.0	.5

Proposed severance tax formula = (SS X SF + .1225) X GV X .875

SS = state share of accrued value of oil fraction between 0 and 1
GV = gross wellhead value of oil

Effect of Proposed Severance Tax
on the Nominal Severance Tax Rate

State's Share	Oil Price Inflation Factor	Base Inflation Factor	Adjusted Nominal Sev. Tax Rate
50%	1.5	1.2	22.3%
50%	2.0	1.2	32.3%
50%	1.5	1.5	12.25%
80%	1.5	1.2	28.3%
80%	2.0	1.2	44.3%
50%	30	1.1	60.4%
50%	1,000,000	1.0	62.25%

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 474

Title Repealing Chapter 20 & Amending Chapter 21 of Title 43

Requested by Senate State Affairs & Finance Committees Date 2-24-80

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		(758.5)	(758.5)	(758.5)	(758.5)	(758.5)
200	TRAVEL		(1.6)	(1.6)	(1.6)	(1.6)	(1.6)
300	CONTRACTUAL		(145.0)	(145.0)	(145.0)	(145.0)	(145.0)
400	COMMODITIES		(2.0)	(2.0)	(2.0)	(2.0)	(2.0)
500	EQUIPMENT						
600	LAND & STRUCTURES		(64.0)	(64.0)	(64.0)	(64.0)	(64.0)
700	GRANTS, CLAIMS, ETC.						
	TOTAL		(971.1)	(971.1)	(971.1)	(971.1)	(971.1)

FUNDING (Thousands of Dollars)

GENERAL FUND		(971.1)	(971.1)	(971.1)	(971.1)	(971.1)
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		24/288mm	24/288mm	24/288mm	24/288mm	24/288mm
PART TIME		14/63mm	14/63mm	14/63mm	14/63mm	14/63mm
TEMPORARY						

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

Repeal of AS 43.20 would reduce the number of Administrative Services' positions from 63 to 22. The permanent part-time positions would reduce from 14 to 0 and the three CETA positions would be deleted. Administrative Services would still serve about 195 employees after positions deleted by the repeal have been subtracted from other divisions.

IV. DATE March 3, 1980 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)

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 474
Title Repealing AS 43.20; Amending AS 43.21
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Revenue
Program Category Affected General Government
BRU, Program, or Subprogram(s) Affected Petroleum Revenue
(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-	-0-	-0-	-0-	-0-	-0-
200 TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
300 CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
400 COMMODITIES	-0-	-0-	-0-	-0-	-0-	-0-
500 EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-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-	-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)

The bill would not impact the operations or budget of the Division of Petroleum Revenue.

IV. DATE 2/29/80 PREPARED BY Robert M. Johnson
AGENCY Department of Revenue
PHONE 276-1363

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

33-001 (Rev. 12/79)

ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 474

Title An Act repealing the Individual and Corporation Income Tax; amending the Oil and

Requested by _____ Date Gas Corp. Income Tax

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						

MILLIONS

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	(229.5)	(262.5)	(305.0)	(382.0)	(474.0)
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The bill proposes to repeal the Individual and Corporation Income Tax. It also proposes to amend the Oil and Gas Corporation Income Tax.

The repeal would become effective July 1, 1980 and would apply to income earned after December 31, 1979.

The above estimate reflects the potential revenue impact of the repeal of the Individual and Corporation Income Tax only.

IV. DATE 2/25/80 PREPARED BY Barbara Sova

AGENCY Revenue

PHONE x2174

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/79)

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER / POUCH S – JUNEAU 99811

March 6, 1980

The Honorable Bob Mulcahy
Chairman
Senate State Affairs Committee
Room 514 - Capitol Building
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: Senate Bill No. 474

Senate Bill No. 474, an Act Repealing Chapter 20 and amending Chapter 21 of Title 43, Alaska Statutes, was introduced to the Senate on February 18, 1980 and was referred to the Senate State Affairs and Finance Committees.

For the consideration of the Senate State Affairs Committee, I am enclosing copies of Fiscal Notes prepared by Gary Jenkins, Director, Audit Division; P. A. Wall, Director, Administrative Services Division; Robert Johnson, Director, Petroleum Revenue Division; Barbara Sorensen, Research Section and a general memorandum from Joseph K. Donohue, Deputy Commissioner of the Department of Revenue regarding the impact of Repeal of the Individual Income Tax concerning the proposed legislation.

Sincerely,

R. D. Stevenson
Special Assistant

cc: The Honorable John Sackett
Chairman
Senate 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

Robert Johnson, Director
Petroleum Revenue Division
Department of Revenue

Vincent Wright
Research Section
Department of Revenue

04-D2LM

ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 474

Title Repealing AS 43.20; Amending AS 43.21

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Revenue

Program Category Affected General Government

BRU, Program, or Subprogram(s) Affected Petroleum Revenue

(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-	-0-	-0-	-0-	-0-	-0-
200 TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
300 CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
400 COMMODITIES	-0-	-0-	-0-	-0-	-0-	-0-
500 EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

(Decline in millions of dollars from otherwise expected receipts)

FUNDING (Thousands of Dollars)

	(233)	(323)	(534)	(592)	(708)	(742)
GENERAL FUND	-0-	-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-	-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)

See, attached memorandum, R. M. Johnson to T. K. Williams, 2/29/80 Note that the fiscal note relates to the initial calendar year of effect of this bill, and the funding impact stated above relates to fiscal years impacted in approximately the same proportion.

IV. DATE 2/29/80 PREPARED BY Robert M. Johnson

AGENCY Department of Revenue

PHONE 276-1363

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/79)

02-0018 (Rev. 10/76)

STATE
of ALASKA

MEMORANDUM

TO: R. D. Stevenson
Special Assistant
Department of Revenue

DATE: February 29, 1980

FILE NO:

TELEPHONE NO:

FROM: Gary L. Jenkins
Director
Audit Division

SUBJECT: Senate Bill No. 474

This bill would repeal the income tax on individuals and corporations and significantly modify the oil and gas income tax. The impact of repealing the individual income tax has previously been set forth for other bills proposing its repeal. A copy of the memorandum prepared showing that impact is attached. The Fiscal Note attached to this memorandum is for the repeal of the corporate income tax only. Therefore, to understand the overall effect of the repeal of chapter 20 of Title 43, the total impact would be that set forth in the attached memorandum plus the attached Fiscal Note.

The revenue impact which would result from enactment of this proposed legislation will be provided by the Research Section of the Department of Revenue.

The Petroleum Revenue Division will provide the effect of the repeal of AS 43.21.

Administrative Services Division will provide the impact on their function which would result from the enactment of this legislation.

Attachment

STATE
of ALASKA

MEMORANDUM

TO: Thomas K. Williams, Commissioner
Department of Revenue

DATE: April 10, 1980

FILE NO:

TELEPHONE NO:

FROM: Robert M. Johnson, Director
Petroleum Revenue Division

SUBJECT: Overview of WPT as a Deduction Under AS 43 21

The analysis of impact or income tax treatment takes the mean royalty receipt figure from our forecasts to derive (A). That figure is then applied to the WPT "formula" with the assumptions of base and decontrolled price of oil applied to derive (B). (B) is subtracted from (A) to get the "change" (C). If (C) is then multiplied by 7 (the WPT applies only to 7/8 of the impacted N.S. crude), the total WPT is derived. That figure multiplied by 9.4% yields the impact of the WPT tax as a deduction (D).

December 1979 Forecast Effect
(Millions of $)

	(A)	(B)	(C)	( )
FY	Petroleum Royalties Without Wintax	With Wintax	Change	Impact on Corporate Income Tax
1980	850.4	839.0	11.4	7.5
1981	1285.0	1068.5	216.5	142.5
1982	1930.3	1355.3	575.0	378.4
1983	2244.8	1512.8	732.0	481.7
1984	2475.7	1657.9	817.8	538.1
1985	2769.3	1860.4	908.9	598.1

These figures demonstrate that as the spread between the base and decontrolled price increases, the impact of the deduction increases. The same rising price of oil of course will increase the gross taxable production income under the tax act.

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF-STATE CAPITOL
JUNEAU, ALASKA 11
PHONE: (907) 465-3 15

December 31, 1979

Tom Williams, Commissioner
Alaska Department of Revenue
Pouch S
Juneau, AK 99811

Dear Commissioner Williams:

The Joint Gas Pipeline Committee has requested estimates of revenue to be derived from production of North Slope gas.

I believe your Department could provide some valuable assistance here with little additional trouble or expense.

Specifically, I would like to request that the next quarterly "Petroleum Production Revenue Forecast" of the Petroleum Revenue Division include graphs and tables similar to graphs 1 through 6 and tables 6 through 8 of the September 1979 report for gas only, in addition to the oil and gas totals.

This would take advantage of the state's existing ability to incorporate stochastic estimates of production, prices, conditioning costs, etc. through use of this model.

Although there may be a more desirable method of doing this, it seems to me that it could be done simply enough by zeroing the oil production vector and running the model a second time.

Please let me know if the Department could provide this information.

Yours truly,

Milt Barker

Milt Barker
Fiscal Analyst

cc: Honorable Bill Miles
Honorable Mike Colletta
Co-Chairmen, Joint Gas Pipeline Committee

MB:bf

SM-31 LM

F A C T S H E E T

Windfall Profit Tax
("Crude Oil Windfall Profit Tax of 1980")

The Facts

- In 1978, the Alaska Legislature passed a "special" income tax on the oil industry - the 13th tax increase since the discovery of the Prudhoe Bay field in 1968.

- The income - royalty and taxes - from Prudhoe Bay is totally responsible for the current surplus in the state treasury.

- Decontrol of oil prices at the wellhead will generate billions of dollars of unanticipated revenues to the state in the next few years.

- The price of decontrol is the Windfall Profit Tax. President Carter said decontrol would not be possible without this tax.

- The state's royalty oil dedicated to public purposes - and that of the Alaska Indians and "native corporations" - is exempt from the tax.

- The oil industry will not be able to deduct this tax from its income when paying the Alaska State income tax - thereby having to pay a state tax on taxes paid to the federal government - unless the Alaska law is changed.

- The Windfall Profit Tax is not an income tax, but rather it is an excise or severance tax imposed on a portion of the selling price of crude oil.

- The federal income tax law allows a deduction.

- A deduction for the Windfall Profit Tax could not have been provided initially in the state law since the Windfall Profit Tax did not exist at the time the state law was passed. If the Windfall Profit Tax had existed when the 1978 Alaska tax law was passed, it no doubt would have been considered for inclusion as a deduction at that time.

- The allowance of the deduction will not cause the state to lose revenue - it will realize over twice as much revenue from price decontrol as the producers.

Conclusion

The Windfall Profit Tax is simply another cost of doing business. It is a "severance" tax that must be paid before any income is realized. It is obviously not "income" and should not be taxed in an income tax law. If the deduction is not allowed, the state is, in effect, placing still another tax on the oil industry. THE LAW SHOULD BE CHANGED TO ALLOW THE DEDUCTION.

Assumptions and Calculations

1. $13.61 per bbl. wellhead price under price controls; $22.97 per bbl wellhead price with price decontrol and passage of windfall profit tax. Source: Department of Natural Resources royalty value report for January, 1980 production.

2. Zero inflation rate.

3. Prudhoe Bay production 1.5 million bbl per day (45 million bbl per month).

4. State Royalty (under continued price controls)

Monthly production	45,000,000 bbl
times Controlled Wellhead Price	x $13.61 per bbl
times Royalty Share	x 12½%
	$76,500,000 per month

5. Production Taxes (under continued price controls)

Monthly production	45,000,000 bbl
less Royalty Share 12½%	(5,625,000)
	39,375,000 bbl
times Controlled Wellhead Price	x $13.61 bbl
times Tax Rate	x 12.25%
times Economic Limit Factor	x .94
	$61,700,000 per month

6. Oil and Gas Corporate Income Taxes (under continued price controls) $402,000,000 ÷ 12 = $33,500,000 per month. Source: Revenue Sources. FY 1979-81, published by Department of Revenue, Estimate for FY 80.

7. Total Monthly State Petroleum Revenues

Royalties (paragraph 4 above)	$ 76,500,000
Production Taxes (paragraph 5 above)	61,700,000
Income Taxes (paragraph 5 above)	33,500,000
Total per month	$171,700,000

8. Distribution of added sales dollar above base price received as a result of price decontrol and windfall profit tax (assumes producer may deduct the windfall profit tax as a direct cost before calculating state income tax).

a. Distribution

	U.S.	Alaska	Producer
Royalty		12.50¢	
Severance Tax		10.08¢	
Windfall Profit Tax	54.19¢		
State Income Tax		2.18¢	
Federal Income Tax	9.68¢		
Producer			11.37¢
	63.87¢	24.76¢	11.37¢

b. How Derived

Royalty	Incremental Dollar	100.00¢
	x Royalty Share	12.50%
		12.50¢
Severance Tax	Incremental Dollar	100.00¢
	less Royalty	- 12.50¢
		87.50¢
	x Statutory Rate	12.25%
		10.72¢
	x Economic Limit Factor	.94
		10.08¢
Windfall Profit Tax	Incremental Dollar	100.00¢
	less Royalty	- 12.50¢
	less Severance Tax	- 10.08¢
		77.42¢
	x Statutory Rate	70%
		54.19¢
Alaska Income Tax		
With deduction for Windfall Profit Tax	Incremental Dollar	100.00¢
	less Royalty	- 12.50¢
	less Severance Tax	- 10.08¢
	less Windfall Profit Tax	- 54.19¢
		23.23¢
	x Statutory Rate	9.40%
		2.18¢
Federal Income Tax	Incremental Dollar	100.00¢
	less Royalty	- 12.50¢
	less Severance Tax	- 10.08¢
	less Windfall Profit Tax	- 54.19¢
	less State Income Tax	- 2.18¢
		21.05¢
	x Statutory Rate	46
		9.86¢

9. Phased price decontrol of Prudhoe Oil beginning January 1, 1980 and ending October, 1981 (4.6% per month), raising weighted average wellhead price from $13.61 per bbl to $22.97 per bbl, an increase of $9.36 per bbl.

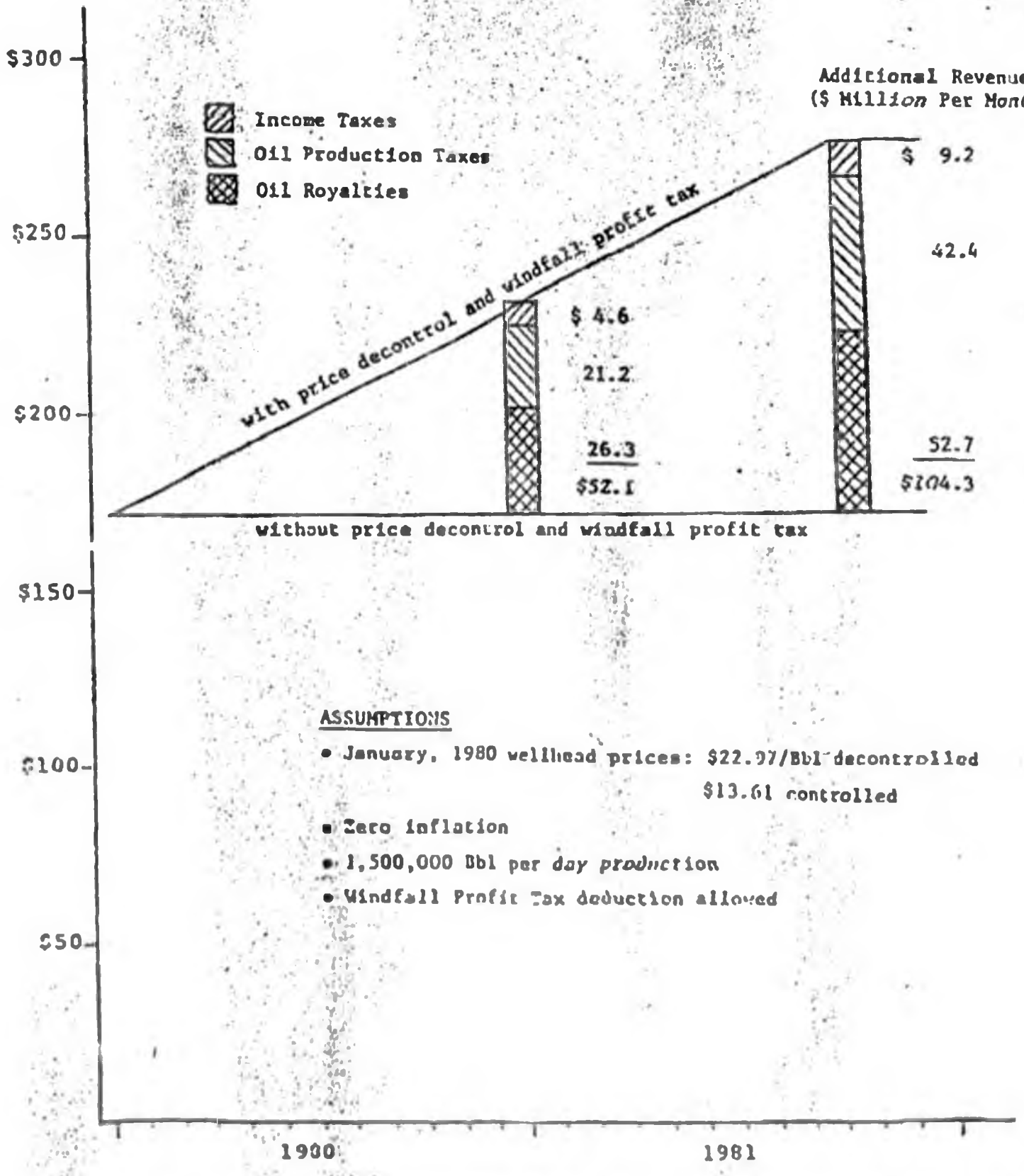
10. Additional monthly state petroleum revenues October, 1981 as a result of price decontrol and windfall profit tax:

Monthly production	45,000,000 bbl
times added sales price	x $9.36 per bbl
Added Gross Revenues	$421,200,000
Added Royalties ($421,200,000 x 12½%)	52,600,000
Added Production Taxes ($421,200,000 x 10.08%)	42,500,000
Added Income Taxes ($421,200,000 x 2.18%)	9,200,000
	$104,300,000

11. October 1981 State Petroleum Revenues

a. Price Control (no windfall profit tax)	$171,700,000
b. Added with price decontrol and imposition of windfall profit tax	104,300,000
Total for month of October, 1981	$276,000,000

State of Alaska
Additional Petroleum Revenues
From Decontrol of Prudhoe Bay Oil



ASSUMPTIONS

- January, 1980 wellhead prices: $22.97/Bbl decontrolled
  $13.61 controlled
- Zero inflation
- 1,500,000 Bbl per *day production*
- Windfall Profit Tax deduction allowed

Federal Windfall Profits Tax

Tier I - merged upper and lower tier oil (former "old" and "new")

Tax rate: 70% Majors
50% Independent

Base Price: $12.81/BBL adjusted for inflation

Tier II - Stripper Oil 10 b/d/well

Tax Rate: 60% Major
30% Independent

Base Rate: $15.20/BBL adjusted for inflation

Tier III - New Oil, heavy oil 16° gravity or less, incremental tertiary crude.

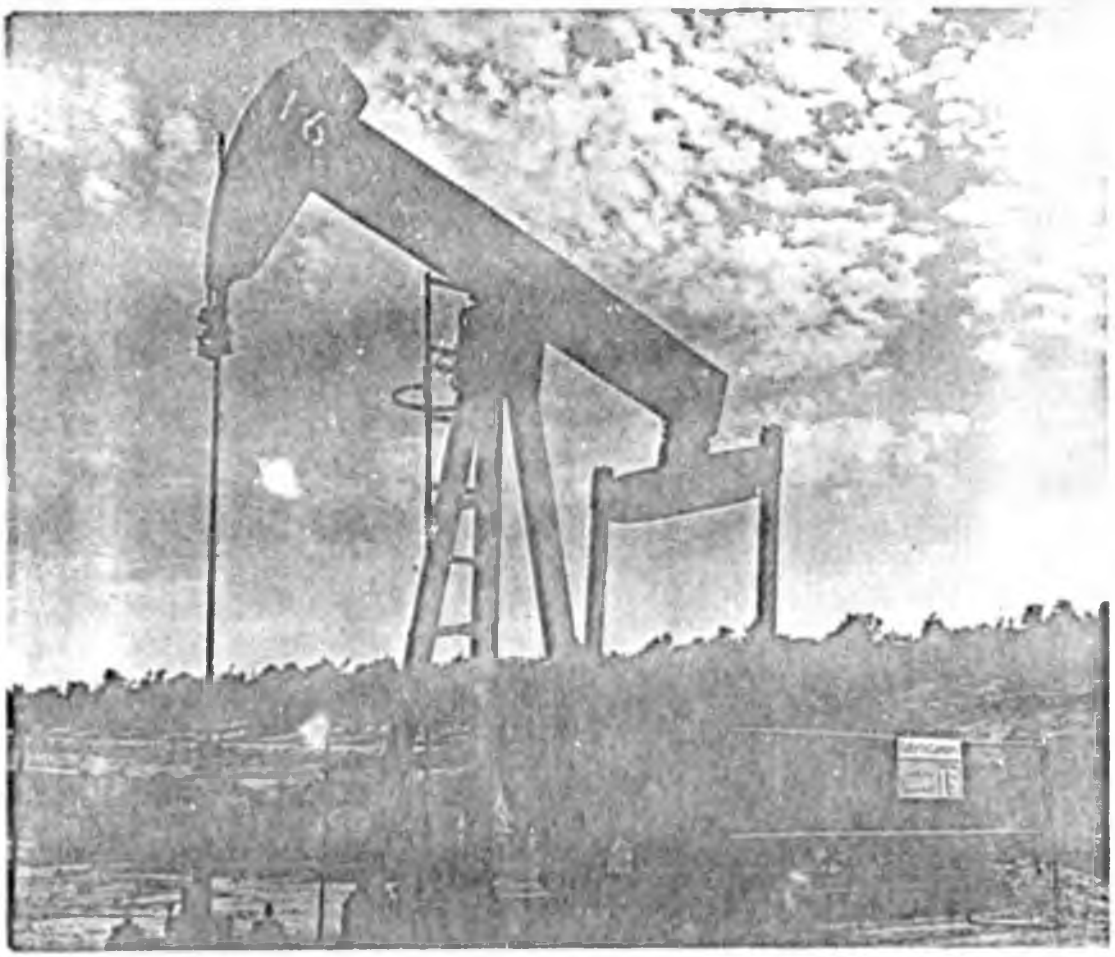
Tax Rate: 30% All

Base Price: $16.55 adjusted for inflation

Prudhoe Bay - Sadleochit Oil

Tax Rate: 70%

Base Price: $12.70



U.S. OIL PRODUCTION will bear a big new tax burden as a result of the Carter administration's excise levy on revenue flowing from crude p :e decontrol. Here, Getty Oil Co. 16 Wilcox Fee taps heavy crude reservoir in Poso Creek field, Kern County, Calif.

U.S. House passes excise tax on decontrol revenues

THE House last week passed the excise tax measure on revenue from de-controlled U.S. crude production, sending the $277.7-billion bill to the Senate.

The Senate is expected to vote on the conference-approved bill this week. President Carter has said he will sign the measure.

The Senate vote will be the final step in nearly a year-long legislative struggle over the tax.

Last April Carter announced the phased decontrol of U.S. crude prices but asked Congress to tax away most of the "windfall" to industry in order to finance development of a synthetic fuels industry and other energy conservation/development schemes.

By the late 1980s, the excise tax is expected to result in up to 1.6 million b/d less crude than would have been produced without such a levy.

The final House battle over the bill centered on whether to send the measure back to the conference committee with instructions that independent producers be given better tax treatment.

Rep. Bill Archer (R-Tex.) was the leader of that effort. It would have required House conferees to accept the

treatment given independents in the Senate bill—a blanket exemption from any tax on their first 1,000 b/d of production.

After the Archer motion failed by a 227-185 vote, the House voted 302-107 to accept the conference bill.

Another attempt may be made in the Senate to gain better tax treatment for independents. Archer said Sen. Henry Bellmon (R-Okla.) can be expected to lead the fight there.

Although the Senate in December passed its version of the excise tax bill by an overwhelming 74-24 vote, it earlier had voted 53-41 to exempt independent producers' first 1,000 b/d of production (OGJ, Dec. 3, 1979, p. 38).

Some independents hope the same 53-vote majority might send the bill back to the conference committee. As a result, the bill would either die in conference or the House might be persuaded to accept the independents' exemption.

House maneuvering. Archer had predicted a close vote on his motion, which he said would result in $18 billion more in revenues for independents during the 11-year term of the bill.

He said the funds would have resulted in 42,000 additional wells being drilled and 950,000 b/d of additional production by the late 1980s.

Archer doubted whether a small demonstration this week by independents at the Capitol had helped or hurt their cause. "I've heard mixed comments about that," he said.

The Texas congressman said the excise levy is likely never to end.

"Once you put a tax in place and the government begins to depend on those revenues, it becomes very difficult to change."

The House earlier rejected 232-180 a Republican effort to send the bill back to the conference committee with instructions to include a plowback provision—a tax credit of up to 75% for producers to reinvest their profits in exploration.

The House also rejected 215-201 a motion by Rep. Joseph Fisher (D-Va.) which would have required that half of the government's revenue from decontrol be earmarked for production of more energy.

Fisher argued that the current formula, which calls for 60% of the revenues to go for tax cuts and only 15% for energy production/conservation, is a case of mistaken priorities.

The debate. Final arguments on the House floor centered on whether independents needed better tax treatment.

Rep. Al Ullman (D-Ore.), chairman of the House ways and means committee "has given as much to the independents as we possibly can."

Archer argued that it still wasn't enough because independents are the bulwark of the U.S. exploration/production effort.

Archer said the bill "threatens to cripple our production and drive our economy toward chaos. It isn't a plan to produce more oil. It will prevent the production of billions of barrels of oil."

Rep. James R. Jones (D-Okla.) argued that the bill is " bad tax policy and questionable energy policy."

He said it is so complicated and confusing it should be renamed "the lawyers and accountants relief act of 1980."

Jones also pointed out that the tax includes a rollback in price for stripper producers, "the smallest of the small producers."

He said the 30% tax on new and tertiary production "will have an inhibiting effect on the two categories of oil that offer the greatest promise for increasing our oil reserves."

Jones was one of five House members on the conference committee who refused to sign the conference report. The others were Archer, John Duncan (R-Tenn.), Guy Vander Jagt (R-Mich.), and Henson Moore (R-La.). All but Duncan voted against the tax on the House floor.

Industry reaction. Oil industry association leaders were unanimous in criticism of the tax.

The Independent Petroleum Association of America, in a letter to all members of Congress, had warned that the tax "represents disastrous energy policy."

IPAA Pres. C. John Miller said, "It is equally disastrous tax policy because it will inhibit production which is vital and scatter billions in nonproductive government 'giveaways' which will exacerbate an already intolerable inflation."

Miller noted that conferees had planned to use only 15% of the tax revenues to save and produce more energy—and only if Congress passes additional enabling legislation—and 85% for tax cuts and energy aid for low income families.

He warned that, although Congress may make political hay with the revenues in an election year, "when there is another embargo or another situation like Iran, those few dollars in tax refunds will be little comfort against cold homes and gasoline lines."

Miller added "The public and national interest demand that we reverse our eroding domestic energy supply position in the 1980s. I don't know any reputable economist who doesn't believe the 'windfall profits' tax would defeat this objective."

The Independent Petroleum Association of Mountain States, Denver, said the tax bill "takes a pound of flesh from the heart of the only industry the public has in this country to keep its energy pump beating."

Kye Trout, Ipams president, said, "The sad part of it is that little if any of the funds confiscated by this sham will be used to create jobs and economic benefit to alleviate our increasingly worsening energy and economic situation.

"Instead, it will be frittered away on superficial government programs designed to be used as chips in the games politicians play."

Charles DiBona, president of the American Petroleum Institute, said there is little hope of alteration of the bill on the Senate floor.

"As a consequence of the 'windfall profits' tax, the amount of oil that we won't produce will be some 2 million b/d (in the late 1980s)," he said.

The tax. The tax is complicated and will force producers to retain professional help in determining tax liabilities.

IPAA and some private organizations have been holding seminars in oil producing regions to acquaint producers with the basic provisions of the tax.

The tax took effect Mar. 1 atop existing crude price control regulations. Although the price controls are to expire in 1981, they will remain the basis for the excise tax.

For instance, production that was lower tier oil under price controls will continue to be defined and taxed as lower tier under the excise tax.

This will require producers to maintain their accounting and production records developed for crude price control regulations, although those rules are to expire.

The excise tax sets forth three main categories of taxable crude:

- Tier I—All oil designated as lower and upper tier production under existing price controls.
- Tier II—Stripper well production.
- Tier III—Newly discovered oil, heavy oil of 16° gravity or less, and incremental tertiary oil.

Special tax rules were drafted for newly discovered Alaskan production, tertiary oil, and oil production owned by state and local governments, Indian tribes, charitable medical institutions, and schools and universities.

The amount subject to the excise tax is the difference between selling price of the crude and the sum of

the adjusted base price plus the state severance tax adjustment. That difference is taxed at the appropriate rate for the particular category of crude.

The tax can't exceed 90% of the net income from a barrel of oil. The net income figure is determined by dividing the yearly taxable income from the property by the number of barrels of taxable crude produced from the property in the taxable year.

For this purpose, "property" is defined the same as "income property" under the tax code, not the definition used in price control regulations.

The tax applies to each barrel of oil sold from the lease and must be paid by the producer, although in most instances it will be withheld by the first purchaser.

The taxable period is a calendar quarter.

Because it is an excise tax, the tax is deductible from gross income subject to federal income tax. Independent producers and royalty owners are allowed full percentage depletion on revenues subject to the excise tax.

Tier I Tax. The basic tax rate for Tier I production is 70% for integrated companies and all royalty owners and 50% for independent producers.

Tier I production consists of all lower and upper tier oil under price controls, upper tier oil released to the market price, marginal property production, and heavy oil that doesn't meet the heavy oil definition for tax purposes—that is, oil between 16° and 20°-gravity.

IPAA notes that "consequently, production from a single property may fall within several different categories for crude price purposes and several different categories for tax purposes.

"For example, a barrel of oil which is 19°-gravity might be released to market level for pricing purposes but still be considered either lower tier or upper tier oil for excise tax purposes."

The base price for Tier I production is the May 1979 Department of Energy ceiling price plus an adjustment for inflation and minus 21¢.

The base price for Tier I has been determined to average $12.81/bbl as of May 1979.

The adjusted base price for each property is determined in accordance with a formula specified in the bill for the first 6 months and thereafter by Internal Revenue Service regulations.

The inflation adjustment factor for increasing base prices in any taxable period will be the gross national product (GNP) deflator for the calendar quarter 2 quarters earlier than the taxable quarter in question, divided by the GNP deflator for June 1979.

Tier II tax. The Tier II tax, covering stripper oil, is a 60% tax for royalty owners and major producers and a 30% tax for independents.

"Stripper oil" carries the same definition as under crude pricing regulations: production from a property that averages not more than 10 b/d/well.

However, any property that once was designated stripper but now produces more than 10 b/d/well still is considered a stripper lease.

Under a temporary rule, producers will compute Tier II base prices using a formula based on their December 1979 postings corrected to a presumed national average and adjusted for inflation. Average nationwide Tier II base price for December 1979 is estimated at $15.20/bbl.

The inflation adjustment factor is the GNP deflator for the 2 calendar quarters earlier than the taxable period, divided by 163.79.

This temporary base price rule will be replaced in October, when the Treasury Department must publish a permanent base price rule for stripper oil.

Tier III tax. All producers will pay the same tax rate for Tier III production—newly discovered oil, heavy crude of 16° gravity or less, and incremental tertiary crude.

Tier III base prices will be calculated similarly to Tier II prices. But the presumed national December 1979 price average is higher, and the estimated average Tier III base price for that month is $16.55/bbl.

In addition, the inflation adjustment for Tier III involves a 2%/year "kicker" not included in Tier II.

"Newly discovered oil" is defined the same for tax and pricing purposes. It is oil produced from an onshore property which had no production during 1978 or production from an offshore property leased after Jan. 1, 1979.

"Heavy oil" is defined differently for excise tax and crude pricing purposes.

For tax purposes, it includes all production from a property where during the last month of production prior to July 1979 all crude had a weighted average gravity of 16° or less, corrected to 60° F.

It also includes properties with production of that average gravity during the taxable period.

IPAA says, "This means that if a property qualifies under (the first provision) by reason of having all production with an average gravity or 16° or less in the last month prior to July 1979 during which there was production, all future production from such property will be eligible as heavy oil.

"But if the property won't qualify on that basis because the property did not produce prior to July 1979, or during the last production month prior to July 1979 production did not average 16° or less, then during any calendar quarter in which all of the production from the property averages 16° or less, it will qualify.

"Therefore, a property may go in

The tax at a glance

Category of crude	Tax treatment
Tier I—merged upper and lower tiers (former "old" and "new" oil)	Independents' first 1,000 b/d: 50% tax Majors: 70% tax Both use $12.81/bbl base price, adjusted for inflation
Tier II—stripper	Independents' first 1,000 b/d: 30% tax Majors: 50% tax Both use $15.20/bbl base price adjusted for inflation, quality, and location.
Tier III—newly discovered incremental tertiary, and heavy oil of 16° gravity or less	30% tax on selling price above $16.55/bbl, adjusted for inflation plus 2%, quality, and location.
Prudhoe Bay field Sadlerochit	70% tax on the selling price above $12.70/bbl, adjusted for inflation.
Newly discovered Alaskan north of Arctic Circle and north of Alaskan-Aleutian range and 75 miles from trans-Alaska pipeline.	Exempt.

and out of the heavy oil classification for crude tax purposes. This is distinctly different from the definition of 'heavy oil' for crude oil pricing purposes."

That definition is "all crude oil produced from a property, but only if, during the last month prior to July 1979 in which crude oil was produced and sold from that property, such crude oil had weighted average gravity of 20° or less, corrected to 60° F."

IPAA notes that "under the pricing definition, a property which did not qualify in a month prior to July 1979 cannot qualify in the future no matter what develops."

The definition of "incremental tertiary production" for tax purposes also is significantly different than for pricing purposes.

Under the excise tax, the incremental tertiary project may be the result of certification by a government regulatory authority or by self-certification by the producer.

Under self-certification, a petroleum engineer must verify that the project involves one or more tertiary recovery methods which are applied in accordance with sound engineering principles.

The engineer must state that the methods can be expected to result "in more than an insignificant increase in total ultimate recovery above that which otherwise could be expected," and the project's beginning date is after May 1979.

Current crude pricing rules define "incremental production" as oil produced beyond what normally would have been produced without application of the enhanced recovery technique.

The excise tax definition is more generous. It defines incremental oil as production in excess of the property's base production control level (bPCL) declined at 1%/month for each month since 1978 prior to initiation of the project, and 2.5%/month for each month thereafter, or the actual decline if it's greater.

The incremental tertiary provision will apply to new projects and significant expansions of existing projects.

The front end tertiary production (lower tier oil released to market levels to finance initial tertiary investments) will be exempt from the tax if 50% or more of the interest in the project is owned by independent producers. Otherwise, the Tier 1 tax applies. This exemption ends Sept. 30, 1981.

Other rules. The tax will be withheld by the first purchaser of the crude or the operator of the property and deposited in a trust account. The purchaser must file quarterly returns and provide producers and royalty owners annual statements of their tax liabilities which would be included with the producers' income tax returns.

Working interest owners may select any party as the "operator" for excise tax purposes, although the "operator" needn't be the operator for producing purposes. Different persons may be named the "operator" for different parts of the same property.

The different tax rates for various categories of oil and producers will result in monthly adjustments in withholding rates for producers and properties.

Large companies must make semimonthly estimated tax payments for oil purchased and produced. Independent refiners with delayed payment contracts must make tax deposits within 60 days after the month of purchase. Others must make deposits 45 days after the end of the month of purchase. In most cases the latter category will include independent producers acting as operators.

Working interest owners can't use their option of designating special "operators" for tax purposes to secure less-frequent tax payments. The bill says changes of "operator" status to parties other than integrated companies don't change tax payment schedules.

Although the excise tax is premised on DOE definitions and rules, it will be administered and enforced by the Treasury Department and the IRS.

DOE will assist Treasury and IRS and will certify qualified tertiary projects and release of front-end tertiary incentive production.

Court appeals will follow the route of income tax cases, with jurisdiction lying in Tax Court and U.S. District Courts. Appeals will go to the U.S. Courts of Appeal rather than the Temporary Emergency Court of Appeals, which was created to hear crude oil pricing cases.

Willful failure to comply with provisions of the excise tax act will be a misdemeanor punishable by at most a $10,000 fine, 1 year in prison, or both.

The burden of proof of establishing the entitlement to preferential tax rates is on the taxpayer.

Rules for independents. The definition of "independent producers" is about the same for the excise tax as it is for percentage depletion purposes: Gross retail sales may not exceed $5 million/year, and the independent can't own a refinery running more than 50,000 b/d of crude.

The only significant difference is that only working interests existing Jan. 1, 1980, are eligible for independent producer status under the excise tax. Royalty owners are taxed the same as major oil companies.

The conferees decided that overriding royalties, negotiated by agreements in effect on Feb. 20, 1980, will be eligible for independent status when the royalty is converted to a working interest.

The special tax rates given independents apply to the first 1,000 b/d of lower tier, upper tier, and stripper production. If less than 1,000 b/d is produced, all production would get the special tax rates. If more than 1,000 b/d is produced, the excess would be charged the regular tax rate.

The bill prorates the 1,000 b/d over all three categories.

The allocation of the 1,000 b/d between related persons or businesses under common control is treated much like percentage depletion. One exception is that a producer owning 50% or more of a corporation must allocate a single 1,000 b/d between himself and the corporation.

An independent with less than 1,000 b/d of production may transfer all or part of his production, and the production will remain qualified for the independent exemption.

However, a producer having more than 1,000 b/d of qualified production as of Jan. 1, 1980, or later, may not transfer any part of it without the transferred production losing the independents' tax rate, even if the transferee is an independent.

Production owned by royalty owners or major oil companies doesn't become eligible for the independent exemption if it is sold to an independent.

Other categories. House-Senate conferees agreed to tax oil from the Sadlerochit reservoir in Prudhoe Bay field the same as Tier 1 oil—with a 70% tax rate—but set the base price at $12.70/bbl rather than $12.81.

Other oil produced north of the Arctic Circle is exempt from the tax, as is oil produced north of the Alaskan-Aleutian mountain range and more than 75 miles from the trans-Alaskan oil pipeline.

Oil produced on land held by Indian tribes will be exempt from the tax. Oil from land granted to Alaskan native regional corporations by the Native Claims Settlement Act will be exempt from the tax until 1992.

Production from state and local government land is exempt from the tax if the revenues are used for any public purpose.

And production from land owned by charitable medical facilities, educational institutions, or churches is

exempt from the tax if the land was owned by such an institution on Jan. 21, 1980, and as long as the proceeds from the oil production are dedicated to medical or educational purposes.

The conference agreement allows producers to deduct state severance taxes from revenue subject to the excise tax.

It permits deduction of any increase in state severance taxes enacted after Mar. 31, 1979, only if the increase applies equally to the entire price of the barrel of oil and only to the extent that the total rate of severance tax imposed by the state doesn't exceed 15%.

Business tax credits. The conference bill provides $8.3 billion in business tax incentives, of which $6.2 billion is in energy tax credits.

It increases the 10% refundable tax credit for investment in solar or wind energy equipment to 15% and extends the time limit from 1982 to 1985. The bill adds to the list of eligible solar energy properties equipment that uses solar energy to provide industrial, agricultural, or commercial process heat.

The refundable feature of the solar and wind energy tax credit was repealed, though.

The present 10% nonrefundable energy tax credit for equipment to produce, distribute, or use geothermal energy was increased to 15% and extended from 1982 to 1985.

The bill provides a 15% tax credit through 1985 for ocean thermal equipment to be installed at two sites to be selected by the Treasury Department. The equipment would produce electricity by using ocean temperature variations.

A nonrefundable credit was granted for production and sale of alternative energy sources such as shale oil, synthetic fuels from coal and biomass, tar sands, and processed wood.

The credit is $3/bbl of oil equivalent, measured on a BTU basis and adjusted for inflation. It is allowed for alternative fuel domestically produced and sold by Jan. 1, 1990, and phases out as the average price of domestic oil rises to $29.50/bbl.

The bill sets special rules for gas from geopressured brines, Devonian shale, coal seams, and tight formations.

It keys the reference price to other natural gas prices.

Other incentives are offered for small scale hydroelectric facilities, cogeneration equipment, biomass equipment, intercity buses, electrolytic cells, petroleum coke and pitch boilers, and coke and coke gas equipment.

Breakout of decontrolled production revenues

Category	Billion $	Percent
Excise tax (conference bill)	227.7	23
Federal income tax and royalties	357.7	35
State and local taxes and royalties	118.5	12
Total taxes and royalties	703.8	70
Additional revenue to producers	302.7	30
Grand total	1,006.6	100

Source: Democratic Study Group.

The conference agreement extends through 1992 the present exemption for gasohol from the 4¢/gal federal gasoline excise tax.

A comparable credit was voted for alcohol fuels used in industrial plants and on farms.

The conference agreement contains several provisions relating to the use of industrial development bonds to finance solid waste disposal facilities, hydroelectric power plants, and renewable energy equipment.

It provides for $600 million in residential energy tax credits by 1990.

It also authorizes $3.1 billion for fiscal 1981 for a program of grants to the states to provide assistance to lower income families for heating and cooling costs.

Households will be eligible if their incomes were less than $11,600/year for a family of four.

LIFO, imports. Two miscellaneous provisions in the tax bill deal with oil company accounting methods and import quotas.

The conference bill amends the Trade Expansion Act of 1962 to allow Congress to override a presidental decision to impose oil import quotas by enacting a joint resolution disapproving such executive action.

The joint resolution would be considered under normal legislative procedures.

The bill gives companies a break on taxes they pay on profits from forced inventory reductions. Most oil companies currently use the LIFO (last in, first out) method of computing profit from sale of inventory stock.

DOE has authority to order oil companies to reduce their inventories of oil. If the or a major foreign trade interruption occurs, companies can apply under the excise tax bill for a refund of taxes paid on the LIFO inventory profits of such a sale.

To qualify, the liquidated inventory must be replaced within 3 years. The Treasury Department must designate in advance those situations in which the provision will apply. It could result in a revenue loss to the Treasury of $250 million by 1990.

Background of tax. President Carter handed the oil industry some "good news, bad news" last April in the midst of the crude supply shortage caused by cutbacks in Iranian production.

He announced phased decontrol of domestic production, which had been under price controls since 1973. The controls were imposed to rein domestic crude prices in spite of increases in the price of crude from members of the Organization of Petroleum Exporting Countries.

As a result of decontrol, oil produced in the U.S. will rise to the world price, yielding companies $1 trillion or more in extra revenues in the 1980s, but only $442 billion after taxes.

Carter proposed a $300 billion excise tax to trim that "windfall" to the oil firms, and the House quickly agreed to a $278 billion tax which gave Carter most of what he had requested.

However, the Senate slowly deliberated the question, balancing the benefits of tax revenue with their effects on production. It finally passed a $177-billion tax bill.

The Senate bill taxed pre-1973 oil higher than the House measure did. But the Senate bill involved a lower tax on newly discovered, tertiary, and heavy oil production and exempted much of the production of independents.

The conferees split the tax revenue difference down the middle, opting for a $227-billion tax which would phase out over 33 months beginning in 1988 or when total revenues reach the $227 billion goal, whichever is later.

Even if the target isn't reached, phaseout will begin in January 1991.

Political pragmatists say, however, it's not likely Congress will permit the tax ever to expire.

—Patrick Crow
Congressional Editor

not an official proposal

DRAFT *
01/16/80

BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled "An Act amending the Oil and Gas Corporate Income Tax Act; and providing for an effective date."

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

*Section 1. AS 43.21.010 is amended to read:

Sec. 43.21.010. APPLICATION This chapter applies to every corporation doing business in the state which derives income from the production of oil or gas from a lease or property in [OR DIRECTLY ASSOCIATED WITH] the state, or from the pipeline transportation of oil or gas in the state. The tax calculated under this chapter is measured by the total taxable income of the corporation as defined in secs. 20 - 40 of this chapter and is determined at the rates established under AS 43.20.011(e).

no nexus for offshore (wholly) activities, not doing business in Alaska. Technical point

*Section 2. AS 43.21.020(c) is amended as follows:

now done under std accounting practice

(7) interest expense [NOT CAPITALIZED] of the corporation, to the extent that it does not exceed that portion of the total interest paid by the consolidated business of which the corporation is a part, determined by multiplying the total interest reduced by intercompany transactions within the consolidated business by a fraction, the numerator of which is the value of the corporation's real and tangible personal property used directly in the production of oil or gas from a lease or property in the state and the denominator of which is the value of all real and tangible personal property of the consolidated business.

re Cook Inlet

(10) the costs of permanently terminating operations, site restoration, or removing part or all of the wells, facilities and equipment in a production facility, in an amount which equals

(A) a portion of the unreimbursed, estimated termination and removal cost in a year prior to actual termination and removal according to any reasonable method as the department may by regulation establish; or

(B) the unreimbursed termination, site restoration, and removal costs that are actually inccurred that year, offset by the salvage value (if any) of the removed facilities and equipment and further offset to the extent of any amounts allowed to be taken prior to actual termination, site restoration and removal under this paragraph and taken by the taxpayer.

*Section 3. AS 43.21.030 is amended to read:

Sec. 43.21.030. DETERMINATION OF INCOME FROM OIL AND GAS PIPELINE TRANSPORTATION. (a) Except as provided in (c) and (d) of this section, taxable income attributable to the transportation of oil in a pipeline engaged in interstate commerce in Alaska shall be determined by the department and shall be the amount reported or that would be required to be reported to the Federal Energy Regulatory Commission or its successors as net operating income, less those portions of interest and general administrative expense attributable to the pipeline transportation of oil in the state, except that taxable income shall also include taxes on or measured by income. The department shall establish regulations governing the determination of interest and general administrative expense attributable to pipeline transportation of oil in the state.

allows accelerated depreciation for the pipeline

(b) Except as provided in (c) and (d) of this section, taxable income attributable to the transportation of natural gas in a pipeline engaged in interstate commerce in Alaska shall be determined by the department and shall be the amount reported or that would be required to be reported to the Federal Energy Regulatory Commission as net operating income less that portion of interest and general administrative expense attributable to pipeline transportation in the state, except that the taxable income shall also include taxes on or measured by income. The department shall establish regulations governing the determination of interest and general administrative expense attributable to pipeline transportation of natural gas in the state.

(d) The taxpayer shall calculate depreciation using any reasonable method as the department may by regulation establish in lieu of the amount reported to the Federal Energy Regulatory Commission.

how does FERC do it now

*Section 4. AS 43.21.040 is amended to read:

Sec. 43.21.040. DETERMINATION OF INCOME FROM ACTIVITIES OTHER THAN OIL AND GAS PRODUCTION OR PIPELINE TRANSPORTATION. (a) Taxable income of a corporation subject to this chapter from activities in this state other than the production of oil or gas from a lease or property in the state or the pipeline transportation of oil or gas in the state shall be determined in accordance with the method established in art. IV of AS 43.19.010 and in AS 43.20.071, as modified by (b) - [(e)] (f) of this section.

The Alaska portion of world-wide income

(b) The total taxable income of the consolidated business shall be the net income determined and certified by an independent certified public accountant for the purposes of a report to shareholders covering its earnings and profits for the taxable year (calculated without regard to any taxes on or measured by net income), less [THE TAXABLE INCOME OF THE CORPORATION AS DETERMINED UNDER SECS. 20 AND 30 OF THIS CHAPTER.] the earnings and profits of the consolidated business gained directly from oil and gas production and pipeline transportation.

Deducts pipeline income

(c) The numerator and denominator of the property factor, of the payroll factor and of the sales factor shall be calculated without reference to that portion of property, payroll or sales directly related to the production of oil or gas from a lease of property in the state or the pipeline transportation of oil or gas in the state.

(d) Compensation earned by employees of the consolidated business who are employed in the United States but not in any state shall be included in the numerator of the payroll factor if the employees are directly supplied from a base of operations maintained in this state.

(e) The value of oil or gas production facilities or other properties of the consolidated business which are located in the United States but not in any state shall be included in the numerator of the property factor if the property is serviced or supplied from a base of operations maintained in the state or if that property relies on onshore facilities in this state for storage of the oil or gas produced.

(f) The value attributed to vessels transporting Alaskan oil or gas of the consolidated business which are not owned or effectively owned by the consolidated business shall be excluded from the property factor.

*Section 5. AS 43.21.120 is amended as follows:

Sec. 43.21.120. DEFINITIONS. Unless the context requires otherwise, the definitions contained in AS 43.55.140 are applicable to this chapter. In addition, in this chapter

(2) "consolidated business" means a corporation or group of corporations having [AT LEAST] more than 50 percent common ownership, direct or indirect, or a group of corporations in which there is common control either direct or indirect as evidenced by any arrangement, contract or agreement.

*Section 6. This Act applies to income earned and deductions paid or incurred after December 31, 1979.

*Section 7. This Act takes effect July 1, 1980.

15 AAC 12.120 VALUE AT THE POINT OF PRODUCTION. (a) This section applies to all oil and gas produced in the state on a property or lease whether or not the oil or gas is removed from the property or lease, less any oil or gas the ownership or right to which is exempt from state taxation.

(b) The gross value at the point of production for a taxpayer's oil or gas equals the sales price under sec. 122 of this chapter for that oil or gas, less the taxpayer's reasonable costs of transportation under secs. 130 and 132 of this chapter for that oil or gas from its point of production to its sales delivery point and also less the taxpayer's reasonable costs incurred downstream of the point of production for processing, conditioning and preparing gas and gas plant liquids for sale; except

(1) when (c) of this section applies, in which case the gross value at the point of production for that oil or gas equals the prevailing value under sec. 124 of this chapter, or

(2) when the gross value at the point of production would yield a value of less than $.60 per barrel of taxable oil crude oil or $.80 per barrel of taxable new crude oil or $.64 per Mcf of taxable gas, the gross value at the point of production equals the applicable minimum amount, or

(3) when the gross value at the point of production for the taxpayer's oil or gas would exceed the applicable maximum lawful price (if any) set by the U.S. Department of Energy, the Federal Energy Regulatory Commission, another governmental agency or a court of law, adjusted for any changes in value due to any processing, conditioning and transportation of that oil or gas occurring between its point of production and the point at which the applicable maximum lawful price is effective, in which case the gross value at the point of production equals that applicable maximum lawful price as adjusted for such changes in value.

(c) Instead of the sales price, the prevailing value under sec. 124 of this chapter must be used in determining the gross value at the point of production for a taxpayer's oil or gas if

(1) the sales price for that oil or gas is substantially lower (determined by analyzing the cash value of the consideration received for that oil or gas and taking into account the degree of difference between the prevailing value and the sales price for that oil or gas, the quantity of oil or gas involved in the transaction and the duration of the transaction) than the prevailing value for oil or gas of like kind, character, and quality from the same field or area being sold in significant quantities at the same or corresponding sales delivery points in the same market or in a comparable market if there are no such other sales in significant quantities in the same market; and

(2) one or more of the following conditions exist:

(A) the contract under which the taxpayer's oil or gas is being sold or exchanged is executed or renegotiated after December 31, 1979 and either sets a price for that oil or gas without adjustments tied to market conditions or does not provide for subsequent renegotiation of prices at market rates,

(B) the contract sets a price which does not reasonably reflect market conditions for production from that field or area prevailing at the time the contract is executed or renegotiated,

(C) the contract price under which the taxpayer's oil or gas is being sold or exchanged reflects an unusually weak bargaining position on the taxpayer's part due to circumstances which the taxpayer could reasonably have foreseen and taken steps to ameliorate or avoid,

(D) the circumstances relating to the disposition of the taxpayer's oil or gas show fraud or an intent to evade taxes.

(d) For valuation purposes, production of oil or gas does not include oil or gas

(1) used or unavoidably lost in production operations on the lease or property, or

(2) flared in amounts authorized for s ty by the Alask. Oil and Gas Conservation Commission under AS 31.05.170(11)(H), or

(3) injected into a reservoir in the course of operations in the same field for purposes of repressuring or conservation.

(e) As used in this section and secs. 122, 124, and 900 of this chapter, the terms "exchange" and "exchanged" do not include transactions where a producer transfers oil to a third party at the Port of Valdez or at another port in Alaska for purposes of operational necessity or convenience in what otherwise would be a bona fide, arm's-length exchange but for the fact that at the time of the particular transfer the producer expects subsequently to receive a like amount of similar quality oil from that third party at the same port. Such a transfer to a third party and the subsequent transfer from the third party, when they occur, must be disregarded and the oil subject to that transfer must be regarded as if it had remained in the possession of the transferring producer pending final disposition of that oil. (Eff. / / , Reg.)

Authority: AS 43.05.080
AS 43.19.010 (Art. IV, sec. 18)
AS 43.21.020
AS 43.21.090
AS 43.21.120

15 AAC 12.122. SALES PRICE. (a) The sales price for purposes of this chapter for first sales of a taxpayer's oil or gas to one or more third parties is the cash value of the full consideration being given in receipt for that oil or gas in those sales.

(b) If a taxpayer's oil or gas is being sold to an affiliate of that taxpayer (as opposed to being transferred from one division to another within the same corporate person), the sales price of that oil or gas for purposes of this chapter is the greater of

(1) the cash value of the full consideration given in receipt for the oil or gas so sold, and

(2) the price attributable to that sale which is entered on the taxpayer's books in accordance with generally accepted accounting principles, consistently applied.

(c) If a taxpayer's oil or gas is retained by the taxpayer or is transferred from the production division to another division within the same corporate person, the sales price of that oil or gas for purposes of this chapter is the price attributable to that oil or gas which is entered on the taxpayer's books in accordance with generally accepted accounting principles, consistently applied.

(d) If a taxpayer exchanges oil or gas with a third party, the sales price of that oil or gas for purposes of this chapter is

(1) the price prescribed in the exchange agreement for the taxpayer's oil or gas for purposes of settling accounts and cashing out any net exchange balances in the taxpayer's favor (to illustrate what is meant by a net exchange balance in the taxpayer's favor, suppose the exchange is for oil on a barrel-for-barrel basis and the taxpayer's volume to the third party exceeds the volume received from the third party: the amount of that excess would be the net exchange balance in the taxpayer's favor); or

(2) if there is no such price prescribed in the exchange agreement, the price attributable to the oil or gas received by the taxpayer which is entered on the taxpayer's books in accordance with generally accepted accounting principles, consistently applied. (Eff. / / , Reg.)

Authority: AS 43.05.080
AS 43.19.010 (Art. IV, sec. 18)
AS 43.21.020
AS 43.21.090
AS 43.21.120

15 AAC 12.124. PREVAILING VALUE. (a) For a taxpayer's oil, the prevailing value for purposes of this chapter equals the arithmetic average acquisition cost C.I.F. at the refinery inlet in the same market as that in which the taxpayer's (Alaskan) oil is refined for any three (at the taxpayer's choice) of four market crudes; less the taxpayer's reasonable costs of transportation under secs. 130 and 132 of this chapter for its oil from the point of production to ship's rail in that market. The four marker crudes are Iranian Heavy, Arabian Light, Arabian Medium and Mexican

Isthumus. The taxpayer may choose the three marker crudes specified in this subsection. That choice of the taxpayer shall apply to the initial month for which that choice is made and to all subsequent months; provided, however, that choice may be changed for a subsequent month by the taxpayer upon approval by the department. For each of the three chosen marker crudes, its respective acquisition cost C.I.F. at the refinery inlet in that market equals the sum of

(1) its respective official government sales price (with adjustments for differentials and surcharges) appearing in the latest Platt's Oilgram Price Report published on or before the last day of a month; plus

(2) the marker crude's respective tanker transportation cost from its port of origin in Iran, Arabia or Mexico to ship's rail in the same market as that in which the taxpayer's (Alaskan) oil is refined, to be calculated by multiplying the London Tanker Broker's average freight rate assessment ("AFRA") applicable to that voyage during that month for AFRA LR 2 (long range 2) oil tankers, by the most recently published Worldscale rate for that voyage; and plus

(3) any canal tolls and expenses not included in the AFRA for that voyage.

(b) For a taxpayer's gas, the prevailing value for purposes of this chapter is calculated by subtracting the taxpayer's reasonable costs of transportation under secs. 130 and 132 of this chapter for its gas from the point of production to the sales delivery point in that market and also the taxpayer's reasonable costs incurred downstream of the point of production for processing, conditioning, and preparing gas and gas plant liquids for sale from

(1) the volume-weighted average of the prices received under the terms of sales contracts which have been entered into or whose pricing provisions have been amended during the tax year or the two preceeding years for significant quantities at the sales delivery points within the same market for that production by the taxpayer in arm's-length sales transactions for like kind, character, and quality Alaskan gas produced during the month; or

(2) if the taxpayer makes no arm's-length sales of significant quantities at the sales delivery points within the same market for like kind, character, and quality Alaskan gas produced during the month, the volume-weighted average of the prices being given and received under the terms of arm's-length sales contracts (whether between third parties or not) which have been entered into or whose pricing provisions have been amended during the tax year or the two preceeding years for significant quantities of gas from the same field as the taxpayer's gas (or if there are no such contracts for that field, the counterparts of those contracts in the nearest field to that field), with appropriate adjustments for differences, if any, in kind, character, and quality between gas sold under the reference sales contracts and the taxpayer's gas. (Eff. / / , Reg.)

Authority: AS 43.05.080
AS 43.19.010 (Art. IV, sec. 18)
AS 43.21.020
AS 43.21.090
AS 43.21.120

15 AAC 12.130. CHOICE OF METHODS FOR DETERMINING REASONABLE COST OF TRANSPORTATION. (a) Except as provided in (b) of this section, the reasonable cost of transportation is the actual cost of transportation as determined in sec. 132(a) and (b) of this chapter.

(b) The reasonable cost of transportation is the fair market value as defined in sec. 132 of this chapter when all of the following conditions exist:

(1) the parties to the transportation of oil or gas are affiliated;

(2) the contract for the transportation of oil or gas is not an arm's-length transaction or is not representative of the market value of the transporation; and

(3) the method of transportation of oil or gas is not reasonable in view of existing alternative methods of transportation. (Eff. / / , Reg.)

Authority: AS 43.05.080
AS 43.19.010 (Art. IV, sec. 18)
AS 43.21.020
AS 43.21.090
AS 43.21.120

15 AAC 12.132. CALCULATION OF REASONABLE COSTS OF TRANSPORTATION. (a) Reasonable costs of transportation are to be calculated from the point of production to the sales delivery point.

(b) Actual costs of transportation for purposes of sec. 130(a) of this chapter are:

(1) when the transportation of oil or gas is by a regulated carrier, the tariff on file with FERC or other regulatory agency having jurisdiction that is applicable to that transportation of the oil or gas by the carrier, from the point where that oil or gas is tendered into the facilities of the carrier to the point where it is delivered from the facilities of the carrier;

(2) when transportation of oil is by a tanker or other vessel that is not owned or effectively owned by the taxpayer of that oil,

(A) for a single voyage charter, the charter fee for that vessel, plus any voyage and port costs not included in that fee which are incurred with respect to that transportation during the term of the charter and which are borne by the taxpayer, plus the positioning cost, if any, borne by the taxpayer for that vessel; or

(B) for a consecutive voyage charter or a time charter, the charter fee for that vessel, plus any voyage and port costs not included in that fee which are incurred with respect to that transporation during he term of the charter and which are borne by the taxpayer, plus the positioning cost (amortized over the lesser of 36 months or the term of the charter in the case of a time charter, and amortized on the basis of the number of voyages in the case of a consecutive voyage charter) if any, borne by the taxpayer for that vessel; or

(C) for a contract of affreightment, the affreightment fee specified in that contract, plus any voyage and port costs and any positioning costs not included in that fee which are incurred with respect to that transportation during the term of the contract of affreightment and which are borne by the taxpayer;

(3) when transportation of oil is by a tanker or other vessel that is owned or effectively owned by the taxpayer of that oil, the taxpayer's actual cost for that transportation, which is the sum of:

(A) voyage and port costs incurred with respect to that transportation;

(B) the positioning cost, amortized over 36 months, for that vessel but only for placing that vessel into position before its employment in the Alaska trade and not for placing it into position after its employment in the Alaska trade for employment in another trade;

(C) depreciation of the vessel; if the vessel is actually owned by the taxpayer, depreciation must be calculated in accordance with the applicable FASB Financial Accounting Standards for such owned assets; if the vessel is effectively owned by the taxpayer, depreciation must be calculated in accordance with FASB-13 from the standpoint of a lessee under a capital lease; and

(D) an amount, which when added to the amount of depreciation allowed under (C) of this paragraph, will provide a reasonable return on the acquisition cost of the vessel over its expected life; for purposes of this paragraph,

(i) "acquisition costs" means the cost of the vessel which may be capitalized by its actual owner under generally accepted accounting principles, but not including costs of improvements made after the date the vessel is placed in service by or on behalf of the taxpayer, and

(ii) the positioning cost, amortized over 36 months, for that vessel but only for placing that vessel into position before its employment in the Alaska trade and not for placing it into position after its employment in the Alaska trade for employment in another trade;

(iii) depreciation of the LNG transportation facility; if the facility is actually owned by the taxpayer, depreciation must be calculated in accordance with the applicable FASB Financial Accounting Standards for the owner of such assets; if the LNG transportation facility is effectively owned by the taxpayer, depreciation must be calculated in accordance with FASB-13 from the standpoint of a lessee under a capital lease; and

(iv) an amount which, when added to the amount of depreciation allowed under (iii) of this subparagraph, will provide a reasonable return on the acquisition cost of the LNG transportation facility over its expected life; for purposes of this subparagraph, "acquisition cost" means the cost of the LNG transportation facility which may be capitalized by its actual owner under generally accepted accounting principles, and "expected life" means the period of time used to calculate depreciation under (iii) of this subparagraph;

(5) when the transportation of oil or gas is by a non-regulated pipeline facility that is not owned or effectively owned by the producer of that oil or gas, the transportation fee is specified in the contract plus any other costs not included in the fee with respect to that transportation which are borne by the producer;

(6) when the transportation of oil or gas is by a non-regulated pipeline facility that is owned or effectively owned by the producer of that oil or gas, an amount equal to that which would have been reported to the FERC or other regulatory agency having jurisdiction applicable to the transportation of oil or gas under (1) of this subsection, had the transportation been, in fact, under the jurisdiction of FERC or other regulatory agency for the tax reporting period.

(c) Reasonable cost of transportation under sec. 130 of this chapter is fair market value. Fair market value of transportation is to be determined:

(1) for shipments of oil, on the basis of third party charters (that is, time charters in which the taxpayer does not own or effectively own the vessel) of one year or more, plus regulated transportation costs determined under (b)(1) of this section; two vessels will be considered like vessels for purposes of comparing like transporation under this chapter if the difference between them in tonnage is less than 10,000 dead-weight tons and if they are both Jones Act vessels, or are both CDS vessels, or are both ODS vessels or are both CDS/ODS vessels; or

(2) for shipments of gas as LNG, on the basis of third party charters or leases (that is, charters or leases in which the taxpayer does not own or effectively own the LNG transportation facility in question) of three years or more which are reported to the department for like LNG transportation facilities, plus regulated transportation costs determined under (b)(1) of this section.

(d) If a taxpayer sells its oil or gas to a third party in what would otherwise be a bona fide, arm's-length sale but at the time of this particular sale the taxpayer expects to repurchase that oil or gas at a subsequent time and place, then that sale to the third party and the repurchase from the third party, when it occurs, must be disregarded and the oil or gas subject to that sale must be regarded as if it has remained the taxpayer's own oil or gas throughout the time between that sale and repurchase. In determining the value at the point of production in such a case, the reasonable cost of transportation between the point of sale for that sale and the point of repurchase must be determined as if the taxpayer were the shipper. This subsection does not apply if the taxpayer's expected repurchase does not in fact occur.

(e) For purposes of this section, "voyage and port costs" for a vessel are

(1) costs actually incurred for fuel for the vessel while in port and at sea, stores and provisions for the vessel and her captain and crew, wages and benefits of the vessel's captain and crew, routine maintenance, port and

dock fees, storage costs, demurrage, tug and pilotage fees, marine agents' fees in port, lightering, transshipment charges, customs fees and duties, regular and customary gratuities that are also legal, insurance premiums actually paid to third-party insurers, minor cargo losses or measuring differentials, loading and unloading inspection fees, Panama Canal transit fees, a reasonable management fee (to be pro-rated equally among vessels, for coordinating arrivals and departures into and out of ports for vessels owned, effectively owned or chartered by the taxpayer, and other reasonable costs associated with the operation or maintenance (or both) of the vessel; and

(2) in addition to the costs listed in (1) of this subsection, in the case of catastrophic loss or damage of a vessel transporting oil or LNG from Alaska or enroute to Alaska to take on oil or LNG, a portion of the loss (for loss or damage to the ship, for injury or loss of her captain or crew and for damage and clean-up due to spillage of part or all of her cargo, but not for the loss of the cargo itself) which is borne by the shipper as the result of that catastrophic loss or damage and which is not reimbursed by insurance or by a third party; this portion of the less is determined by dividing the unreimbursed liability on the basis of dead-weight tonnage among the vessels owned, effectively owned or chartered by the shipper to transport oil or LNG (whichever was lost) from Alaska.

(f) A taxpayer "effectively owns", has "effective ownership" or "effectively has an ownership interest" in a vessel, LNG transportation facility, or non-regulated pipeline facility for purposes of this section, if

(1) the vessel, LNG transportation facility, or non-regulated pipeline facility is owned by another person comprising part of a consolidated business in which the taxpayer is also a part; or

(2) the vessel, LNG transportation facility, or non-regulated pipeline facility is the subject of a capital lease in which the taxpayer or another person comprising part of a consolidated business in which the taxpayer is also a part, is the lessee; or

(3) the vessel, LNG transportation facility, or non-regulated pipeline facility was built to the account of the taxpayer (or another person comprising part of the consolidated business in which the taxpayer is also a part), was sold and was chartered back by the taxpayer (or another person comprising part of a consolidated business in which the taxpayer is also a part) all in a simultaneous transaction and the vessel or LNG transportation facility is on a term charter or lease to the taxpayer (or another person comprising part of a consolidated business in which the taxpayer is also a part) for a period of 15 years or longer.

(g) For purposes of this chapter, the "positioning cost" for a vessel includes the costs not included in the charter for that vessel which are borne by the taxpayer for placing that vessel into position before the first voyage under that charter or the estimated costs to be borne by the taxpayer for delivering it up at a specified location after the last voyage under that charter, or both if the taxpayer is obligated under the terms of the charter or contract of affreightment to bear them both.

(h) A reasonable rate of return under (b)(3)(D) or (b)(4)(B) of this section is presumed to be that amount which yields an internal rate of return (after federal income tax) on an investment which equals 2 percent plus the average annual national inflation rate (measured by the GNP deflator) during

(1) the period between the time the commitment is made to construct or acquire the vessel or LNG transportation facility and the time when the vessel or LNG transportation facility has been received (or delivered) and is ready to be placed into service, or

(2) if the period in (1) of this subsection falls entirely within a calendar year, that entire calendar year.

(i) At the request of a taxpayer or on its own motion, the department will, in its discretion, replace the return under (h) of this section with one based on the rate of return imputed to that investment or similar ones by the person owning or effectively owning the vessel or LNG transportation facility.

(j) The third party nature of an agreement between a taxpayer and a third party carrier regarding transportation costs is not affected during the term of that agreement by a subsequent consolidation of that taxpayer and carrier into a consolidated business, if, at the time they entered into that agreement, neither the taxpayer nor the carrier exercised, directly or indirectly, any control over the business affairs of the other as the result of, or in anticipation of, their subsequent consolidation into that same consolidated business.

(k) For purposes of this section, a "pipeline facility" includes all facilities incident to the pipeline transportation of oil or gas downstream from the point of production as defined in sec. 900 of this chapter. (Eff. / / , Reg.)

Authority: AS 43.05.080
AS 43.19.010 (Art. IV, sec. 18)
AS 43.21.020
AS 43.21.090
AS 43.21.120

15 AAC 12.240. DEDUCTION FOR DIRECT OPERATING COSTS. (a) The direct operating costs during a year that are incurred by or for a taxpayer for a lease or property in the state are a deduction in determining the taxpayer's taxable production income for that year.

(b) Before the commencement of commercial production from (or allocated to) a lease or property, the direct operating costs for that lease or property are:

(1) the costs for geological and geophysical work conducted on the lease or property after the taxpayer has acquired a working interest in the lease or property;

(2) the costs of drilling and/or operating wells bottomed on the lease or property; and

(3) the costs of operations conducted on or near the lease or property in support of drilling and/or development operations for the lease or property but excluding the actual development costs themselves; however, if the lease or property is subject to an operating agreement in which at least one working-interest owner is a third party to the

operator, then the direct operating costs for that lease or property are the costs (excluding development costs but including drilling costs) that are incurred by the operator in operating that lease or property and which are reimbursable to the operator by the working-interest owners, under the terms of that operating agreement.

(c) No cost for the taxpayer's general overhead or administrative expense and no cost that is to be amortized or depreciated under secs. 250-260 of this chapter may be included in this section.

Authority: AS 43.05.080
AS 43.19.010 (Art. IV, sec. 18)
AS 43.21.020
AS 43.21.090

15 AAC 12.250. DEDUCTION FOR ACQUISITION COSTS. (a) A taxpayer's acquisition costs for a lease or property in the state that has never had commercial production from (or allocated to) it from any zone are deferred for purposes of this chapter until either there is commercial production from (or allocated to) it or until the lease or property is abandoned without ever having had commercial production from (or allocated to) it.

(b) If a lease or property is abandoned, then the taxpayer's unamortized acquisition costs for that lease or property are a deduction in determining the taxpayer's taxable production income for the year in which the lease or property is abandoned. If only part of the lease or property is thus abandoned, the unamortized acquisition costs for that lease or property must be apportioned to that abandoned portion on the basis of acreage.

(c) A taxpayer's acquisition costs for a lease or property having commercial production from (or allocated to) it during a year must be amortized, and the amount of amortization that year for those acquisition costs is a deduction in determining the taxpayer's taxable production income for the year. Except for cases when (d) of this section applies, the amount of amortization in a year for a lease or property equals the taxpayer's unamortized acquisition costs as of the beginning of that year, multiplied by the

ratio of the Btu-equivalents of the production from (or allocated to) that lease or property during the year, to the total number of the Btu-equivalents represenced by the remaining proved reserved (both developed and undeveloped) of that lease or property as of the beginning of the year.

(d) During a year it may happen that a taxpayer transfers part or all of its production interest in a commercially producing lease or property to one or more third parties or receives part or all of a production interest in a lease or property as the result of a transfer from one or more third parties. In such a case, the taxpayer receiving the production interest and the taxpayer transferring the production interest shall each calculate its respective amortization of acquisition costs for that portion of the year preceeding the transfer separately from its amortization of acquisition costs for that portion of the year following the transfer; and the sum of each taxpayer's respective amortization of acquisition costs for those two portions of the year will be a deduction in determining that taxpayer's taxable production income for that year. In calculating amortization for the portion of the year preceeding the date of the transfer, the taxpayer shall use the procedure prescribed in (c) of this section, except that the ratio of the Btu-equivalents of production may include only the taxpayer's production from (or allocated to) the lease or property for the portion of the year preceeding the date of the production-interest transfer. For that portion of the year following the transfer, the amount of amortization equals the taxpayer's unamortized acquisition costs as of the time immediately following the production-interest transfer, multiplied by the ratio of Btu-equivalents of the taxpayer's production from (or allocated to) the lease or property for the portion of the year on and after the date of the transfer to the total number of Btu-equivalents represented by the taxpayer's remaining proved reserves (both developed and undeveloped) of the lease or property as of the time immediately following the production-interest transfer.

(e) The amount of the taxpayer's unamortized acquisition costs for a lease or property as of the particular date equals the taxpayer's acquisition costs for its original production interest in the lease or property, plus the unamortized acquisition costs for each production interest in the lease or property transferred to the taxpayer on or before that date, and minus the sum of

(1) the unamortized acquisition costs for each production interest in the lease or property transferred from the taxpayer on or before that date;

(2) the cumulative amount (as of that date) of the taxpayer's acquisition costs for the lease or property that has been allowed under this section for amortization or abandonment; and

(3) the taxpayer's standardized prior-tax amortization for the lease or property under sec. 630 of this chapter.

(f) A taxpayer amortizing its acquisition costs for a lease or property for financial accounting purposes on a basis other than a variant of unit-of-production amortization may apply to the department for authorization to use that other basis for purposes of calculating the deduction under this section. Upon a satisfactory showing that the taxpayer does use another basis for amortizing its acquisition costs for financial accounting purposes, the department may grant the requested authorization to the taxpayer. Until that authorization is granted in writing, the taxpayer shall follow the method prescribed in this section to amortize its acquisition costs for leases or properties in the state.

(g) The amount of a taxpayer's acquisition costs for a lease or property equals the taxpayer's net payments for

(1) cash bonus or comparable advance payment to acquire the lease or property;

(2) tax paid under AS 43.56 to the state (net of all credits and refunds for municipal ad valorem taxes on the same property) for property used on or for the lease or property after its acquisition and before the completion of the discovery well for the field that includes the lease or property and ad valorem and other taxes paid to one or more municipalities under AS 29.53 that were incurred for property or operations on or for the lease or property after its acquisition and before the completion of that discovery well;

(3) that portion of the full consideration given by the taxpayer in acquiring a production interest in the lease or property which is properly attributable to the

acquisition of the lease or property (as opposed to the wells, facilities and equipment on or in support of the lease or property which directly result in or are necessary for continued or enhanced production from (or allocated to) the lease or property);

(4) interest on capital borrowed from one or more third parties for any of the expenditures described in (1) - (3) of this subsection that was capitalized for purposes of the taxpayer's financial accounting; however, interest so capitalized may be recognized for purposes of this chapter at a rate not to exceed the composite cost of the taxpayer's borrowed capital from third parties as reflected in the taxpayer's financial accounting for the year in which the interest is capitalized.

Authority: AS 43.05.080
AS 43.19.010 (Art. IV, sec. 18)
AS 43.21.020
AS 43.21.090

15 AAC 12.260. DEDUCTION FOR DEVELOPMENT COSTS. (a) A taxpayer's development costs for a lease or property in the state that has never had commercial production from (or allocated to) it from any zone are deferred for purposes of this chapter until either there is production from (or allocated to) it or until the lease or property is abandoned without ever having had commercial production from (or allocated to) it.

(b) If a lease or property is abandoned without ever having had commercial production from (or allocated to) it, then the taxpayer's undepreciated development costs for that lease or property are a deduction in determining that taxpayer's taxable production income for the year in which the lease or property is abandoned.

(c) Except for development costs to which (e) or (f) of this section applies, a taxpayer's development costs for a lease or property having commercial production from (or allocated to) it during a year must be depreciated, and the amount of depreciation that year for those development costs is a deduction in determining the taxpayer's taxable production income for the year. The amount of depreciation in a year for a lease or property will be calculated by

(1) the unit of production method, which equals

(A) the average between the taxpayer's undepreciated development costs for the lease or property as of the beginning of the year and those costs as of the end of the year; multiplied by

(B) the ratio of the Btu-equivalents of the production from (or allocated to) that lease or property during the year, to the total number of the Btu-equivalents represented by the remaining proved developed reserves for that lease or property as of the beginning of the year; or

(2) the sum of the years method, which is computed by applying a changing fraction to the average original acquisition costs computed under this section as reduced by estimated salvage value. The denominator of this fraction always remains the same, and is the sum of the numbers (years) representing the successive 12-month periods in the entire estimated life of the property. The numerator is the number of 12-month periods (including that for which depreciation is being taken) remaining in the useful life of the acquisition costs; or

(3) the double declining balance method, which is calculated at a uniform rate, which cannot exceed 200 percent of the applicable straight line rate, and is applied each year to the adjusted basis of the average original acquisition costs computed under this section as reduced by depreciation previously taken but not reduced by salvage value; or

(4) the straight line method, which is computed by reducing the average original acquisition costs computed under this section, less estimated salvage value, by equal annual amounts over the estimated useful life of the property.

(d) The choice of the depreciation method specified in (c) of this section does not require a formal choice by the taxpayer. However, the choice must continue through a taxable year and is binding for that taxable year. The total amount of depreciation taken cannot exceed the original acquisition cost, less estimated salvage value. (As an illustration, suppose a $100 property with a 10-year life. The taxpayer might choose the double declining method for

year one, choose the sum-of-the-years method for years two, three, four and five, and choose the straight-line method in year six. The total amount of depreciation would exceed $100 in year eight. Any depreciation claimed over $100 would be disallowed.)

(e) A taxpayer's undepreciated development costs for facilities or equipment for the lease or property which are removed during the year are excluded from the development costs that are to be depreciated that year under (c) and (d) of this section for that lease or property. Instead, the undepreciated development costs for those wells, facilities or equipment as of the beginning of the year, offset by their salvage value (if any), are a deduction in determining the taxpayer's taxable production income for the year in which they are removed.

(f) During a year it may happen that a taxpayer transfers part or all of its production interest in a commercially producing lease or property to one or more third parties or receives part or all of a producing interest in a lease or property as the result of a transfer from one or more third parties. In such a case, the taxpayer receiving the production interest and the taxpayer transferring the production interest shall each calculate its respective depreciation of development costs for that portion of the year preceeding the transfer separately from its depreciation of development costs for that portion of the year following the transfer; and the sum of each taxpayer's respective depreciation of development costs for those two portions of the year will be a deduction in determining that taxpayer's taxable production income for that year. In calculating depreciation for the portion of the year preceeding the date of the transfer, the taxpayer shall use the procedure and choices prescribed in (c) and (d) of this section, except that if the unit of production method is used:

(1) the ratio of the Btu-equivalents of production may include only the taxpayer's production from (or allocated to) the lease or property for the portion of the year preceeding the date of the production-interest transfer, and

(2) for that portion of the year following the transfer, the amount of depreciation equals the average of the taxpayer's undepreciated development costs as of the time immediately following the production-interest transfer and as of the end of the year, multiplied by the ratio of Btu-equivalents of the taxpayer's production from (or allocated to) the lease or property for the portion of the year on and after the date of the transfer to the total number of Btu-equivalents represented by the taxpayer's remaining proved developed reserves of the lease or property as of the time immediately following the production-interest transfer.

(g) The amount of a taxpayer's undepreciated development costs for a lease or property as of a particular date equals the taxpayer's development costs as of that date for the wells, facilities and equipment for that lease or property that are then in place, minus the sum of

(1) the cumulative amount (as of that date) allowed under this chapter for depreciation of the taxpayer's development costs for the lease or property; and

(2) the taxpayer's standardized prior-tax depreciation for the lease or property under sec. 630 of this chapter.

(h) A taxpayer depreciating its development costs for a lease or property for financial accounting purposes on a basis other than a variant of the methods prescribed in (c) and (d) of this section may apply to the department for authorization to use that other basis for purposes of calculating the deduction under this section. Upon a satisfactory showing that the taxpayer does use another basis for depreciating its development costs for financial accounting purposes, the department may grant the requested authorization to the taxpayer. Until that authorization is granted in writing, the taxpayer shall follow the methods prescribed in this section to depreciate its development costs for leases or properties in the state for purposes of this chapter.

(i) The amount of a taxpayer's development costs for a lease or property equals the taxpayer's net payments for

(1) development costs for facilities and equipment on or in support of the lease or property that directly result in or are necessary for continued or enhanced production from (or allocated to) the lease or property;

(2) tax paid under AS 43.56 to the state (net of all credits and refunds for municipal ad valorem taxes on the same property) for property and ad valorem and other taxes paid to one or more municipalities under AS 29.53 that were incurred directly as the result of, and in the course of, the installation or operation of the property described in (1) of this subsection;

(3) that portion of the full consideration given by the taxpayer in acquiring a production interest in the lease or property, which is properly attributable to the wells, facilities and equipment on or in support of the lease or property which directly result in or are necessary for continued or enhanced production from (or allocated to) the lease or property (as opposed to the consideration given for the lease or property itself);

(4) interest on capital borrowed from one or more third parties for any of the expenditures described in (1) - (3) of this subsection that was capitalized for purposes of the taxpayer's financial accounting; however, interest so capitalized may be recognized for purposes of this chapter at a rate not to exceed the composite cost of the taxpayer's borrowed capital from third parties as reflected in the taxpayer's financial accounting for the year in which the interest is capitalized.

Authority: AS 43.05.080
AS 43.19.010 (Art. IV, sec. 18)
AS 43.21.020
AS 43.21.090

15 AAC 12.320. EXTRAORDINARY OPERATING REVENUES AND LOSSES (OIL PIPELINES). (c) The costs of permanently terminating operations and/or removing part or all of the facilities and equipment of a pipeline result in extraordinary operating losses for that pipeline. The amount of these extraordinary operating losses which may be taken in any one taxable year, equals

(1) the portion of the unreimbursed, estimated termination and removal costs for that pipeline as may be allowed by FERC or other peremptory authority in a year prior to actual termination and removal according to specified factors and amounts used in calculating net carrier operating income; or

(2) the unreimbursed termination and removal costs for the pipeline that are actually incurred that year, offset by the salvage value (if any) of the removed facilities and equipment and offset to the extent of any amounts allowed to be taken prior to actual termination and removal under this section and taken by the taxpayer.

(d) If under (c) of this section, unreimbursed, estimated termination and removal costs for a pipeline are not actually expended or the deduction of those amounts is disallowed by FERC or other peremptory authorities, then the amount allowed or allowable as a deduction must be recaptured as extraordinary operating revenue.

Authority: AS 43.05.080
AS 43.19.010 (Art. IV, sec. 18)
AS 43.21.020
AS 43.21.090

15 AAC 12.710. (f) A payment of less than $50,000 may be made by check in the manner prescribed in (1) of this paragraph or may be made by wire transfer in the manner prescribed in (2) of this paragraph. A payment of $50,000 or more must be made by wire transfer in the manner prescribed in (2) of this paragraph.

(1) A payment by check must be made by mailing the check, together with a copy of only the summary page (or pages) of the tax report, to the following address or other address as the commissioner may designate: Cashier, Department of Revenue, State of Alaska, Pouch SA, Juneau, Alaska 99811. A payment made by check or a return not requiring a payment will be considered timely if it is postmarked on or before the date or day of the month in which it is due.

(2) A payment by direct wire transfer must be made through the commercial banking system in accordance with the following procedures:

(A) As early as practicable and in no event later than 9:00 a.m. of the morning of the day when the wire transfer is to be made, the taxpayer shall notify the Alaska State Treasury by Telex (at Telex number 09045333) of the amount of the taxpayer's payment;

(B) the taxpayer shall obtain sufficient collected funds to cover the payment and shall instruct the commercial bank holding those funds to initiate the transfer of federal funds (in the amount of the payment) through the Federal Reserve wire tranfer system to the credit of the State of Alaska Investment Account at the following address:

Bank of America, NT & SA
San Francisco, California
Securities Department #3255
Acct: State of Alaska Investment Account;

(C) the taxpayer shall make the payment in one lump sum from one bank;

(D) a payment made by wire transfer will be considered timely if the taxpayer's commercial bank has initiated the transfer of federal funds through the Federal Reserve wire transfer system on or before the last banking day of the month in which the payment is due, or on or before the last banking day prior to the date due, if the date due is not a banking day.

(3) "payment" as used in this section, means the total amount due or estimated to be due by the taxpayer and arising under any provision of AS 43.21, including taxes, interest and penalty.

Authority: AS 43.05.080
AS 43 05.280
AS 43.21.070
AS 43.21.090

15 AAC 12.900. DEFINITIONS. (24) "point of production" means

(1) for oil, the automatic custody transfer meter or unit through which the oil enters into the facilities of a carrier pipeline or other transportation carrier; and in the absence of an automatic custody transfer meter or unit, the "point of production" for oil is the outlet flange of the tank gauge (or in the absence of a tank gauge, another mechanism or device to measure the quantity of oil that has been approved by the department for this purpose) through

which the oil is tendered and accepted into the facilities of a carrier pipeline or other transportation carrier;

(2) for gas, the meter on, or nearest (measured along the course taken by the gas) to, the lease or property from which the gas is recovered, at which meter the sales stream of gas is measured with sufficient accuracy and at appropriate temperature, pressure and other condition for purposes of sale, regardless whether the particular gas in question is actually sold at that meter.

(31) "sales delivery point" means

(1) for a taxpayer's oil and gas sold in a bona fide, arm's-length sale to a third party, the point of delivery under the terms of the contract or agreement for that sale, except in the case of a sale to which (f) of this section applies;

(2) for a taxpayer's oil not sold in a bona fide, arm's-length sale to a third party, the point of delivery under the terms of the sales contract being used as the reference for the sales price of the taxpayer's gas under (h)(3) of this section.

(33) "same market" means

(1) with respect to a taxpayer's oil refined in Alaska, the Alaskan market,

(2) with respect to a taxpayer's oil landed on the U.S. West Coast (including Hawaii), the West Coast market or, if appropriate, the submarkets on the West Coast (i.e., Puget Sound, San Francisco Bay, the Long Beach and Los Angeles area, and Hawaii),

(3) with respect to a taxpayer's oil landed on the U.S. Gulf Coast, the Gulf Coast market,

(4) with respect to a taxpayer's oil landed on the U.S. East Coast, the East Coast market,

(5) with respect to a taxpayer's oil landed in Puerto Rico or the U.S. Virgin Islands, the Puerto Rican and Virgin Island market,

(6) with respect to a taxpayer's gas marketed in Alaska, the Alaskan market or portion of it served by gas from the same field or area as the taxpayer's gas,

(7) with respect to a taxpayer's gas marketed in the Lower 48, the Lower 48 market,

(8) with respect to a taxpayer's gas marketed in a foreign country, the market in that foreign country.

(34) "taxpayer" means a corporation or, collectively, two or more corporations made subject to this chapter that are parts of the same consolidated business under this chapter.

(35) "tax year" means a period beginning on January 1 and ending on the following December 31st, except that for a fiscal-year taxpayer "tax year" means that taxpayer's fiscal year or, for the first fiscal year in which the taxpayer reports and pays tax on a fiscal year basis under this chapter, that portion of that fiscal year beginning on and following January 1.

(36) "voyage and port costs" is defined in sec. 132(e) of this chapter.

(37) "working interest" means any interest (including fee title) in the production of oil and gas that is not a royalty interest.

(38) "year" means tax year unless the context indicates otherwise. (Eff. / / , Reg.)

Authority: AS 43.05.080
AS 43.21.090

FISCAL NOTE

I. REQUEST
Bill/Resolution No. Senate Bill No. 474
Title An Act repealing Ch. 20 and amending Ch. 21 of Title 43, AK Statutes.
Requested by Senate State Affairs & Finance Committees Date 2/29/80

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			(641.4)	(641.4)	(641.4)	(641.4)
200 TRAVEL			(85.0)	(85.0	(85.0)	(85.0)
300 CONTRACTUAL			(253.5)	(253.5)	(253.5)	(253.5)
400 COMMODITIES			(20.0)	(20.0)	(20.0)	(20.0)
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL			(999.9)	(999.9)	(999.9)	(999.9)

FUNDING (Thousands of Dollars)

GENERAL FUND			(999.9)	(999.9)	(999.9)	(999.9)
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME			(22)	(22)	(22)	(22)
PART TIME						
TEMPORARY						

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

See attached memorandum to R. D. Stevenson dated 2/29/80.

IV. DATE February 29, 1980 PREPARED BY Gary Stevens
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)

Revenue Implications

* Sec. 1. No immediate revenue impact; this section avoids a constitutional issue dealing with taxation of OCS related activities.

* Sec. 2.

$72 MM

$7 MM

Tosco

Date	High	Low	Close	Nov '35
4/11				1
4/10				
4/9				
4/8	20 5/8	19 3/4	20 1/4	1
4/7	20 1/8	19	19 3/4	
4/3	[illegible]	[illegible]	[illegible]	1 1/4
4/2	[illegible]	[illegible]	[illegible]	1 1/4
4/1	[illegible]	[illegible]	[illegible]	[illegible]
3/31	[illegible]	19 1/2	[illegible]	1 1/4
3/30	19 7/8	19	19	1 1/16
3/27	17 3/4	14 3/4	17 3/4	3/16
3/26	19 [illegible]	18 [illegible]	[illegible]	1
3/25	19 5/8	18 1/4	18 3/4	1
3/24	21 1/8	19 3/8	19 1/2	1 1/4
3/21	21 3/8	20 1/4	21	1 9/16
3/20	21 3/4	20 5/8	21 1/4	1 11/16
3/19	22	21	21 3/8	1 11/16
3/18	22 3/4	19 5/8	21 1/8	1 [illegible]
3/17	23 1/4	20	22	1 1/8
3/16	23 3/4	22 1/8	23 1/2	2
3/13	23 1/2	22 5/8	22 5/8	2 1/16
3/12	24	23 1/8	23 7/8	[illegible]
3/11	[illegible]	[illegible]	[illegible]	[illegible]
3/10	[illegible]	[illegible]	[illegible]	1 15/16
3/7	25	[illegible]	[illegible]	[illegible]
3/6	[illegible]	[illegible]	[illegible]	[illegible]
3/5	[illegible]	26 5/8	26 3/4	3
3/4	[illegible]	[illegible]	[illegible]	[illegible]
	[illegible]	[illegible]	[illegible]	[illegible]

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

FINANCE DIVISION
POUCH MI—STATE CAPITOL

JUNEAU, ALASKA 99811

October 3, 1979

M E M O R A N D U M

TO: The Honorable Russ Meekins
Chairman, House Finance Committee

FROM: Milt Barker, MB Fiscal Analyst
Legislative Finance Division

SUBJECT: Petroleum Corporate Income Tax Depreciation and the Surplus

The Department of Revenue is considering accelerating the allowances for depreciation that may be claimed on income tax returns of corporations engaged in petroleum production or transportation. Their interest in so doing stems from the large general fund surpluses now accruing as well as the suit filed by the oil companies against the petroleum income tax.

If such a policy is adopted and depending on how liberal the depreciation allowances are, the legislative finance estimates mentioned in my attached September 5 memo, of $4,328.9 million available for appropriation for FY 81, including $3,612.9 million in cash would have to be significantly reduced. Conceivably if the policy is liberal enough and made retroactive, all petroleum corporate income tax liability through FY 81 could be eliminated. This would mean FY 81 general funds available for appropriation would be $2,887.3 million of which $2,171.3 million would be cash based on the September 1979 Department of Revenue estimates (attached) as reduced for petroleum corporate income tax receipts and $50 million in interest that would be otherwise earned thereon.

Depreciation Methods

AS 43.21.020(c)(5) permits a deduction on the income tax returns for depreciation determined by "using the unit of production method or such other reasonable methods as the department may by regulation establish."

So far, the only method authorized by regulation is the unit of production method. This is an "accelerated" method in

comparison with straight-line depreciation but is not as "accelerated" as two other methods, the double-declining balance and sum-of-the-years' digits methods, which are available under the federal IRS code and, by virtue of adoption of the federal code by the State, the regular State corporate income tax.

The Suit

The suit has prompted thoughts about accelerated depreciation for two reasons:

1. It might help the State's defense against the charge that the petroleum corporate income tax violates the "equal protection" clauses of the State and Federal constitutions since the previously mentioned depreciation methods are only available for corporate activities other than petroleum production and transportation. Of course, if the court found against the State on this basis, the accelerated depreciation could just as well be allowed after the decision.

2. In the event the State lost the suit or changes were mandated that reduced tax liabilities, the amount of refunds the State would have to pay to the oil companies would be reduced.

The magnitude of the possible refunds is unsettling and may help to explain why the Department of Revenue's latest revenue projections (September quarterly update) still project FY 80 receipts for the petroleum corporate income tax at $160 million even though receipts for the first quarter of FY 80 total $120.5 million.

Based on the Department of Revenue's estimates, a total of $552.6 million will be received through FY 81 for the petroleum corporate income tax. Using the same estimates inherent in the legislative finance figures in my September 5 memo, the receipts through FY 81 would be roughly $1.2 billion.

Is the administration really anxious about the outcome of the suit? If so, is accelerating depreciation to reduce the State's exposure to a large refund the best way to deal with this problem? Or would "sterilizing" these funds in some manner so that they aren't used for budget expenditures or illiquid investments preferable? Certainly the administration can do this through the veto power and their investment policies.

If the State wins the suit, the cost of the accelerated depreciation policy is the interest that could have been earned on the resulting tax reduction. However, in the event of a loss, the State owes interest at 8% on its refunds so accelerated depreciation then represents no cost to the State to the extent our average investment earnings are 8% and no more.

The Department of Revenue can probably allow double-declining balance and sum-of-the-years' digits by regulation to meet their concerns regarding the suit. If allowed retroactively, these methods might be sufficient to wipe out the tax liabilities incurred heretofore, resulting in immediate refunds.

Accelerated depreciation would probably then necessitate the carry-forward of losses. This has already been permitted by the Department of Revenue via regulation although there is no specific statutory authority for it in AS 43.21.

The Surplus and Oil Company Incentives

Is the administration confident about the suit but proposing accelerated depreciation mainly as a way to reduce the surplus, again in place of wielding the veto power? If so, judgement about the desirability of this policy and the weighing of its costs may occur in a different light.

If this is the objective, legislation could be proposed that sets up a capital recovery account as is being considered for net profits leasing, allowing maximum acceleration of depreciation. Expensing of capital costs with carry-forward of losses would amount to the same thing. Of course, the greater the acceleration, the greater the cost to the State in interest earnings foregone.

Accelerated depreciation only shifts the timing of tax liabilities into the future; it does not increase them in any way that would make up for the lost interest. Of course, on new leases the interest will be recovered in higher bids. There should be an actual gain to the state because the oil companies' discount rate should be higher than the state's earnings rate on invested funds.

An interest charge for the excess of accelerated depreciation over unit-of-production or straight-line could be incorporated into the tax statutes. If the interest charge were set at the state's earnings rate on invested funds, the state would be indifferent as to whether a company took accelerated depreciation or not. Yet, an oil company with a presumably higher earnings rate would be able to increase their net present value by using accelerated depreciation.

Thus, even if interest is charged, accelerated depreciation, while reducing the surplus, would provide a positive incentive for the development of marginal fields or secondary or tertiary recovery operations on developed fields. The state might even gain in the absence of an interest charge if the additional development produced revenues sufficient to more than offset the interest lost from accelerated depreciation on fields that are already developed or would be developed regardless.

An alternative way to recapture at a later time the lost interest on accelerated depreciation would be to graduate the corporate tax rate upwards from 9.4%. However, there could be no assurance of the increased tax liability even roughly matching the interest lost.

Joseph K. Donohue, Deputy Commissioner
Department of Revenue

October 29, 1979

Robert M. Johnson, Director
Petroleum Revenue Division

Impact of Allowing Intangible Drilling Expenses as a Direct Deduction

You have asked for an analysis of the financial impact of allowing intangible drilling costs (IDCs) as a deduction to derive taxable production income under the Oil and Gas Corporate Income Tax Act (AS 43.21).

As you know, drilling costs (intangible or tangible) incurred by oil and gas producers are not specifically allowed as an operating expense deduction in deriving taxable production income. Intangible drilling costs are, however, an allowable deduction under § 263 of the Internal Revenue Code. Prior to enactment of the Oil and Gas Corporate Income Tax (AS 43.21), § 263 was incorporated by reference into the Net Income Tax Act (AS 43.20) which applied to the oil and gas producers. That incorporation by reference disappeared with enactment of AS 43.21. The law does not now specifically address IDCs, but does permit as deductions to derive oil and gas production income such items as dry hole expenses, interest expense not capitalized by the corporation up to a certain amount, and amortization of lease acquisitions. See, AS 43.21.020(b). Under the original regulations implementing that provision, "drilling costs" may be deducted to derive taxable production income only as a portion of acquisition and development costs. Those allowable costs are limited. 15 AAC 12.250 and 12.260. Operating expenses, which are generally deductible to the full extent of the expenses incurred, exclude "drilling costs."

The Department is presently proposing to promulgate regulations which would allow IDCs, as a drilling cost, to be directly deducted as an operating expense.1/ Such a change in regulations would impose a significant impact on taxes received. Our preliminary calculation of taxes paid under AS 43.21 indicates that, as an example, the 1978 tax base of $1,780,402,000 would drop by $672,653,000 or 38%.2/ The taxes produced would consequently drop by a similar percentage or approximately $63,596,000. While the tax benefit to the covered taxpayers is a decrease in tax obligations of 38% industry wide, some taxpayers, depending on their unique circumstances, would stand to save over 100% of their tax obligations (resulting in a net operating loss) while others would see only minor savings. However, a weighted average among all taxpayers clearly places the [illegible] the tax savings at between 30 and 40%, as noted.

1/ Whether a regulation alone can permit this change is the subject of an opinion request to the Attorney General.

2/ Because of the nature of reporting taxes, the estimates of IDCs are based only on those reported under development cost deductions. 15 AAC 12.260. There also may be IDCs claimed under the present acquisition cost deductions (15 AAC 12.250) but these figures cannot be readily extracted. However, for purposes of calculating impact, the percentage figures, ratios and adjusted tax receipts would remain about the same as estimated or would show a slightly greater benefit for the taxpayer.

DISCUSSION OF THE OIL AND GAS INCOME TAX LAWSUIT

The Oil and Gas Income Tax Act, AS 43.21, taxes oil and gas companies at the same rate as other corporations. However, it provides for a different method of determining the tax base (i.e., taxable income) from the regular corporate income tax. AS 43.21 combines the two basic approaches to the taxation of income of multistate corporations. On one hand, it incorporates "separate accounting," in which the income and expenses of a company's in-state activities are separately determined without regard to the corporation's out-of-state business, as if the in-state business were the only business the company engages in. This approach is applied to determine an oil company's taxable income from oil and gas production or pipeline transportation. On the other hand, AS 43.21 also utilizes the "apportionment" approach, whereby income from the corporation's worldwide activities is apportioned to in-state activities by applying a formula. Apportionment is used in AS 43.21 to determine a taxpayer's in-state income from sources other than oil and gas production and pipeline transportation.

The litigation over AS 43.21 questions whether it violates the due process clause, the equal protection clause and the commerce clause of the U.S. Constitution, as well as provisions of the Outer Continental Shelf Lands Act that limit state taxation of the OCS. The original case, brought by Atlantic Richfield and Sohio, presents eight counts in its cause of action. The State subsequently presented the same eight counts, but expressed in the negative, in a second lawsuit against all other taxpayers under AS 43.21 who filed and paid under protest. The eight counts are:

1. Duplicative taxation. Count I of the Arco suit alleges that AS 43.21 results in impermissible duplicative taxation by imposing an unapportioned tax on interstate income. In other words, it alleges that separate accounting for production income and pipeline income is unconstitutional. The plaintiffs point out that other states which use an apportionment formula might require the plaintiffs to include the Alaska-taxed income as part of the total apportionable income for purposes of those other states' income taxes. The combined result, the companies argue, could be that more than 100% of their income ends up being taxed by the states.

A case is currently pending before the U.S. Supreme Court, Exxon Corp. v. Wisconsin Dept. of Revenue, which may considerably affect the outcome of Count I in the Arco case. The issue there is whether separate accounting is constitutionally required instead of apportionment in cases where a corporation

has functionally separate operations (i.e., exploration, production and marketing) and some occur within the taxing jurisdiction and others are entirely outside it. If the Court requires separate accounting in Exxon, the State's position on Count I will be strengthened. If the Court upholds apportionment, then Exxon could seriously weaken our position, but not necessarily so; the exact effect would depend on the Court's reasoning and the language used in reaching its decision. The case is expected to be decided by the end of June.

Besides the basic question in Count I as to whether separate accounting is permissible in AS 43.21, there are also some issues of duplicative taxation in the application of the apportionment formula embodied in AS 43.21.040 for "other" income. For instance, although production and pipeline income earned in Alaska is already fully recognized under the separate accounting provisions, the income from similar activities occurring wholly outside Alaska is nevertheless included in the worldwide "pie" of income to be divided under apportionment. Similarly, a company engaged only in production in Alaska could still be subjected to apportionment of its "other" worldwide income simply because it charters tankers from a third party to ship its oil out of the state. Both of these problems would be dealt with in the Administration's "technical amendments" bill (HB 963), at a cost to the State of less than a million dollars in FY 81.

While these last two issues have relatively small dollars-and-cents consequences themselves, losing them in court could be serious. The legislative history of AS 43.21 shows that all antecedent versions of the bill in 1978 had severability clauses. The final version of AS 43.21 did not. One could argue from this fact that the Legislature wanted the entire Act to stand or fall together. If the courts agreed, then losing even these "minor" issues would lead to the downfall of the entire tax. The possibility of this outcome is, of course, significantly reduced by the general severability clause in AS 01.10.030, but not absolutely eliminated.

2. Equal protection. The second count in the Arco case alleges that AS 43.21 discriminates against interstate commerce and violates equal protection and due process. This is based on a comparison of the tax treatment of oil and gas companies under AS 43.21 vis-a-vis their previous treatment under AS 43.20, which is still afforded to all other corporations. This issue could not be entirely resolved, legislatively or by regulation, except by repealing AS 43.21 and going back to AS 43.20 as the tax for the oil industry. However, there are legislative and regulatory actions that could be taken that would eliminate differences between AS 43.20 and AS 43.21 that the industry regards as being the

most important. These relate to accelerated depreciation and the expensing of intangible drilling costs for wells in Alaska.

Depreciation is currently allowed for production equipment on a unit-of-production basis; that is, each barrel produced has the same amount of depreciation associated with it. This is a form of accelerated depreciation since production rates over the life of a field are greatest in the early years and fall off in later years. By regulation the Department of Revenue could authorize other forms of accelerated depreciation, such as those used for the IRS.

Depreciation for pipelines is strictly on a straight-line basis. This is because taxable pipeline income is tied by statute to the pipeline's net income as regulated by the Federal Energy Regulatory Commission (FERC). FERC uses straight-line depreciation.

Allowing accelerated depreciation does not affect the total amount of depreciation allowed as a deduction, it changes the timing. The effect is to reduce the tax liability in the early years and make up for it in later years. In the case of tax year 1980 (one quarter paid in FY80 and three quarters in FY81), the tax deferral from accelerated depreciation of production equipment would be $25 million. For pipelines it would be $36 million.

Intangible drilling costs are now required to be capitalized and depreciated on a unit-of-production basis as production equipment. Expensing such costs is the fastest possible form of accelerated depreciation. If only new drilling could be expensed, the tax deferral would be about $72 million for FY81.

3. Excessive, discriminatory taxation. In Count III of the complaint, plaintiffs alleged that the amount of taxes imposed by AS 43.21 bears no fair relation to services provided by the State. In doing so, they pointed out the large anticipated surplus of funds coming into the treasury, the high proportion of state revenues already being derived from sources other than AS 43.21, and the large amount of taxes that they will have to pay in addition under the oil and gas income tax.

4. Modification of leases. Count IV of the complaint alleges that Alaska, by enacting AS 43.21, unilaterally and unconstitutionally modified its oil and gas leases. This seems almost frivolous in light of the Alaska Constitution's specific prohibition against contracting away the State's taxation power; no lease provision could have abridged this power.

5. OCS income. The Outer Continental Shelf Lands Act forbids the states from taxing activites beyond their three-mile limits. Count V of the Arco/Sohio complaint alleges that AS 43.21.040, by including Alaska OCS property and payrolls in the formula for apportioning worldwide "other" income, violates this federal prohibition and is thus pre-empted under the supremacy clause of the U.S. Constitution. The dollars at stake in Count V are comparatively small at present, under $5 million a year. But this would change if there is significant new activity in the OCS off Alaska. Also, an adverse ruling here could bear on the nonseverability issue.

6. Retroactivity. Count VI of the lawsuit raises a technical question as to procedure in the enactment of AS 43.21. Plaintiffs allege that the Act, which became law on July 6, 1978, cannot be made retroactive to the first of that year without the concurrence of two-thirds of the membership of each house of the Legislature. They further allege that such concurrence was not given by the Senate. This issue should, at most, affect receipts under AS 43.21 for only part of the 1978 tax year.

7. Regulations. The Department adopted regulations requiring payments of estimated taxes in installments in advance of the final due date for each year. Count VII alleges that the statutory authorization for "installments" means the Department could only adopt regulations allowing payments after the due date. The effect of losing this count would not be a loss in tax receipts finally collected, but only in the cash-flow timing of those receipts and the lost interest income from the prepayments. The lost interest would be $45.8 million a year if the annual tax receipts are $500 million.

8. Taxation of out-of-state income. Count VIII alleges that AS 43.21 taxes out-of-state income having no connection with Alaska. To some extent this repeats the Count I challenge to aspects of the apportionment formula. Besides being a sort of "catch all," this last count could also refer to AS 43.21.010, which subjects to the tax all corporations deriving income from the production of oil and gas from a lease or property "in or directly associated with the state". The underlined portion refers to leases in the OCS whose operations are supported from a base or staging area onshore in Alaska. There is a real constitutional "due process" question as to whether Alaska may tax a corporation having no contact with Alaska other than deriving income from a lease or property "directly associated" with the state. In addition, the provisions of the OCS Lands Act could apply to bar such taxation. HB 963 would eliminate this issue. Since there are at present no such corporations, the present revenue effect is nil. Again, a loss here could trigger far greater effects if nonseverability in fact applies to the Act.

SETTLEMENT DISCUSSIONS
IN THE OIL AND GAS INCOME TAX LAWSUIT

In the course of administering AS 43.21, the Department of Revenue has had to adopt a considerable number (over 30 pages worth in the Administrative Code) of fairly technical, detailed regulations to clarify and interpret the Act. In order to adopt appropriate and workable regulations covering such complex and arcane matters as the leveraged leasing of oil tankers, there was considerable dialogue and discussion, both at hearings and in conferences, between the Department and various affected oil companies.

As the full range of policy considerations relating to the successful implementation of the tax was discussed, certain regulatory actions appeared which, in conjunction with some legislative amendments, presented a good promise of being a foundation for a settlement by which the basic validity of the tax would be acknowledged, while reserving for litigation a few narrow issues about the particulars of the application of the tax. The ongoing litigation of those issues would therefore not jeopardize the tax itself, nor would their adjudication one way or the other put major sums of money at risk.

These legislative and regulatory actions do not fall neatly into the categories of issues presented in the various counts given by Arco and Sohio in their lawsuit. In fact, a number of the actions do not even tie directly into any one count. In some cases, the proposed changes could be justified just on the basis of policy considerations, apart from any settlement possibilities. In this group of independently justifiable actions are:

1. The technical amendments proposed in HB 963. Reasons for them are given in Governor Hammond's transmittal letter. Their combined revenue effects are about $5 million a year.

2. Allow current amortization of estimated costs of terminating production operations, removing field facilities and restoring the site. There would be a "settling up" when these had happened to account for any over- or under-amortization. Reasons for this ar : A) termination costs may be carried back only three years, which may not allow for them to be fully recognized; and B) this is already allowed in the case of pipelines, because of current FERC rulings. The revenue impact would be about $2 million a year currently.

Less clearly justifiable would be the elimination of the present limitations on interest expense and overhead costs that may be deducted against production income. It would be advisable in such a case to grant the Department clear authority to set aside undue charges for these items, especially if they result from intracorporate or less-than-arms-length transactions. With such safeguards, the present revenue effect would be about $3,500,000 a year.

The big dollars-and-cents issue in the settlement discussion was accelerated depreciation. This is really a tax deferral since the total amount of depreciation ultimately taken does not change, regardless of whether the depreciation is straight-line or accelerated. For tax year 1980, it would amount to $61 million -- $25 million for production equipment and $35 million for pipelines. Of course, interest would be lost on the money until it is recovered, and the payback in later years would be in dollars of reduced buying power.

Intangible drilling costs are merely an aspect of accelerated depreciation. Right now they are capitalized and depreciated on the same basis as production equipment. Allowing them to be expensed (i.e., fully deducted as they are incurred) is simply allowing the ultimate in accelerated depreciation. As with pipelines and production equipment, the tax loss now would be recovered eventually through reduced deductions later in the life of the field. But the impact today is still some $72 million for FY81, not counting forgone interest.

The discussions of these possibilities indicated that, in exchange for these considerations, the oil companies would dismiss the present lawsuit except for the issues regarding OCS and the use of "book" income for apportionment instead of taxable income as reported to IRS. The settlement would not extend to any future developments in federal law, either judicial or legislative, that would impair or annul the State's method of taxing income. Also they would reserve the right to challenge new regulations or interpretations as may arise which are not subjects of the present litigation.

THE ROLE OF THE WINDFALL PROFITS TAX IN THE OIL AND GAS INCOME TAX

The windfall profits tax is not recognized under AS 43.21 as an allowable deduction against production income. At present this has not become an additional basis for the oil companies' challenge to the oil and gas income tax, but it surely will be.

In thinking about the windfall profits tax, it is important to remember that it is not necessary to settle the lawsuit in order to deal with the windfall profits tax. It is separable from the settlement considerations. However, settlement is most unlikely if there is nothing done about the windfall profits tax.

The revenue implications of the windfall profits tax are far greater than the combined effects of all the other items involved in coming up with a settlement. In FY81 alone, the effect is $142.5 million; in FY82, another $378.4 million. By FY85 it will be almost $600 million a year.

In all settlement discussions through January of this year (when they were broken off), the windfall profits tax was recognized as a major factor for any settlement, but it was a subject whose discussion was postponed until Congress actually passed such a tax and we could see exactly what it was.

NOTICE OF PROPOSED CHANGES IN THE REGULATIONS (AS 43.21)
OF THE DEPARTMENT OF REVENUE

Notice is hereby given that the Department of Revenue, under authority vested by AS 43.05.080 and AS 43.21.090, propose to adopt regulations in Title 15 of the Alaska Administrative Code to implement the Oil and Gas Corporate Income Tax Act including AS 43.21.020, AS 43.21.040 and AS 43.21.070:

Title 15, Chapter 12 of the Alaska Administrative Code is amended by revising certain existing sections. The proposed regulations would amend:

Sec. 120 to specify when and how sales price and prevailing value are to be used in calculating value at point of production;

Sec. 130 to specify when and how actual costs and fair market value are to be used in calculating reasonable costs of transportation, and to redefine "effective ownership" of tankers;

Secs. 200, 220 and 230 to specify when cash basis accounting must be used;

Secs. 240, 250 and 260 to provide for the direct deduction of drilling costs as direct operating costs;

Sec. 320 to reflect FERC rulings on termination and restoration costs;

Sec. 510 to clarify income taxes included in net income for apportionment purposes;

Sec. 710 to provide new wire transfer and mailing rules.

Notice is also given that any interested person may present oral or written statements to the action proposed at the hearing of this matter scheduled for November 29, 1979 at 1:30 p.m. in the Anchorage Assembly Chambers, 3500 East Tudor Road, Anchorage, Alaska. Copies of a draft of the proposed regulations may be obtained by writing to Robert M. Johnson, Director, Petroleum Revenue Division, 201 East 9th Avenue, Suite 304, Anchorage, Alaska 99501.

The Department of Revenue, upon its own motion or at the instance of any interested person, may at the hearing or after it adopt the proposals substantially as have been described without further notice or may decide to take no action on them.

DATE: 10/29/79

THOMAS K. WILLIAMS
COMMISSIONER

by Robert M. Johnson
Robert M. Johnson
Director
Petroleum Revenue Division

15 AAC 12.120 VALUE AT THE POINT OF PRODUCTION. (a) The value at the point of production for oil or gas produced from a lease or property is the sales price or prevailing value of that oil or gas, minus the reasonable cost of transportation (if any) from the point of production for that oil or gas to the sales delivery point for that oil or gas; except that in no event may the value at the point of production for a taxpayer's oil or gas exceed the ceiling price (if any) that is applicable to that oil or gas under a mandatory price control program.

(1) For purposes of this chapter, the sales price of oil or gas shall be used to determine value at point of production except when (2) of this subsection applies, in which case prevailing value shall be used to determine value at the point of production;

(2) Prevailing value must be used in those instances when the oil or gas is sold or exchanged under circumstances where the sales price is substantially lower than the prevailing value for oil or gas of like kind, character and quality being sold at sales delivery points in the same market or in a comparable market if there are no such sales of significant quantities in the same market; provided that

(A) "circumstances" as used in this subsection refers to instances where terms of a contract set a single price for oil or gas without adjustments tied to market conditions for periods of longer than 6 years or where the terms of a contract set prices bearing no relation to market conditions prevailing at the time the contract is entered or where fraud or an intent to evade taxes is demonstrated; and

(B) the determination of a "substantially lower" price under this subsection is to be made by analyzing the cash value of consideration received for oil or gas and taking into account any asserted difference between sales price and prevailing values, the quantity of oil or gas involved in the transaction, and the duration of the contract giving rise to the claim.

(b) "Sales price" under this chapter is;

(1) for the first bona fide, arm's-length sales to a third party, the cash value of the full consideration given in receipt for the taxpayer's oil or gas so sold; and

(2) for all other transactions, the greater of

(A) the cash value of the full consideration given in receipt for the taxpayer's oil or gas used, exchanged, or otherwise transferred to another party; or

(B) the sales price attributable to that transaction entered on a taxpayer's books in accordance with generally accepted accounting principles, consistently applied.

(c) "Prevailing value" under this chapter for oil is the arithmetic average of the total acquisition cost for the four reference crude oils delivered CIF at the gate of the refinery to which the taxpayer's oil is ultimately delivered. The four reference crude oils are Iranian Heavy, Arabian Light, Arabian Medium, and Mexican Isthmus, and the total acquisition cost of each of them is the sum of

(1) the state sales price for the reference crude oil with adjustments for differentials and surcharges appearing in the latest Platt's Oilgram Price listing published on or before the date of delivery of the taxpayer's oil at the sales delivery point; and

(2) the transportation charges for the reference crude oil from its point of shipment to the gate of the refinery to which the taxpayer's oil is ultimately delivered as computed by multiplying the London Tanker Brokers' average freight rate assessment ("AFRA") applicable to the date of delivery of the taxpayer's oil at the sales delivery point for AFRA II vessels (long-range II oil tankers) by the most recently published Worldscale rate for the voyage, plus any canal tolls and expenses not included in the AFRA.

(d) Prevailing value for gas is

(1) the volume-weighted average of the prices received by the taxpayer in arm's-length sales transactions which have been entered into or whose pricing provisions have been amended during the tax year or the two preceeding years for significant quantities at the sales delivery points within the same market for that production for Alaskan gas of like kind, character and quality produced during the month; or

(2) if the taxpayer makes no arm's-length sales of significant quantities at the sales delivery points within the same market for Alaskan gas of like kind, character and quality produced during the month, the volume-weighted average of the prices being given and received under the terms of arm's-length sales contracts (whether between third parties or not) which have been entered into or whose pricing provisions have been amended during the tax year or the two preceeding years for significant quantities of gas from the same field as the taxpayer's gas (or if there are no such contracts for that field, the counterparts of those contracts in the nearest field to that field), with appropriate adjustments for differences (if any) in kind, character and quality between gas sold under the reference sales contracts and the taxpayer's gas.

(3) for purposes of this subsection, "same market" means

(A) a market in Alaska;

(B) a market in other states, provinces, or territories of the United States or Canada; or

(C) any other market (e.g. Asia).

(e) For purposes of this chapter, "sales delivery point" means

(1) for a taxpayer's oil and gas sold in a bona fide, arm's-length sale to a third party, the point of delivery under the terms of the contract or agreement for that sale, except in the case of a sale to which (h) of this section applies;

(2) for a taxpayer's oil not sold in a bona fide, arm's-length sale to a third party, the gate of the refinery to which that oil is ultimately transported; and

(3) for a taxpayer's gas not sold in a bona fide, arm's-length sale to a third party, the point of delivery under the terms of the sales contract being used as the reference for the sales price of the taxpayer's gas under (d)(3) of this section.

(f) For purposes of this chapter, "point of production" means

(1) for oil, the automatic custody transfer meter of unit through which the oil enters into the facilities of a carrier pipeline or other transportation carrier, and in the absence of an automatic custody transfer meter or unit, the "point of production" for oil is the outlet flange of the tank gauge (or in the absence of a tank gauge, another mechanism or device to measure the quantity of oil that has been approved by the department for this purpose) through which the oil is tendered and accepted into the facilities of a carrier pipeline or other transportation carrier;

(2) for gas, the meter on, or nearest (measured along the course taken by the gas) to, the lease or property from which the gas is recovered, at which meter the sales stream of gas is measured with sufficient accuracy and at appropriate temperature, pressure and other condition for purposes of sale, regardless of whether a particular gas in question is actually sold at that meter.

(g) Notwithstanding anything to the contrary in (a) - (f) of this section, where a taxpayer's gas from a lease or property is run through a gas processing plant and part or all of the residue gas and extracted liquids are returned to that taxpayer, the "value at the point of production" for that gas is the total value of that residue gas and extracted liquids they come out of the plant, less (1) a reasonable allowance (either withheld in kind by the plant operator or paid in cash to the plant operator) for the cost of processing that gas through the plant, (2) the reasonable cost of transportation, if any, from the point of production for that gas to the intake into the plant, and (3) the value of any residue gas returned to the taxpayer that is used, flared or unavoidably lost in the production operations for the lease or property or is injected into a reservoir in the course of operations for the same field.

(h) If a taxpayer sells its oil or gas to a third party in what would otherwise be a bona fide, arm's-length sale but at the time of this particular sale the taxpayer expects to repurchase that oil or gas at a subsequent time and place, then that sale to the third party and the repurchase from the third party, when it occurs, must be disregarded and the oil or gas subject to that sale must be regarded as if it had remained the taxpayer's own oil or gas throughout the time between that sale and

repurchase. In determining the value at the point of production in such a case, the reasonable cost of transportation between the point of sale for that sale and the point of repurchase must be determined as if the taxpayer were the shipper for purposes of § 130 of this chapter. This subsection does not apply if the taxpayer's expected repurchase does not in fact occur.

Authority: AS 43.05.080
AS 43.19.010 (Art. IV, § 18)
AS 43.21.020
AS 43.21.090
AS 43.21.120

15 AAC 12.130 REASONABLE COSTS OF TRANSPORTATION. (a) Reasonable costs of transportation are to be calculated from the point of production to the sales delivery point.

(b) Except as provided in (c) of this section, the reasonable cost of transportation is the actual cost of transportation.

(c) The reasonable cost of transportation is the fair market value when all of the following conditions exist:

(1) the parties to the transportation of oil or gas are affiliated;

(2) the contract for the transportation of oil or gas is not an arm's-length transaction or is not representative of the market value of the transportation; and

(3) the method of transportation of oil or gas is not reasonable in view of existing alternative methods of transportation.

(d) "Actual costs" of transportation for purposes of this section are:

(1) when the transportation of oil or gas is by a regulated carrier, the tariff on file with FERC or other regulatory agency having jurisdiction that is applicable to that transportation of the oil or gas by the carrier, from the point where that oil or gas is tendered into the facilities of the carrier to the point where it is delivered from the facilities of the carrier;

(2) when transportation of oil is by a tanker or other vessel that is not owned or effectively owned by the taxpayer

(A) for a single voyage charter, the charter fee for that vessel, plus any voyage and port costs not included in that fee which are incurred with respect to that transportation during the term of the charter and which are borne by the taxpayer plus the positioning cost, if any, borne by the taxpayer for that vessel;

(B) for a consecutive voyage charter or a time charter, the charter fee for that vessel, plus any voyage and port costs not included in that fee which are incurred with respect to that transportation during the term of the charter and which are borne by the taxpayer, plus the positioning cost (amortized over the lesser of 36 months or the term of the charter in the case of a time charter, and amortized on the basis of the number of voyages in the case of a consecutive voyage charter), if any, borne by the taxpayer for that vessel; or

(C) for a contract of affreightment, the affreightment fee specified in that contract, plus any voyage and port costs and any positioning costs not included in that fee which are incurred with respect to that transportation during the term of the contract of affreightment and which are borne by the taxpayer.

(3) when transportation of oil is by a tanker or other vessel that is owned or effectively owned by the taxpayer, the taxpayer's actual cost for that transportation which is the sum of:

(A) the voyage and port costs incurred with respect to that transportation;

(B) the positioning cost, amortized over 36 months, for that vessel but only for placing that vessel into position before its employment in the Alaska trade and not for placing it into position after its employment in the Alaska trade for employment in another trade;

(C) depreciation of the vessel; if the vessel is actually owned by the taxpayer, depreciation must be calculated in accordance with the applicable FASB Financial Accounting Standards for such owned assets; if the vessel is effectively owned by the taxpayer, depreciation must be calculated in accordance with FASB-13 from the standpoint of a lessee under a capital lease; and

(D) an amount, which when added to the amount of depreciation allowed under (C) of this subsection, will provide a reasonable return on the acquisition cost of the vessel over its expected life; for purposes of this subsection,

(i) "acquisition costs" means the cost of the vessel which may be capitalized by its actual owner under generally accepted accounting principles, but not including costs of improvements made after the date the vessel is placed in service by or on behalf of the taxpayer; and

(ii) "expected life" means the period of time used to calculate depreciation under (C) of this subsection.

(4) in the case of transportation of gas as LNG,

(A) where not all of the LNG transportation facilities are subject to tariff regulations (by FERC or other agencies of the United States, state or territory or a possession of the United States or a foreign nation) and when the taxpayer does not have or effectively have any ownership interest in the LNG transportation facility, the amount charged to the taxpayer for that LNG transportation;

(B) when the taxpayer has or effectively has an ownership interest in the LNG transportation facility, the taxpayer's actual cost for that transportation equalling the sum of:

(i) the direct operating costs of the LNG transportation facility (in the case of an LNG tanker, its respective voyage and port costs) incurred with respect to the taxpayer's gas;

(ii) depreciation of the LNG transportation facility; if the facility is actually owned by the taxpayer, depreciation must be calculated in accordance with the applicable FASB Financial Accounting Standards for the owner of such assets; if the LNG transportation facility is effectively owned by the taxpayer, depreciation must be calculated in accordance with FASB-13 from the standpoint of a lessee under a capital lease; and

(iii) an amount which, when added to the amount of depreciation allowed under (ii) of this subparagraph, will provide a reasonable return on the acquisition cost of the LNG transportation facility over its expected life; for purposes of this subparagraph, "acquisition cost" means the cost of the LNG transportation facility which may be capitalized by its actual owner under generally accepted accounting principles, and "expected life" means the period of time used to calculate depreciation under (ii) of this subparagraph.

(e) "Fair market value" of transportation for purposes of this section is to be determined:

(1) for shipments of oil, on the basis of third party charters (that is, time charters in which the taxpayer does not own or effectively own the vessel) of one year or more, plus regulated transportation costs determined under (d)(1) of this section. Two vessels will be considered like vessels for purposes of comparing like transportation under this chapter if the difference between them in dead-weight tonnage is less than 10,000 dead-weight tons and if they are both Jones Act vessels, or are both CDS vessels, or are both ODS vessels or are both COS/ODS vessels; or

(2) for shipments of gas as LNG, on the basis of third party charters or leases (that is, charters or leases in which the taxpayer does not own or effectively own the LNG transportation facility in question) of three years or more which are reported to the Department for like LNG transportation facilities, plus regulated transportation costs determined under (d)(1) of this section.

(f) If a taxpayer sells its oil or gas to a third party in what would otherwise be a bona fide, arm's-length sale but at the time of this particular sale the taxpayer expects to repurchase that oil or gas at a subsequent time and place, then that sale to the third party and the repurchase from the third party, when it occurs, must be disregarded and the oil or gas subject to that sale must be regarded as if it had remained the taxpayer's own oil or gas throughout the time between that sale and repurchase. In determining the value at the point of production in such a case, the reasonable cost of transportation between the point of sale for that sale and the point of repurchase must be determined as if the taxpayer were the shipper. This subsection does not apply if the taxpayer's expected repurchase does not in fact occur.

(g) For purposes of this chapter, "voyage and port costs" for a vessel are

(1) costs actually incurred for fuel for the vessel while in port and at sea, stores and provisions for the vessel and for her captain and crew, wages and benefits of the vessel's captain and crew, routine maintenance, port and dock fees, storage costs, demurrage, tug and pilotage fees, marine agents' fees in port, lightering, transshipment charges, customs fees and duties, regular and customary gratuities that are also legal, insurance premiums actually paid, minor cargo losses or measuring

differentials, loading and unloading inspection fees, Panama Canal transit fees, a reasonable management fee (to be prorated equally among vessels) for coordinating arrivals and departures into and out of ports for vessels owned, effectively owned or chartered by the shipper, and other reasonable costs associated with the operation or maintenance (or both) of the vessel, and

(2) in addition to the costs listed in (1) of this subsection, in the case of catastrophic loss or damage of a vessel transporting oil or LNG from Alaska or enroute to Alaska to take on oil or LNG, a portion of the loss (for loss or damage of the ship, for injury or less of her captain or crew and for damage and clean-up due to spillage of part or all of her cargo, but not for the loss of the cargo itself) which is borne by the shipper as the result of that catastrophic loss or damage and which is not reimbursed by insurance or by a third party; this portion of the loss is determined by dividing the unreimbursed liability on the basis of dead-weight tonnage among the vessels owned, effectively owned or chartered by the shipper to transport oil or LNG (whichever was lost) from Alaska.

(h) A taxpayer "effectively owns", has "effective ownership" or "effectively has an ownership interest" in a vessel or LNG transportation facility for purposes of this section, if:

(1) the vessel or LNG transportation facility is owned by another person comprising part of a consolidated business in which the taxpayer is also a part; or

(2) the vessel or LNG transportation facility is the subject of a capital lease in which the taxpayer or another person comprising part of a consolidated business in which the taxpayer is also a part, is the lessee; or

(3) the vessel or LNG transportation facility was built to the account of the taxpayer (or another person comprising part of the consolidated business in which the taxpayer is also a part), was sold and was chartered back by the taxpayer (or another person comprising part of the consolidated business in which the taxpayer is also a part) all in a simultaneous transaction and the vessel or LNG transportation facility is on a term charter or lease to the taxpayer (or another person comprising part of the consolidated business in which the taxpayer is also a part) for a period of 15 years or longer.

(i) For purposes of this chapter, the "positioning cost" for a vessel includes the costs not included in the charter for that vessel which are borne by the shipper for placing that vessel into position before the first voyage under that charter or the estimated costs to be borne by the shipper for delivering it up at a specified location after the last voyage under that charter, or both if the shipper is obligated under the terms of the charter or contract of affreightment to bear them both.

(j) A reasonable rate of return under (d)(3)(D) or (d)(4)(B) of this section is presumed to be that internal rate of return (after federal income tax) on an investment which equals 2 percent plus the average annual national inflation rate (measured by the GNP deflator) during (1) the period between the time the commitment is made to construct or acquire the vessel or LNG transportation facility and the time when the vessel or LNG transportation facility has been received (or delivered) and is ready to be placed into service, or (2) if the period in (1) of the subsection falls entirely within a calendar year, that entire calendar year. At the request of a taxpayer or on its own motion, the department may replace this presumed rate of return with one based on the rate of return imputed to that investment or similar ones by the person owning or effectively owning the vessel or LNG transportation facility.

(k) The third party nature of an agreement between a shipper and a third-party carrier regarding transportation costs is not affected during the term of that agreement by a subsequent consolidation of that shipper and carrier into a consolidated business, if, at the time they entered that agreement neither the shipper nor the carrier exercised, directly or indirectly, any control over the business affairs of the other as the result of, or in anticipation of, their subsequent consolidation into the same consolidated business.

Authority: AS 43.05.080
AS 43.19.010 (Art. IV, S 18)
AS 43.21.020
AS 43.21.090

15 AAC 12.200 DEDUCTIONS FROM GROSS PRODUCTION REVENUE--IN GENERAL.
(a) Unless otherwise specified, a taxpayer's costs giving rise to a deduction under SS 210-290 of this chapter are regarded as being incurred on a cash basis or on an accrual basis, depending on which basis is used for purposes of the taxpayer's financial accounting. "Actually paid" or "actual payment" as used in SS 210-290 shall refer to costs which must be incurred on a cash basis.

(b) Costs previously claimed and actually deducted on one or more of a taxpayer's returns filed under AS 43.20 and ch. 5 of this title must be excluded from the costs to be used in calculating a deduction under §§ 210-290 of this chapter.

(c) When a taxpayer incurs costs giving rise to a deduction under §§ 210-290 of this chapter and part or all of those costs are reimbursable to the taxpayer from one or more third parties, only the unreimbursed portion of those costs of the taxpayer may be used in calculating that deduction.

Authority: AS 43.05.080
AS 43.19.010 (Art. IV, § 18)
AS 43.21.020
AS 43.21.090

15 AAC 12.220 DEDUCTION FOR PRODUCTION TAXES. Taxes imposed under AS 43.55 and AS 43.57 for production from (or allocated to) a lease or property which are actually paid by, or on behalf of, a taxpayer during a year constitute a deduction in determining the taxpayer's taxable production income for that year. The amount of tax paid under AS 43.55 includes EDIC applied under AS 43.55.018 against that tax.

Authority: AS 43.05.080
AS 43.19.010 (Art. IV, § 18)
AS 43.21.020
AS 43.21.090

15 AAC 12.230 DEDUCTION FOR AD VALOREM TAXES. The amount of tax under AS 43.56 actually paid during a year to the state (net of credits or refunds made that year for municipal ad valorem taxes on the same properties) and the total amount actually paid that year for municipal and ad valorem taxes under AS 29.53.045-.055, for a taxpayer's properties used directly in the production, gathering, treatment or preparation for pipeline shipment of oil and gas from a lease or property that is in commercial production before those actual payments to the state or municipality are made, constitute a deduction in determining the taxpayer's taxable production income for that year.

Authority: AS 43.05.080
AS 43.19.010 (Art. IV, § 18)
AS 43.21.020
AS 43.21.090

15 AAC 12.240 DEDUCTION FOR DIRECT OPERATING COSTS. (a) The direct operating costs during a year that are incurred by or for a taxpayer for a lease or property in the state are a deduction in determining the taxpayer's taxable production income for that year.

(b) Before the commencement of commercial production from (or allocated to) a lease or property, the direct operating costs for that lease or property are:

(1) the costs for geological and geophysical work conducted on the lease or property after the taxpayer has acquired a working interest in the lease or property;

(2) rentals and shut-in royalties paid in order to retain the lease or property;

(3) drilling costs for wells bottomed on the lease or property; and

(4) the costs for operations conducted on or near the lease or property in support of drilling and/or development operations for the lease or property, but excluding the actual development costs themselves; however, if the lease or property is subject to an operating agreement in which at lease one working-interest owner is a third party to the operator, the direct operating costs for that lease or property and the costs (excluding development costs but including drilling costs) that are incurred by the operator in operating that lease or property and which are reimbursable to the operator by the working-interest owners, under the terms of that operating agreement.

(c) After the commencement of commercial production from (or allocated to) a lease or property, the direct operating costs for that lease or property are:

(1) the costs of operating the facilities and equipment on or for the lease or property which directly result in or are necessary for the continued or enhanced production from (or allocated to) the lease or property;

(2) the costs of drilling and/or operating wells bottomed on the lease or property; and

(3) the costs of operations conducted on or near the lease or property in support of drilling and/or development operations for the lease or property but excluding the actual development costs themselves; however, if the lease or property is subject to an operating agreement in which at lease one working-interest owner is a third party to the operator, then the

direct operating costs for that lease or property are the costs (excluding development costs but including drilling costs) that are incurred by the operator in operating that lease or property and which are reimbursable to the operator by the working-interest owners, under the terms of that operating agreement.

(d) No cost for the taxpayer's general overhead or administrative expense and no cost that is to be amortized or depreciated under §§ 250-260 of this chapter may be included in this section.

Authority: AS 43.05.080
AS 43.19.010 (Art. IV, § 18)
AS 43.21.020
AS 43.21.090

15 AAC 12.250 DEDUCTION FOR ACQUISITION COSTS. (a) A taxpayer's acquisition costs for a lease or property in the state that has never had commercial production from (or allocated to) it from any zone are deferred for purposes of this chapter until either there is commercial production from (or allocated to) it or until the lease or property is abandoned without ever having had commercial production from (or allocated to) it.

expense bonus on non-prod

(b) If a lease or property is abandoned, then the taxpayer's unamortized acquisition costs for that lease or property are a deduction in determining the taxpayer's taxable production income for the year in which the lease or property is abandoned. If only part of the lease or property is thus abandoned, the unamortized acquisition costs for that lease or property must be apportioned to that abandoned portion on the basis of acreage.

(c) A taxpayer's acquisition costs for a lease or property having commercial production from (or allocated to) it during a year must be amortized, and the amount of amortization that year for those acquisition costs is a deduction in determining the taxpayer's taxable production income for the year. Except for cases when (d) of this section applies, the amount of amortization in a year for a lease or property equals the taxpayer's unamortized acquisition costs as of the beginning of that year, multiplied by the ratio of the Btu-equivalents of the production from (or allocated to) that lease or property during the year, to the total number of the Btu-equivalents represented by the remaining proved reserves (both developed and undeveloped) of that lease or property as of the beginning of the year.

(d) During a year it may happen that a taxpayer transfers part or all of its production interest in a commercially producing lease or property to one or more third parties or receives part or all of a production interest in a lease or property as the result of a transfer from one or more third parties. In such a case, the taxpayer receiving the production interest and the taxpayer transferring the production interest shall each calculate its respective amortization of acquisition costs for that portion of the year preceeding the transfer separately from its amortization of acquisition costs for that portion of the year following the transfer; and the sum of each taxpayer's respective amortization of acquisition costs for those two portions of the year will be a deduction in determining that taxpayer's taxable production income for that year. In calculating amortization for the portion of the year preceeding the date of the transfer, the taxpayer shall use the procedure prescribed in (c) of this section, except that the ratio of the Btu-equivalents of production may include only the taxpayer's production from (or allocated to) the lease or property for the portion of the year preceeding the date of the production-interest transfer. For that portion of the year following the transfer, the amount of amortization equals the taxpayer's unamortized acquisition costs as of the time immediately following the production-interest transfer, multiplied by the ratio of Btu-equivalents of the taxpayer's production from (or allocated to) the lease or property for the portion of the year on and after the date of the transfer to the total number of Btu-equivalents represented by the taxpayer's remaining proved reserves (both developed and undeveloped) of the lease or property as of the time immediately following the production-interest transfer.

(e) The amount of the taxpayer's unamortized acquisition costs for a lease or property as of a particular date equals the taxpayer's acquisition costs for its original production interest in the lease or property, plus the unamortized acquisition costs for each production interest in the lease or property transferred to the taxpayer on or before that date, and minus the sum of

(1) the unamortized acquisition costs for each production interest in the lease or property transferred from the taxpayer on or before that date;

(2) the cumulative amount (as of that date) of the taxpayer's acquisition costs for the lease or property that has been allowed under this section for amortization or abandonment; and

(3) the taxpayer's standardized prior-tax amortization for the lease or property under § 630 of this chapter.

(f) A taxpayer amortizing its acquisition costs for a lease or property for financial accounting purposes on a basis other than a variant of unit-of-production amortization may apply to the department for authorization to use that other basis for purposes of calculating the deduction under this section. Upon a satisfactory showing that the taxpayer does use another basis for amortizing its acquisition costs for financial accounting purposes, the department may grant the requested authorization to the taxpayer. Until that authorization is granted in writing, the taxpayer shall follow the method prescribed in this section to amortize its acquisition costs for leases or properties in the state.

(g) The amount of a taxpayer's acquisition costs for a lease or property equals the taxpayer's net payments for

(1) cash bonus or comparable advance payment to acquire the lease or property;

(2) tax paid under AS 43.56 to the state (net of all credits and refunds for municipal ad valorem taxes on the same property) for property used on or for the lease or property after its acquisition and before the completion of the discovery well for the field that includes the lease or property and ad valorem and other taxes paid to one or more municipalities under AS 29.53 that were incurred for property or operations on or for the lease or property after its acquisition and before the completion of that discovery well;

(3) that portion of the full consideration given by the taxpayer in acquiring a production interest in the lease or property which is properly attributable to the acquisition of the lease or property (as opposed to the wells, facilities and equipment on or in support of the lease or property which directly result in or are necessary for continued or enhanced production from (or allocated to) the lease or property);

(4) interest on capital borrowed from one or more third parties for any of the expenditures described in (1) - (3) of this subsection that was capitalized for purposes of the taxpayer's financial accounting; however, interest so capitalized may be recognized for purposes of this chapter at a rate not to exceed the composite cost of the taxpayer's borrowed capital from third parties as reflected in the taxpayer's financial accounting for the year in which the interest is capitalized.

Authority: AS 43.05.080
AS 43.19.010 (Art. IV, § 18)
AS 43.21.020
AS 43.21.090

15 AAC 12.260 DEDUCTION FOR DEVELOPMENT COSTS. (a) A taxpayer's development costs for a lease or property in the state that has never had commercial production from (or allocated to) it from any zone are deferred for purposes of this chapter until either there is production from (or allocated to) it or until the lease or property is abandoned without ever having had commercial production from (or allocated to) it.

(b) If a lease or property is abandoned without ever having had commercial production from (or allocated to) it, then the taxpayer's undepreciated development costs for that lease or property are a deduction in determining that taxpayer's taxable production income for the year in which the lease or property is abandoned.

(c) Except for development costs to which (d) or (e) of this section applies, a taxpayer's development costs for a lease or property having commercial production (or allocated to) it during a year must be depreciated, and the amount of depreciation that year for those development costs is a deduction in determining the taxpayer's taxable production income for the year. The amount of depreciation in a year for a lease or property equals

(1) the average between the taxpayer's undepreciated development costs for the lease or property as of the beginning of the year and those costs as of the end of the year multiplied by

(2) the ratio of the Btu-equivalents of the production from (or allocated to) that lease or property during the year, to the total number of the Btu-equivalents represented by the remaining proved developed reserves for that lease or property as of the beginning of that year.

(d) A taxpayer's undepreciated development costs for facilities or equipment for the lease or property which are removed during the year are excluded from the development costs that are to be depreciated that year under (c) of this section for that lease or property. Instead, the undepreciated development costs for those wells, facilities or equipment as of the beginning of the year, offset by their salvage value (if any), are a deduction in determining the taxpayer's taxable production income for the year in which they are removed.

(e) During a year it may happen that a taxpayer transfers part or all of its production interest in a commercially producing lease or property to one or more third parties or receives part or all of a producing interest in a lease or property as the result of a transfer from one or more third parties. In such a case, the taxpayer receiving the production

interest and the taxpayer transferring the production interest shall each calculate its respective depreciation of development costs for that portion of the year preceeding the transfer separately from its depreciation of development costs for that portion of the year following the transfer; and the sum of each taxpayer's respective depreciation of development costs for those two portions of the year will be a deduction in determining that taxpayer's taxable production income for that year. In calculating depreciation for the portion of the year preceeding the date of the transfer, the taxpayer shall use the procedure prescribed in (c) of this section, except that the ratio of the Btu-equivalents of production may include only the taxpayer's production from (or allocated to) the lease or property for the portion of the year preceeding the date of the production-interest transfer. For that portion of the year following the transfer, the amount of depreciation equals the average of the taxpayer's undepreciated development costs as of the time immediately following the production-interest transfer and as of the end of the year, multiplied by the ratio of Btu-equivalents of the taxpayer's production from (or allocated to) the lease or property for the portion of the year on and after the date of the transfer to the total number of Btu-equivalents represented by the taxpayer's remaining proved developed reserves of the lease or property as of the time immediately following the production-interest transfer.

(f) The amount of a taxpayer's undepreciated development costs for a lease or property as of a particular date equals the taxpayer's development costs as of that date for the wells, facilities and equipment or that lease or property that are then in place, minus the sum of

(1) the cumulative amount (as of that date) allowed under this chapter for depreciation of the taxpayer's development costs for the lease or property; and

(2) the taxpayer's standardized prior-tax depreciation for the lease or property under § 630 of this chapter.

(g) A taxpayer depreciating its development costs for a lease or property for financial accounting purposes on a basis other than a variant of unit-of-production depreciation may apply to the department for authorization to use that other basis for purposes of calculating the deduction under this section. Upon a satisfactory showing that the taxpayer does use another basis for depreciating its development costs for financial accounting purposes, the department may grant the requested authorization to the taxpayer. Until that authorization is granted in writing, the taxpayer shall follow the method prescribed in this section to depreciate its development costs for leases or properties in the state for purposes of this chapter.

(h) The amount of a taxpayer's development costs for a lease or property equals the taxpayer's net payments for

(1) developments costs for facilities and equipment on or in support of the lease or property that directly result in or are necessary for continued or enhanced production from (or allocated to) the lease or property;

(2) tax paid under AS 43.56 to the state (net of all credits and refunds for municipal ad valorem taxes on the same property) for property and ad valorem and other taxes paid to one or more municipalities under AS 29.53 that were incurred directly as the result of, and in the course of, the installation or operation of the property described in (1) of this subsection;

(3) that portion of the full consideration given by the taxpayer in acquiring a production interest in the lease or property, which is properly attributable to the wells, facilities and equipment on or in support of the lease or property which directly result in or are necessary for continued or enhanced production from (or allocated to) the lease or property (as opposed to the consideration given for the lease or property itself);

(4) interest on capital borrowed from one or more third parties for any of the expenditures described in (1) - (3) of this subsection that was capitalized for purposes of the taxpayer's financial accounting; however, interest so capitalized may be recognized for purposes of this chapter at a rate not to exceed the composite cost of the taxpayer's borrowed capital from third parties as reflected in the taxpayer's financial accounting for the year in which the interest is capitalized.

Authority: AS 43.05.080
AS 43.19.010 (Art. IV, § 18)
AS 43.21.020
AS 43.21.090

15 AAC 12.320 EXTRAORDINARY OPERATING REVENUES AND LOSSES (OIL PIPELINES).
(c) The costs of permanently terminating operations and/or removing part or all of the facilities and equipment of a pipeline result in extraordinary operating losses for that pipeline. The amount of these extraordinary operating losses in a year, equals

(1) the amount of the unreimbursed termination and removal costs for that pipeline as may be allowed by FERC or other peremptory authority in a year prior to actual termination and removal according to specified factors and amounts in calculating net carrier operating income; or

(2) the unreimbursed termination and removal costs for the pireline that are actually incurred that year, offset by the salvage value (if any) of the removed facilities and equipment and offset to the extent of any amounts allowed to be taken prior to actual termination and removal under this section and taken by the taxpayer.

If unreimbursed termination and removal costs for a pipeline are taken as a deduction and those costs are not actually expended or deduction of those amounts is disallowed by FERC or other peremptory authorities, then the amount so claimed must be recaptured as extraordinary operating revenue.

Authority: AS 43.05.080
AS 43.19.010 (Art. IV, S 18)
AS 43.21.020
AS 43.21.090

15 AAC 12.510 APPORTIONABLE INCOME. (a) A taxpayer's apportionable income for a year equals

(1) the net income worldwide of the consolidated business of which the taxpayer is a part, as determined and certified by an independent certified public accountant (or, as appropriate, the foreign counterpart of a certified public accountant, such as a chartered accountant) for purposes of reporting that year's earnings and profits to the stockholders; minus either

(2) the sum (if greater than zero) of

(A) the taxpayer's taxable production income that year under S 100 of this chapter;

(B) the taxpayer's taxable oil pipeline income that year under S 300 of this chapter; and

(C) the taxpayer's taxable gas pipeline income that year under S 400 of this chapter; or

(3) zero, if the sum in paragraph (2) of this section is less than or equal to zero.

(b) "Net income" as used in this section must be calculated without regard to any taxes on or measured by net income, and the amount of those taxes may not be reduced by any credits or carry-forward deductions incurred or available prior to January 1, 1978.

Authority: AS 43.05.080
AS 43.19.010 (Art. IV, S 18)
AS 43.21.040
AS 43.21.090

15 AAC 12.710 (f) A payment of less than $50,000 may be made by check in the manner prescribed in (1) of this paragraph or may be made by wire transfer in the manner prescribed in (2) of this paragraph. A payment of $50,000 or more must be made by wire transfer in the manner prescribed in (2) of this paragraph.

(1) A payment by check must be made by mailing the check, together with a copy of only the summary page (or pages) of the tax report, to the following address or other address as the commissioner may designate: Cashier, Department of Revenue, State of Alaska, Pouch SA, Juneau, Alaska 99811. A payment made by check or a return not requiring a payment will be considered timely if it is postmarked on or before the date or day of the month in which it is due.

(2) A payment by direct wire transfer must be made through the commercial banking system in accordance with the following procedures:

(A) As early as practicable and in no event later than 9:00 a.m. of the morning of the day when the wire transfer is to be made, the taxpayer shall notify the Alaska State Treasury by Telex (at Telex number 09045333) of the amount of the taxpayer's payment;

(B) the taxpayer shall obtain sufficient collected funds to cover the payment and shall instruct the commercial bank holding those funds to initiate the transfer of federal funds (in the amount of the payment) through the Federal Reserve wire transfer system to the credit of the State of Alaska Investment Account at the following address:

Bank of America, NT & SA
San Francisco, California
Securities Department #3755
Acct: State of Alaska Investment Account;

(C) the taxpayer shall make the payment in one lump sum from one bank;

(D) a payment made by wire transfer will be considered timely if the taxpayer's commercial bank has initiated the transfer of federal funds through the Federal Reserve wire transfer system on or before the last banking day of the month in which the payment is due, or on or before the last banking day prior to the date due, if the date due is not a banking day.

(3) "Payment" as used in this section, means the total amount due or estimated to be due by the taxpayer and arising under any provision of AS 43.21, including taxes, interest and penalty.

Authority: AS 43.05.080
AS 43.05.280
AS 43.21.070
AS 43.21.090

STATE
of ALASKA

MEMORANDUM

TO: Thomas K. Williams, Commissioner
Department of Revenue

DATE: February 29, 1980

FILE NO

TELEPHONE NO

FROM: Robert M. Johnson, Director
Petroleum Revenue Division

SUBJECT: Narrative for Fiscal Note to SB 474 (AS 43.21)

Proposed SB 474 incorporates a number of very substantial amendments to AS 43.21 as well as technical ones considered by the Department of Revenue. The bill would decrease AS 43.21 tax receipts by approximately $307.36 million in the first year (calendar year 1980) from an anticipated collection of $525 million during the same period.

Section 3 avoids a constitutional issue by amending AS 43.21.010 which presently provides that the tax applies to income derived from oil or gas from property "in or directly associated with the State." (Emphasis added.) The amendment would delete the emphasized words and clarify the fact that the tax is not designed to impose liability on a corporation whose only business is on the Outer Continental Shelf and not in Alaska. The proposal does not preclude some taxation of OCS operations, because income from OCS operations would be taxed as apportionable "other" income to the extent allowed in AS 43.21.040. The proposed amendment would, through clarification of the scope of the tax, strengthen the State's position in the income tax lawsuit (ARCO v State) without backing away from the contention that OCS operations may comprise a portion of apportionable income.

Sections 3 and 4 reduce the tax rate under AS 43.21 from 9.4 percent to 7.4 percent--that is, a decrease of 21 percent. The receipts would thus decline by about $110-130,000,000 in calendar year 1980 and more thereafter, if AS 43.21 were to remain identical to the existing law in all other respects. If, however, all the other amendments of this bill were adopted, a revenue decrease of $57.86 million would be attributable to the 21 percent change alone.

Section 5 would provide for distribution of at least 10 percent of the receipts under AS 43.21 to municipalities. Assuming a tax rate of 7.4 percent as proposed (but not assuming passage of other SB 474 measures increasing deductions), the amount subject to distribution in calendar year 1980 would be about $40 million and more thereafter. Assuming that this amount results in a reduction in local property taxes (as "intended" in proposed AS 43.21.016(d)), municipalities would levy less tax on petroleum property taxable by the State under AS 43.56. As less tax is collected on petroleum property by municipalities, the State receipts under AS 43.56 would increase by about $3.8 million, assuming a distribution of about $40 million to municipalities.

Section 6 would effectively eliminate the use of actual prices or prevailing value in ascertaining the sales price of oil or gas and the use of actual transportation costs in deriving the gross value at point of production. The gross value at point of production would be reduced, especially as at least the price of oil is exempted from Federal ceiling prices. The decreased value could arise if (a) a booked value, even under generally accepted accounting principles, is lower than an actual sales price between third parties or the prevailing value of oil or gas, and (b) the fair market value of transportation is higher than the actual value of transportation. While a general trend, based on experience so far, would be toward a lower booked price and a higher FMV for transportation, the specifics must analyzed on a case-by-case basis. Nevertheless, a reduction in value could be substantial and a loss of taxes in the range of $17 million for 1980 could be experienced.

Section 7 increases the deductions presently allowed under AS 43.21.020(c) in deriving production income.

First, section 7 amends (c)(2) to allow taxes paid or incurred as "windfall profits taxes" to the federal government as an additional deduction. The tax effect of this would be approximately $47 million in the first year and considerably more over time as the decontrolled price of oil escalates with general inflation and worldwide conditions. In making this estimate, I am assuming a Federal tax of 70 percent on the difference between a $13 base and a receipted price of $14.50 (less severance taxes).

Second, the bill amends (c)(3) and (c)(6) to provide that property taxes incurred, but not actually paid, may be deducted. This accrual-basis accounting would probably not decrease present receipts, but could do so if credits became available to shelter actual payments.

Third, the bill amends (c)(4) to allow drilling costs (including intangible drilling costs) to be expensed rather than capitalized and depreciated. This deferral of tax obligations would result in a first year decrease of tax receipts in the amount of about $72 million, assuming that only drilling costs incurred after the date of this bill can be expensed. If, however, the bill were read to allow the expensing of the undepreciated portion of previously capitalized drilling costs (an argument not favored by this Department), the deferred tax obligations for the first year could result in a much greater tax deferral. A taxpayer's level of drilling activity would of course dictate the amount of the deduction in a given year.

Fourth, the bill amends (c)(5) to permit those methods of depreciation referred to in rules based on the Internal Revenue Code to be used rather than the unit of production method or other methods devised by the Department of Revenue. The amount of additional taxes deferred by using an expanded variety of depreciation methods could decrease revenue receipts for the first year by $25 million if a taxpayer may switch to an accelerated depreciation method for existing capitalized costs being currently depreciated on the unit of production method, and if pre-1980 drilling costs are not expensed.

Fifth, the bill amends (c)(7) by clarifying which interest expense must be capitalized and which interest expense may be currently expensed and deducted in determining production income. The present provision allows all interest to be directly expensed unless it is required to be capitalized. However, recent accounting standards require that practically all interest expenses be capitalized as part of the cost of major capital improvements, and so forth. Thus, very little interest is left to directly expense under the existing statute. This amendment would also allow the Department, as necessary, to adjust or set aside interest expense from intracompany transactions, if those transactions are spurious. There would be a relatively small increase in taxes deferred, but that situation could change as major development increases.

Sixth, the amendments to the bill amend (c)(9) would drop the ceiling on general overhead on administrative expenses. The absence of the ceiling would allow additional deductions with a tax effect of $3.5 million to be taken currently.

Seventh, the bill would add a new deduction--an amortized portion of the anticipated costs of removing production facilities. A similar allowance is presently allowed by law as a deduction in deriving pipeline income. The amount of tax so deferred in the first year would be $2 million.

Section 8 of the bill would allow accelerated depreciation (under methods referred to in rules based on the IRC) in the calculation of pipeline income. Currently, the law permits only that type of depreciation to be taken which is allowed by FERC--and FERC allows only straight-line depreciation to be used. Taxes in the amount of approximately $36 million per year could thus be deferred in the first year. The accelerated depreciation would, of course, primarily benefit new capital improvements (i.e., the Natural Gas Pipeline, when constructed).

Section 9 of the bill proposes several amendments to the calculation of apportionable "other" income taxed under AS 43.21.040. These amendments would reduce tax receipts by about $5 million a year.

First, the bill would delete OCS operations from taxation as apportionable "other" income.

Second, the change in 40(b) would modify the "pie" of worldwide income from which Alaska takes a "slice" under apportionment. The new "pie" would exclude net worldwide production and pipeline incor , since similar income directly attributable to Alaskan acti ity is identified in sections 20 and 30 of the Act.

Third, a new subsection would be added. That amendment would modify the formula used to determine the size of Alaska's "slice" of the worldwide "pie" by eliminating all marine transportation (tankers) from the property factor used in ascertaining apportionable "other" income.

Section 10 of the bill would modify the definition of "consolidated business." The change would avoid lumping, for example, ARCO together with Exxon simply because they might run a 50-50 joint venture in Alaska.

Finally, sections 10 and 11 provide for retroactive application to the beginning of tax year 1980 and set the effective date at July 1, 1980.

STATE OF ALASKA

MEMORANDUM

TO: Thomas K. Williams
Commissioner
Department of Revenue

DATE: February 5, 1980

FILE NO:

TELEPHONE NO:

FROM: Joseph K. Donohue JKD
Deputy Commissioner
Department of Revenue

SUBJECT: Impact of the Repeal of Individual Income Tax: Audit, Enforcement, and Administrative Services Divisions

The repeal of the individual income tax will have a very significant effect on the Audit, Administrative Services, and Enforcement Divisions. The immediate effect of a repeal will depend on the approach taken by the Legislature. There are three potential options which could be exercised. First, since there is a normal three year statute of limitations for audit purposes, the audit and enforcement functions could be funded in full for the three years following the date of the repeal of the tax. This would allow continuing audit of those returns filed prior to the repeal. Second, there could be a phaseout over three years of those functions related directly to individual income tax which would permit a declining audit and enforcement function which would be completely phased out by the end of the third year. Third, there could be an immediate cutoff of all funds effective beginning the first fiscal year after the repeal, in which there would be no continuing audit effort or enforcement effort regarding individual income tax returns.

In the following analysis where the impact is reviewed on a divisional basis, the positions being shown as eliminated are those positions which are currently working on individual income tax returns and are those which would be eliminated at the point of the final phaseout of the tax. Some of the positions could be eliminated immediately regardless which of the previous options were exercised, while others would continue on for up to three years.

AUDIT DIVISION

The major effect of a repeal would involve our various return processing units. The following table shows our currently authorized positions by unit, the number that would remain after a repeal, the number potentially eliminated by a repeal, and the total costs related to the eliminated positions.

Unit	Current Authorized Positions	Positions Remaining after Repeal	Positions that could be Eliminated	Total Cost, Eliminated Positions
Juneau Field Audit	5	4	1	$ 28,900
Juneau Taxpayer Assistance	6	1	5	105,400
Audit Files	10 PFT 1 Seas.	6 PFT 1 Seas.	4	80,500
Audit Control	3	3	-0-	-0-
Error Correction	3 PFT 4 Temp.	0	3 PFT 4 Temp.	134,350
Business Returns Proc.	6	6	-0-	-0-
Withholding/Excise	8	5	3	67,450
Taxpayer Compliance	1	-0-	1	28,950
Conference	1	1	-0-	-0-
Intelligence	3	-0-	3	123,800
Anch. Field Audit	7 PFT	6	1	28,900
Anch. Taxpayer Assistance	2 PFT 2 Seas.	1 PFT	1 PFT 2 Seas.	33,700
Fairbnks. Field Audit	2 PFT	2	-0-	--
Seattle Field Audit	7 PFT	7	-0-	--
Mgm't. & Support Staff	11 PFT	9	2	56,100
Totals	74 PFT 3 Seas. 1 Temp.	51 PFT 1 Seas.	23 PFT 2 Seas. 4 Temp.	$ 688,050

The above schedule provides for the potential reduction of staff based solely on the percentage of time that the staff currently spends working on individual income tax returns. It must be remembered that there are several tax types in which we have a very limited audit effort. The Auditors and Criminal Tax Investigators could easily be assigned to work on these other tax types. We also have been trying to obtain additional staffing to establish an effective office audit program of the various business and excise tax returns that are filed with us. We could very effectively employ four Tax Examiners and a Clerk in that function.

The table shows that the Compliance function would be eliminated based on current workload. It must be remembered that this is a new function and individual income tax is the least difficult area in which to start a function, thus providing some good experience while minimizing the complexities inherent in other tax types. This staff could easily be assigned on a full time basis the function of determining which companies have nexus with Alaska but are not filing returns with us. An additional two Tax Examiners could be assigned to compliance to work in other tax types such as fish processors, mining, or motor fuel.

We presently have no compliance effort in these areas and have reason to believe that there is a significant number of nonfilers in these areas.

Should the staff be reassigned as suggested above, these would require that we retain the Manager's position and the Clerk Typist support to manage the modified office operations program.

Finally, it would be necessary to retain several staff members to handle the remaining workload that would still exist in the area of individual income tax. As previously mentioned, the amount of staff would depend partially on the effective date of a repealer; however, we would continue to have individuals filing amended returns for prior years, requesting copies of their old returns, and seeking to obtain returned refund warrants. This workload would probably diminish the third year after repeal of the tax.

In summary, with the exception of three File Clerks, the seasonal positions and the temporary positions, it is obvious that we could very profitably use the displaced staff members to substantially enhance other aspects of our existing program that have little or no audit effort at this time.

ENFORCEMENT DIVISION

The impact of a repeal of the individual income tax would be very significant in relation to the Enforcement Division. During the past year 93% of their workload was related to the individual income tax. The present budget of $1,217,000 would be reduced to $111,950 and the positions would be reduced from 36 to 3. The following positions are the ones which would remain:

	Salary & Related Costs
1 - Revenue Enforcement Officer II	$ 55,800
1 - Tax Collection Specialist II	29,600
1 - Clerk Typist III	26,500
Total	$ 111,950

If this were to take place, there would be little logic to attempt to maintain Enforcement as an independent function. Rather, it could be merged with Audit Division and maintained as a separate unit within that division.

There is one major consideration which must not be overlooked when the repeal effect is contemplated. The repeal would not cause their workload to cease immediately. Rather, it would gradually decline over a several year period, leaving a residual workload that could be handled by the above listed staff. Therefore, the staff reduction should be planned over at least a three year period.

In analyzing what other ways these staff members could effectively be utilized, the obvious reassignment would be to the Child Support Enforcement Agency. This function, which is 75% funded by the Federal Government, collects child support due custodial parents who are not receiving AFDC and collects from the obligor (non-custodial parent) the amount due the State and Federal Governments if the mother is receiving AFDC. This agency has a total workload of in excess of 17,000 cases, the majority of which they cannot work on because of lack of staff. As the tax enforcement function is phased out, these employees could be transferred to the Child Support Enforcement Agency and generate substantial income in the form of repayments of AFDC which absent parents owe the State and Federal Governments.

ADMINISTRATIVE SERVICES DIVISION

A repeal of individual income tax would reduce the total number of Administrative Services employees from 68 to 34. The PFT (permanent full-time) employees would be reduced from 53 to 33. The 5 PPT and 9 temporary positions would be eliminated.

ADMINISTRATIVE SERVICES
LIST OF POSITION REDUCTIONS

Unit	Current Authorized Positions	Positions Remaining after Repeal	Positions That Could Be Eliminated	Total Cost Eliminated Positions
Management	6	5	1	$ 27,165
Supply	1	1	0	0
Personnel	4	3	1	19,155
Fiscal	5	3	2	47,355
Cashier	5	2	3	85,260
Publication	1	0	1	34,190
Document Processing	9	3	* 6	103,070
CETA-PSE	3	2	1	15,900
Data Processing	5	2	3	102,315
Business License	3	2	1	18,030
Mail	3	3	0	0
Data Entry	8	2	6	85,818
Fish & Game	9	9	0	0
Temporary (5 mos.)			2	13,850
Temporary (4 mos.)			7	36,575
Total				$ 588,683

* 5 positions are seasonal.

ALASKA STATE LEGISLATURE - HOUSE OF REPRESENTATIVES

REPRESENTATIVE JOE McKINNON
POUCH V, JUNEAU, ALASKA 99811

February 4, 1980

Thomas K. Williams, Commissioner
Department of Revenue
Pouch S
Juneau, Alaska 99811

Dear Tom:

Re: Proposed changes to 15 AAC 12; regulations on the Oil and Gas Corporate Income Tax

We are very concerned, as you know, over the proposed changes to the regulations on the Oil and Gas Corporate Income Tax (15 AAC 12). We urge you to postpone any action on these regulation changes until we have had more time to review them. Our specific concerns are the proposed changes to sections 240, 250 and 260, which provide for the direct deduction of drilling costs as operating costs. We are also concerned about allowing methods other than unit-of-production depreciation, which is the method specifically mentioned in the statutes.

During deliberations over the Oil and Gas Corporate Income Tax legislation, the Department of Revenue relied on work by Jerome M. Zeifman and Kenneth G. Ainsworth. In their January 1977 report entitled The Taxation of the Petroleum Industry Under Alaska's Corporate Income Tax, Zeifman and Ainsworth cite two major problems. The first was what they called an "eroded tax base". This was due to Federal tax subsidies historically provided to the petroleum industry. The second problem was that Alaska was using an apportionment formula, which did not fairly reflect the true amount of business being done in the state.

Both these problems stemmed from the fact that Alaska had delegated to Congress the responsibility for determining the corporate income tax base. By adopting certain provisions of the Internal Revenue Code, the State was inadvertantly

adopting Federal deductions designed as tax subsidies. The most notable of these, as Ziefman and Ainsworth pointed out, was the "expensing of intangible drilling costs." Furthermore, by adopting an apportionment formula based on the Uniform Division of Income for Tax Purposes Act, the State was not taxing the petroleum industry on a manner which truly reflected their profits made in the State. The effect, as stated by Richard Kilgore of the Walter J. Levy Consultants Corporation before a joint House-Senate Resources Committee hearing on March 21, 1977, was "an effective rate of taxation instead of something like 9.4% a rate of taxation, roughly a quarter of that, two to two and a half percent."

That the intent of SCS CSHB 322 was to solve both of these problems is clear. In a letter dated July 5, 1978 to the House Speaker and Senate President, Governor Hammond wrote:

> Oil and gas corporations have been paying an effective tax rate substantially below the nominal tax rate of 9.4 per cent and substantially below what other local corporations would pay on the same income earned on the same assets in the state. The passage of this bill culminates three years of joint effort by the executive and legislative branches to rectify substantial defects in the former taxation scheme which, by incorporating various federally available tax loopholes and by using an inappropriate apportionment formula, allowed oil and gas corporations to avoid their fair share of the state tax burden. (1978 House Journal Final Supplement, p. 13).

To now reincorporate the "federally available tax loophole" of expensing of intangible drilling costs by regulation appears to be directly in conflict with the intent of AS 43.21. (ch 110 SLA 1978).

Plus, the fact that this proposed change to the regulations is of questionable legality is evident in the request for a legal opinion from Joseph K. Donohue, Deputy Commissioner of Revenue to Wilson Condon, Deputy Attorney General, dated November 2, 1979. The Department of Revenue claims the question of law centers around an interpretation of AS 43.21.020(c)(4), which defines operating expenses allowed as direct deductions. Under AS 43.21.020(c)(4), there is no specific reference to drilling costs. The Department has apparently mistakenly concluded that if drilling cost are not indirect costs, they may be deducted.

We would like to bring to the Department's attention AS 43.21.020(c)(8) which provides the only reference in the statutes which directly relates to "drilling costs." This subsection explicitly states that "dry hole" costs are allowed as direct deductions. We emphasize here that this apples only to "dry hole" costs and not drilling costs per se.

Returning to the legislative history on taxes in general, it is clear that SCS CSHB 322 was not the first attempt to rid the state tax base of "federally available tax loopholes." On February 25, 1975, Governor Hammond wrote to the House Speaker regarding HB 208:

> I am submitting this bill for the purpose of closing certain corporate tax loopholes. The bill would eliminate the foreign tax credit, the depletion allowance, and the exemptions for domestic international sales corporations (DISC), and would place a limit on the amount of investment credit for Alaska income tax purposes. (1975 House Journal 295).

After the passage of CSHB 208 (Fin.)am S (ch 153 SLA 1975), the only other significant "tax loophole" left was expensing of intangibles.

We understand that a large measure of your concern arises from the current lawsuit over AS 43.21. We believe that many of the complaints in the lawsuit can be rendered moot by changes to the statutes which will have little impact on revenue. We remind you of the letter the Attorney General wrote to Governor Hammond on June 22, 1978, in which Avrum Gross concluded, that:

> We herefore simply reiterate our advice to the Department of Revenue and state that, in our view there are no constitutional or legal issues which would be fatal to the implementation of the new income tax.

I think you can understand our concerns. We are available at any time to discuss them with you further, and also to work with you on statutory changes to which address substantive legal points concerning the lawsuit over AS 43.21. Please send us a copy of the latest annual consolidated

report of state revenues and taxation policies required under AS 43.21.110.

Sincerely,

Joe

Joe McKinnon

cc: Joseph K. Donohue, Deputy Commissioner of Revenue
Rob Johnson, Director, Div. of Petroleum Revenue
Representative Terry Gardiner
Representative Russ Meekins

STATE OF ALASKA

DEPARTMENT OF REVENUE

DIVISION OF PETROLEUM REVENUE

JAY S. HAMMOND, GOVERNOR

201 E. 9th AVENUE
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-1363
(907) 277-5627

January 18, 1980

Re: Income Tax Regulations
(AS 43.21)

To Recipients of Proposed Regulations:

Proposals which would amend existing oil and gas corporate income tax regulations have been distributed to you. The most recent set of proposals followed a published notice which related that set of proposals to an earlier one distributed late in October 1979. It has come to our attention that the most recent set of proposals inadvertently dropped a couple of paragraphs contained in the earlier draft. The unintended deletions, which are obvious in the context of the proposals, are contained in proposed sections 132(5)(3) and (4), 240, and 900(31) and (32). The deleted language is attached.

We apologize for any inconvenience this has caused you.

Sincerely,

Robert M. Johnson
Director

Attachment

RMJ/rdm

Proposed Regulation 132(b)(3) and (4) should read:

(3) when transportation of oil is by a tanker or other vessel that is owned or effectively owned by the taxpayer of that oil, the taxpayer's actual cost for that transportation, which is the sum of:

(A) voyage and port costs incurred with respect to that transportation;

(B) the positioning cost, amortized over 36 months, for that vessel but only for placing that vessel into position before its employment in the Alaska trade and not for placing it into position after its employment in the Alaska trade for employment in another trade;

(C) depreciation of the vessel; if the vessel is actually owned by the taxpayer, depreciation must be calculated in accordance with the applicable FASB Financial Accounting Standards for such owned assets; if the vessel is effectively owned by the taxpayer, depreciation must be calculated in accordance with FASB-13 from the standpoint of a lessee under a capital lease; and

(D) an amount, which when added to the amount of depreciation allowed under (C) of this paragraph, will provide a reasonable return on the acquisition cost of the vessel over its expected life; for purposes of this paragraph,

(i) "acquisition costs" means the cost of the vessel which may be capitalized by its actual owner under generally accepted accounting principles, but not including costs of improvements made after the date the vessel is placed in service by or on behalf of the taxpayer, and

(ii) "expected life" means the period of time used to calculate depreciation under (C) of this paragraph;

(4) in the case of transportation of gas as LNG,

(A) where not all of the LNG transportation facilities are subject to tariff regulations (by FERC or other agencies of the United States, state or territory or a possession of the United States or a foreign nation) and when the taxpayer does not have or effectively have any ownership interest in the LNG transportation facility, the amount charged to the taxpayer for that LNG transportation;

(B) when the taxpayer has or effectively has an ownership interest in the LNG transportation facility, the taxpayer's actual cost for that transportation equalling the sum of:

(i) the direct operating costs of the LNG transportation facility (in the case of an LNG tanker, its respective voyage and port costs) incurred with respect to the taxpayer's gas;

(ii) the positioning cost, amortized over 36 months, for that vessel but only for placing that vessel into position before its employment in the Alaska trade and not for placing it into position after its employment in the Alaska trade for employment in another trade;

(iii) depreciation of the LNG transportation facility; if the facility is actually owned by the taxpaver, depreciation must be calculated in accordance with the applicable FASB Financial Accounting Standards for the owner of such assets; if the LNG transportation facility is effectively owned by the taxpayer, depreciation must be calculated in accordance with FASB-13 from the standpoint of a lessee under a capital lease; and

(iv) an amount which, when added to the amount of depreciation allowed under (iii) of this subparagraph, will provide a reasonable return on the acquisition cost of the LNG transportation facility over its expected life; for purposes of this subparagraph, "acquisition cost" means the cost of the LNG transportation facility which may be capitalized by its actual owner under generally accepted accounting principles, and "expected life" means the period of time used to calculate depreciation under (iii) of this subparagraph;

Proposed Regulation 240 should read:

15 AAC 12.240. DEDUCTION FOR DIRECT OPERATING COSTS. (a) The direct operating costs during a year that are incurred by or for a taxpayer for a lease or property in the state are a deduction in determining the taxpayer's taxable production income for that year.

(b) Before the commencement of commercial production from (or allocated to) a lease or property, the direct operating costs for that lease or property are:

(1) the costs for geological and geophysical work conducted on the lease or property after the taxpayer has acquired a working interest in the lease or property;

(2) rentals and shut-in royalties paid in order to retain the lease or property;

(3) drilling costs for wells bottomed on the lease or property; and

(4) the costs for operations conducted on or near the lease or property in support of drilling and/or development operations for the lease or property, but excluding the actual development costs themselves; however, if the lease or property is subject to an operating agreement in which at least one working-interest owner is a third party to the operator, the direct operating costs for that lease or property and the costs (excluding development costs but including drilling costs) that are incurred by the operator in operating that lease or property and which are reimbursable to the operator by the working-interest owners, under the terms of that operating agreement.

(c) After the commencement of commercial production from (or allocated to) a lease or property, the direct operating costs for that lease or property are:

(1) the costs of operating the facilities and equipment on or for the lease or property which directly result in or are necessary for the continued or enhanced production from (or allocated to) the lease or property;

(2) the costs of drilling and/or operating wells bottomed on the lease or property; and

(3) the costs of operations conducted on or near the lease or property in support of drilling and/or development operations for the lease or property but excluding the actual development costs themselves; however, if the lease or property is subject to an operating agreement in which at least one working-interest owner is a third party to the operator, then the direct operating costs for that lease or property are the costs (excluding development costs but excluding drilling costs) that are incurred by the operator in operating that lease or property and which are reimbursable to the operator by the working-interest owners, under the terms of that operating agreement.

(d) No cost for the taxpayer's general overhead or administrative expense and no cost that is to be amortized or depreciated under secs. 250-260 of this chapter may be included in this section.

Authority: AS 43.05.080
AS 43.19.010 (Art. IV, sec. 18)
AS 43.21.020
AS 43.21.090

Proposed Regulation 900(31) and (32) should read:

(31) "sales delivery point" means

(1) for a taxpayer's oil and gas sold in a bona fide, arm's-length sale to a third party, the point of delivery under the terms of the contract or agreement for that sale, except in the cause of a sale to which Sec. 132(d) of this chapter applies;

(2) for a taxpayer's oil not sold in a bona fide, arm's-length sale to a third party, the gate of the refinery to which that oil is ultimately transported; and

(3) for a taxpayer's gas not sold in a bona fide, arm's-length sale to a third party, the point of delivery under the terms of the sales contract being used as the reference for the sales price of the taxpayer's gas under Secs. 122 and 124 of this chapter.

(32) "sales price" is defined in Sec. 122 of this chapter.

SB
477

COMMITTEE REPORT

SENATE

2/18/81

FURTHER: Finance

Date: March 17, 1981

Mr. President:

The Committee on State Affairs has had SB 477 relating to shooting and firearm safety

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 SB 477 [✓] same title [ ] 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

Kinnick Kolstad
Tim Kelly
Bradley
Pat Regan

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Pat Regan
CHAIRMAN

S 60 (Rev. 12/78)

3-6 1980 HOUR 4:30

TO Bob

WHILE YOU WERE AWAY

M Sen. Rodey TELEPHONE 3717

- ☐ CALLED TO SEE YOU
- ☐ TELEPHONED
- ☐ WILL CALL AGAIN
- ☒ PLEASE PHONE
- ☐ RETURNED YOUR CALL
- ☐ URGENT

REMARKS would like to talk w/ you on the scheduling & the Rifle Range Bills - SB 477 - 479

SIGNED SR

OPS 4002

Try to testify at meeting
Get name & # from Mary's memo

TED DIXON
261 COLLEGE ROAD
FAIRBANKS 99701

PHONE:
456-8742

ALASKA PROFESSIONAL HUNTERS ASSOCIATION

Randy Smith

ALASKA PROFESSIONAL HUNTERS ASSOC.
P. O. BOX 4-1932
ANCHORAGE, ALASKA 99509

789-9789

Alaska State Legislature

SENATOR MIKE COLLETTA

SENATE MAJORITY LEADER

Senate

MEMORANDUM

MARCH 6, 1980

TO: SENATOR BOB MULCAHY, CHAIRMAN
SENATE STATE AFFAIRS COMMITTEE

FROM: SENATOR MIKE COLLETTA

RE: SB 477 & SB 479 "Fire Arms Safety"

Mr. Ted Dixon of the Tanana Valley Sportsmen's Association would like to be notified when the above cited bills are scheduled for committee hearing as he would like to testify.

Mr. Dixon can be reached at the following address: 261 College Road, Fairbanks 99701. Phone 456-8742 (between 10 a.m. and 6 p.m.).

Your attention to this matter is appreciated.

cc: Ted Dixon

Called 3/10/80
& notified of meeting
to be held 3/12/80

SRA, BOX [illegible], ANCHORAGE 99508 • POUCH V JUNEAU 99811

Official Business

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

March 11, 1980

SB 477 - An Act relating to shooting and firearm safety; and providing for an effective date.

BY: Senators Rodey and Bradley

This bill adds a new chapter to Title 16 (Fish and Game) entitled: CHAPTER 55 - SHOOTING AND FIREARM SAFETY. Duties of the department include coordinating activities relating to shooting and firearms, development of a hunting safety program, and establishing a program for the planning, construction and operation of public shooting ranges.

The bill outlines the powers of the department in respect to shooting and firearms. This includes technical assistance to municipalities, communities and organizations, and provides for the department to make grants available to them for the development and operation of public shooting ranges as well as operation of firearm safety programs.

The bill establishes an Advisory Committee on Hunting and Firearm Safety to advise the department in fulfilling its responsibilities under this chapter.

The grants to municipalities and organizations will be handled by the Division of Administration, within the department, following the recommendations made by the State Range Planning Committee and future recommendations to be made by the Advisory Committee on Hunting and Firearm Safety. The Advisory Committee will, in effect, replace the State Range Planning Committee.

All other aspects of the bill could be handled through the existing hunting safety program.

MEMORANDUM State of Alaska

TO: Ron Somerville, Director
Division of Game, Juneau

DATE: November 20, 1979

FILE NO:

Regional Supervisors, Div. of Game

TELEPHONE NO:

Members, State Range Planning Committee

SUBJECT: Range Planning Meeting

FROM: Jack Alexander
Hunter Safety Coordinator

Attached are the minutes and recommendations made during the November 14th meeting of the State Range Planning Committee.

The second meeting of the State Range Planning Committee was held November 14, at the Anchorage Fish and Game office. Those in attendance included Ted Dixson, Joe Nava, Bob Dickens, Paul Weller, George Lyons, Ray Brown, Sam McDowell, Ted Nelson, Virgil Umphenour and Jack Alexander.

The first order of business was to review and approve the minutes of the October 4 and 5 meeting. Additional old business was to make additions and minor changes to the list of ranges known to the members. Members making additional reports included Virgil Umphenour, Ted Dixson, Ray Brown. Jack Alexander and Paul Weller.

The remainder of the meeting was spent establishing recommendations for range acquision, development and improvements. George Lyons suggested that recommendations be listed and considered by House districts. These recommendations are presented in Appendix B of the minutes.

The Committee established the date of December 20 for the next meeting, the purpose of which will be to determine cost and priorities for the recommended projects.

House District Name	Number	City	Recommended Facilities	Est. Cost
Ketchikan	1	Ketchikan *Craig *Hydaburg *Klawock *Metlakatla	1.Expand number of firing points at present site. 2.Develope small-bore indoor range available to high schools. *3.Provide assistance to communities establishing designated shooting areas.	
Wrangell-Petersburg	2	Petersburg	1.Assist in development of indoor smallbore range close to high school. 2.Upgrade existing city range.	
		Wrangell	1.Assist in development of indoor smallbore range. 2.Assist in upgrade existing outdoor facilities.	
		Kake	*Provide community assistance in establishing designated outdoor shooting areas.	
Sitka	3	Sitka	1.Develop existing outdoor facilities. 2.Assist in funding an allweather smallbore and pistol range.	
		*Angoon	* Provide community with assistance in establishing designated outdoor shooting area.	
Juneau	4	Juneau	1.Expand and improve existing outdoor range. 2.Improvements to Support Building indoor range.	
Haines-Skagway	5	Haines	1.Minor improvements to existing out-door range. 2.Develop indoor facilities.	
		Skagway	1.Minor improvements to existing range. 2.Develop indoor smallbore and pistol range.	
		*Yakutat	*Provide community with assistance in establishing designated outdoor shooting area.	
Valdez-Cordova	6	Valdez	No recommendations.	
		Cordova	1.Land acquisition and improvements. 2.6pt. 50' indoor smallbore range.	

House District Name	Number	City	Recommended Facilities	Est. Cost
Palmer-Talkeetna-Wasilla	7	Palmer-Wasilla	1.Acquire land in central area.	
		Palmer	1.Indoor smallbore range.	
		Wasilla	1.Indoor smallbore range.	
		*Talkeetna	* Provide community with assistance in establishing designated outdoor shooting area.	
Anchorage	8	Anchorage	1.Improvements and expansion of two existing outdoor ranges. 2.Centralized indoor smallbore and pistol range. 3.Completion of two existing indoor high school smallbore ranges.	
Seward	9	Seward	1.Provide community with assistance in establishing outdoor shooting area.	
Kenai-Soldotna	10	Soldotna	1.Expansion and improvements to existing outdoor range. 2.Smallbore indoor range at high scho l.	
		Homer	1.Expand and improvements to existing outdoor ranges.	
Kodiak	11	Kodiak	1.Acquire site and improvements to existing range. 2.Designated shooting areas adjacent to city. 3.Smallbore and pistol indoor range.	
		Port Lions	Designated shooting area.	
Aleutian Island	12	*All villages	*Designated shooting areas.	
Dillingham	13	Dillingham	1.Designated shooting area. 2.Indoor smallbore range.	
		Naknek	1.Designated shooting area.	

House District Name	Number	City	Recommended Facilities	Est. Cost
Bethel	14	Bethel	1.Site acquision and development. 2.Smallbore indoor range.	
McGrath-Galena-Tanana	15	*McGrath *Galena *Tanana	*Designated shooting areas	
Fairbanks	16	Fairbanks	1.Central facilities with high-power, smallbore and pistol outdoor and smallbore and pistol indoor. 2.Four designated shooting areas adjacent to city. 3.Three indoor smallbore for high schools.	
		*Nenana *Healy	*Designated shooting areas.	
Barrow-Kotzebue	17	Kotzebue	1.Acquire outdoor highpower range site and improvements. 2.Indoor smallbore range adjacent to high school.	
		Barrow	1.Outdoor range. 2.Indoor smallbore range adjacent to school.	
Nome	18	Nome	1.Centralized smallbore range adjacent to community college. 2.Acquire land and improvements for 600 yard outdoor range.	
Hooper Bay	19	All major villages	Designated outdoor shooting areas	

STATE
of ALASKA

MEMORANDUM

TO: State Range Planning Committee

DATE: January 16, 1980

FILE NO:

TELEPHONE NO:

FROM: Jack Alexander
Hunter Safety Coordinator
Division of Game
Anchorage

SUBJECT: Recommendations for shooting facilities.

Attached are the recommendations for shooting facilities as determined at the December 20, 1979 meeting of the Range Planning Committee. Please look them over carefully and compare with your notes. The figures have changed some, but not much. Let me know if you don't agree or have any changes or suggestions to make.

I discussed Izaak Walton League Range development with Maurice Oswald of D.O.W.L. Engineering, who is doing the design work on their development plans. It was Mr. Oswald's opinion that realignment of the Izaak Walton League Range would eliminate any safety hazards currently associated with the Birchwood airstrip.

I'll get the wording for a proposed bond put together in the next week or so and forward it to each of you for your input.

The third meeting of the State Range Planning Committee was held December 20, 1979 in Anchorage. The purpose of the meeting was to determine cost of designating, acquiring, and developing indoor and outdoor shooting facilities.

In most communities of the state the Range committee agreed to allot up to $2500 and technical assistance to all the smaller villages and communities desiring to designate new o formalize existing shooting areas. Also, this money could be used to develop portable indoor shooting items that could be used for student training.

The committee determined that a transportable 80' X 30' predesigned building would be adequate to meet the needs of most communities for indoor shooting facilities. These would have 5 shooting points for smallbore shooting only and are estimated to cost $300,000 each.

The need for shooting facilities both indoor and outdoor was examined and cost determined for each community of the State with a population over 1,000 people. The cost figures for each community and the total cost are presented in Appendix B.

The committee's actions so far has identified 14 existing outdoor ranges and 12 indoor ranges located in 25 major communities and 11 smaller communities and villages. Some of these facilities are unusable or unavailable to the general public. The committee's recommendation to offer technical and financial assistance applies to about 135 communities and includes nearly 200 individual development projects.

Enclosure

cc: J. Vania
R. Somerville
P. Hodey

House District Name	Number	City	Recommended Facilities		Estimated Cost
Ketchikan	1	Ketchikan	1. Expand number of firing points and other improvements to existing site. 2. Develop		1. 25
		all other communities	smallbore indoor range available to High School. 3. Assistance to 11 additional		2. 300
			areas in obtaining designated and/or establish outdoor shooting areas, also financial assistance to schools establishing		3. 27.5
			indoor student training facilities.	Subtotal	352.5
Wrangell-Petersburg	2	Petersburg	1. Assist in development of indoor smallbore range available to High School.		1. 300
		Wrangell	1. Assist in development of indoor smallbore range available to High School. 2. Assist		1. 300 2. 5.0
		All other communities	in upgrading existing outdoor facilities. 1. Assist 2 additional communities obtain, designate and/or establish outdoor shooting		1. 5.0
			areas and establish indoor student training.	Subtotal	610.0
Sitka	3	Sitka	1. Develop existing outdoor facilities.		1. 25.0
			2. Assist develop indoor smallbore range		2. 300
		All other	available to High School. 1. Assist one additional community to obtain, designate		1. 2.5
			and/or establish outdoor shooting area and student training facilities.	Subtotal	327.5
Juneau	4	Juneau	1. Expand and improve existing outdoor range. 2. Improvement to subport bldg. indoor range.		1. 75 2. 75
				Subtotal	150
Haines-Skagway	5	Haines	1. Expand and improve existing outdoor range.		1. 25.0
			2. Develop indoor range.		2. 5.0
		Skagway	1. Minor improvements to existing outdoor range. 2. Develop indoor smallbore and pistol range available to High School.		1. 5.0 2. 5.0 3. 12.5
			3. Assist 5 additional communities to obtain designate and/or establish outdoor shooting areas and student training facilities.	Subtotal	52.5

House District Name	Number	City	Recommended Facilities		Estimated Cost
Valdez-Cordova	6	Valdez	No recommendations		
		Cordova	1. Land acquisition and improvements 2. Indoor smallbore famillities adjacent to High School.		1. 20 2. 50
		Glennallen	1. Improvements to outdoor range and development of range available to High School. 2. Assist 3 additional communities to obtain, designate and/or establish outdoor shooting areas and student training facilities.		1. 10.0 2. 7.5
				Subtotal	87.5
Palmer-Talkeetna-Wasilla	7	Palmer-Wasilla	1. Acquire land in centralized area.		1. 100
		Palmer	1. Indoor smallbore range.		1. 300
		Wasilla	1. Indoor smallbore range. 2. Assist one additional community to obtain designate and/or establish outdoor shooting area and student training facilities.		1. 300 2. 2.5
				Subtotal	702.5
Anchorage	8	Anchorage	1. Improvement & expansion of 2 existing outdoor ranges. 2. Centralized indoor smallbore and pistol range. 3. Completion of three existing indoor High School smallbore ranges.		1. 475 2. 1,725 3. 375
				Subtotal	2,575.0
Seward	9	Seward	1. Assist in establishing a designated shooting area. 2. Establish smallbore indoor range.		1. 10 2. 10
				Subtotal	20.0
Kenai-Soldotna	10	Soldotna	1. Expansion & improvements to existing outdoor range. 2. Smallbore indoor ranges in 2 High Schools.		1. 10 2. 425
		Homer	1. Expansion & improvements to existing outdoor ranges. 2. Improvements to existing indoor range. 3. Assist 5 additional communities obtain designate and/or establish outdoor shooting areas and student training facilities.		1. 10 2. 5 1. 12.5
				Subtotal	462.5

House District Name	Number	City	Recommended Facilities	Est. Cost		
Kodiak	11	Kodiak	1. Acquire site and improvements to existing outdoor range. 2. Designate shooting areas adjacent to city. 3. Indoor smallbore and pistol range. 4. Assist 5 additional communities obtain, designate or establish outdoor shooting areas and student training facilities.		1.	125
					2.	no cost
					3.	300
					4.	12.5
				Subtotal		437.5
Aleutian Islands	12	All communities	1. Assist 10 communities obtain, designate and/or establish outdoor shooting areas and student training facilities.		1.	30.0
				Subtotal		30.0
Dillingham	13	Dillingham	1. Assist communities to obtain designate and/or establish an outdoor shooting facility. 2. Develop indoor student training facility.		1.	10
					2.	10
		Naknek	1. Assist community to obtain, designate and/or establish an outdoor shooting facility and indoor student training facility.		1.	10
			1. Assist seven additional communities to obtain, designate and/or establish an outdoor shooting area & indoor student training facility.		1.	17.5
				Subtotal		47.5
Bethel (15)	14	Bethel	1. Assist Bethel establish and designate an outdoor shooting facility. 2. Establish indoor smallbore range. 3. Assist 15 additional communities to obtain, designate and/or establish outdoor shooting areas & student training facilities.		1.	10.0
					2.	100.0
					3.	37.5
				Subtotal		147.5
McGrath-Galena-Tanana	15	Galena	1. Assist Galena establish an outdoor shooting facility. 2. Assist development of indoor student training facility.		1.	5.0
					2.	10.0
			1. Assist 18 additional communities to obtain, designate and/or establish outdoor shooting & student training facilities.		1.	45.0
				Subtotal		60.0

House District Name	Number	City	Recommended Facilities		Estimated Cost
Fairbanks	16	Fairbanks	1. Central facilities with highpower, smallbore & shotgun, outdoor, smallbore & pistol indoor. 2. Four designated shooting areas adjacent to city. 3. Three indoor smallbore ranges adjacent to High Schools.	1. 2. 3.	1,500 no cost 1,000
			1. Assist 5 additional communities to obtain designate and/or establish outdoor shooting area and student training facilities.	1.	12.5
				Subtotal	2,512.5
Barrow-Kotzebue	17	Kotzebue	1. Acquire outdoor highpower range site & improvements. 2. Indoor smallbore range adjacent to High School.	1. 2.	10.0 300.0
		Barrow	1. Develop outdoor range. 2. Construct smallbore indoor range adjacent to school.	1. 2.	10.0 300.0
		All other communities	1. Assist 9 additional communities to obtain, designate and/or establish outdoor shooting areas and student training facilities.	1.	22.5
				Subtotal	642.5
Nome	18	Nome	1. Designate and make improvements to an outdoor range. 2. Smallbor indoor range available to High school.	1. 2.	22.0 300.0
			1. Assist 12 additional communities to obtain designate and/or establish outdoor shooting areas & student indoor training facilities.	1.	30.0
				Subtotal	352.0
Hooper Bay	19	All Villages	1. Provide assistance to 8 communities in obtaining, designating and/or establishing outdoor shooting areas and indoor student training facilities.	1.	20.0
				Subtotal	20.0
				Grand Total	9,589.0

APPENDIX A

Region

I. Northwestern

A. Outdoor

1. Bethel - No designated shooting areas

2. Dillingham - No designated shooting areas

3. Barrow - No designated shooting areas

4. Nome - No designated shooting areas

5. Kotzebue - No designated shooting areas

B. Indoor

1. Bethel- No indoor shooting facilities

2. Dillingham - No indoor shooting facilities

3. Barrow - No indoor shooting facilities

4. Nome - No indoor shooting facilities

5. Kotzebue - No indoor shooting facilities

II. Interior

A. Outdoor

1. Fairbanks

a. Northstar Borough 300 yards - summer use only

b. Fort Wainwright - organized competition

c. Fairbanks Trap Club - open to public on fee basis

d. Eielson AFB 100 to 600 yards - high power and small bore organized competition

e. State Airport 50 yards - police range

2. Delta

3. Nenana - Undesignated gravel pits

4. Fort Yukon - No designated shooting areas

5. Galena - No designated shooting areas

6. Aniak - No designated shooting areas

7. McGrath - No designated shooting areas

8. Tok - Undesignated gravel pits

9. Healy - No designated shooting areas

B. Indoor

1. Fairbanks

a. University of Alaska 50' 12 pt. small bore - open to student - organized competition

b. Tanana Valley Sportsman 50' 10 pt. small bore - members and guest - organized competition

c. Fairbanks City Police 50' 2 pt. - not open to public

d. Ryan Jr. High 50' small bore - student use

2. McGrath - No indoor facilities

3. Delta - Portable small bore traps at High School

4. Nenana - No indoor facilities

5. Tok - No indoor facilities

6. Fort Yukon - No indoor facilities

III. Southcentral

A. Outdoor

1. Anchorage

a. Izaak Walton Range - open to public - high power, small bore, pistol, traps and skeet

b. Rabbit Creek - high power, small bore, pistol and trap

c. Elmendorf 100 - military and organized public

d. Fort Richardson - 500 yard high power - organized competition

e. Anchorage Sportsman - trap - private - open to public

2. Soldotna and Kenai

a. Snowshoe Gun Club - 500 yards - pistol and trap - open to public some weekends and competition

3. Homer

a. Homer Rod and Gun Club 100 yards - high power, pistol and trap - open to public

4. Kodiak

a. Soline Creek Rifle Range 600 yards - high power, 50 yard pistol - open to public, subject to eventual closure

b. Base Trap Club - open to military

c. Kodiak VFW - 3 trap and 100 yard - 2 position high power - closed to public. Not considered a safe range

5. Cordova

a. Izaak Walton League - 100 yards - high power, small bore - open to public. Due to close December 31, 1979

6. Valdez

a. 200 yard 10 pt. High power - City owned and maintained

7. Glennallen

a. No authorized outdoor shooting facilities

8. Palmer - Talkeetna - Wasilla

a. No authorized outdoor shooting facilities

B. Indoor

1. Anchorage

a. Elmendorf AFB 10 pt. 25 yards, organized club use

b. Bartlett High School 16 pt. 50 ft. - scheduled organized use

c. National Guard Armory 6 pt. 50 ft. - open to organized groups

d. Chugiak High School 50 ft. 10pt. - open to organized groups

e. West High School 10 pt. 50 ft. - open to organized groups

2. Soldotna and Kenai

a. National Guard Armory 10 pt. 50 ft. - open to organized and scheduled competition

3. Homer

a. Homer Rifle and Pistol Club 4 pt. 75 ft. - open to public

4. Kodiak

a. 10 pt. 50' Coast Guard indoor range subject to eventual closure

5. Cordova

a. No indoor shooting facilities

6. Valdez

a. Valdez High School - 50' 7 pt. small bore - student and organized groups

7. Glennallen

a. No indoor shooting facilities

8. Palmer-Talkeetna-Wasilla

a. No indoor shooting facilities

IV. Southeast

A. Outdoor

1. Juneau

a. Montana Creek 300 yards - high power, small bore an' pistol

b. Juneau Trap Club

2. Yakutat

a. No outdoor shooting facilities

3. Sitka

a. City Range 100 yards - high power open to public

4. Petersburg

a. City Range 200 yards - high power and small bore No improvements

5. Wrangell

a. 200 yard - high power City range open to public, covered firing pts.

6. Ketchikan

a. Ketchikan Trap Club - 3 traps - open to members and guests - 2 pt 100 yard high power range

7. Skagway

a. 100 yards - open to public

8. Haines

a. 150 yd. - high power range

9. Hoonah - No designated outdoor shooting area

B. Indoor

1. Juneau

a. Juneau Douglas High School - 10 pt. 50' small bore and pistol, not open to public

b. Subport building not open to public

2. Yakutat - No indoor facilities

3. Sitka

a. BIA Range 4 pt. small bore

4. Petersburg - No indoor facilities

5. Wrangell - No indoor facilities

6. Ketchikan - No indoor facilities

7. Skagway - No indoor facilities

8. Haines - Sr. High School student range

9. Hoonah - No indoor facilities

V. Westward

A. Outdoor

1. Cold Bay

2. Sand Point

3. Dutch Harbor

4. King Salmon - Naknak

B. Indoor

1. Cold Bay - No indoor facilities

2. Sand Point - No indoor facilities

3. Dutch Harbor - No indoor facilities

4. King Salmon - Naknak - No indoor [illegible]ies

ORIG. SPONSORS: RODEY & BRADLEY

Introduced: 2/18/80
Referred: State Affairs and Finance

IN THE SENATE BY STATE AFFAIRS COMMITTEE

CS FOR SENATE BILL NO. 477

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to shooting and firearm safety; and providing for an effective date."

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

* Section 1. AS 16 is amended by adding a new chapter to read:

CHAPTER 55. SHOOTING AND FIREARM SAFETY.

Sec. 16.55.010. DUTIES OF DEPARTMENT. The Department of Fish and Game shall

(1) ASSIST IN DEVELOPING AND COORDINATING activities involving public and private organizations relating to shooting and firearm;

(2) develop a hunting safety program for the people of the state;

(3) ESTABLISH a program TO ASSIST IN the planning, construction and operation of public shooting ranges.

Sec. 16.55.020. POWERS OF DEPARTMENT. In the discharge of its duties under AS 16.55.010, the Department of Fish and Game may

(1) provide, through a DEPARTMENTAL coordinator, technical assistance to municipalities, communities, and organizations;

(2) make grants to municipalities and organizations as provided in AS 16.55.030

(A) to develop and operate public shooting ranges and facilities; and

(B) to operate programs involving education and training in the safe use of firearms.

Sec. 16.55.030. GRANTS. Subject to legislative appropriation for the purpose, th Department of Fish and Game may make grants to municipalities and private organizations in accordance with AS 16.55.020(2). The department may impose reasonable restrictions on use of funds granted under this section.

Sec. 16.55.040. ADVISORY COMMITTEE. (a) There is established in the Department of Fish and Game an Advisory Committee on Hunting and Firearm Safety. The committee consists of five members appointed by the commissioner of fish and game and serving at his pleasure. Members of the advisory committee serve without compensation but are entitled to per diem and travel expenses provided by law for members of boards and commissions.

(b) The Advisory Committee on Hunting and Firearm Safety shall select one of its members as chairman.

(c) The Advisory Committee on Hunting and Firearm Safety shall meet at the call of the chairman or at the request of A MAJORITY OF THE MEMBERS.

(d) The Advisory Committee on Hunting and Firearm Safety shall advise the Department of Fish and Game in fulfilling its responsibilities under this chapter.

* Sec. 2. This Act takes effect July 1, 1980.

WORK DRAFT COPY WORK DRAFT COPY WORK DRAFT COPY

PROPOSED AMENDMENT

Page 2, following line 20, insert a new *Sec. 2 to read:

*Sec. 2. AS 38.05.330 is amended by adding a new subsection to read:

(c) The director, without the prior approval of the commissioner, may issue a permit for state land to a municipality or a nonprofit organization to develop and operate public shooting ranges and facilities for training in the safe use of firearms. In granting a permit for lands under this subsection, the director shall provide lands to municipalities and organizations when requested by the Advisory Committee on Hunting and Firearm Safety. The land for which a permit is requested shall be granted if its use as a shooting range or facility for training in the safe use of firearms is consistent with the present or proposed use of adjacent parcels and tracts and protects the safety of the public. The commissioner may not charge a fee for a permit issued under this subsection. If the land for which a permit is given under this subsection ceases to be operated as a public shooting range or facility for training in the safe use of firearms, the permit is revoked.

Renumber effective date section.

Recommendations of the State Range Planning Committee

In FY 1980 the Game Division received a legislative appropriation of $15,000 to establish a State Range Planning Committee consisting of representatives from most major communities within the State. This committee, with directions from Game Division's Hunter Safety Coordinator, was to assess the needs for shooting facilities in cities and towns throughout Alaska and to make recommendations regarding aquisition and development of apropriate shooting facilities. The committee's findings and recommendations are as follows:

The third meeting of the State Range Planning Committee was held December 20, 1979 in Anchorage. The purpose of the meeting was to determine cost of designating, acquiring, and developing indoor and outdoor shooting facilities.

In most communities of the state the Range committee agreed to allot up to $2500 and technical assistance to all the smaller villages and communities desiring to designate new or formalize existing shooting areas. Also, this money could be used to develop portable indoor shooting items that could be used for student training.

The committee determined that a transportable 80' x 30' predesigned building would be adequate to meet the needs of most communities for indoor shooting facilities. These would have 5 shooting points for smallbore shooting only and are estimated to cost $300,000 each.

The need for shooting facilities both indoor and outdoor was examined and cost determined for each community of the State with a population over 1,000 people. The cost figures for each community and the total cost are presented in Appendix B.

The committee's actions so far has identified 14 existing outdoor ranges and 12 indoor ranges located in 25 major communities and 116 small communities and villages. Some of these facilities are unusable or unavailable to the general public. The committee's recommendation to offer technical and financial assistance applies to about 155 communities and includes nearly 200 individual development projects.

28 Febraury 19

Sally J. Smith
State Representative
Alaska State House of Representatives
Juneau, Alaska 99801

SB 477-479

Dear Representative Smith,

Please support House Bills 809 and 810, "An Act relating to shooting and firearms safety..." and its companion funding bill.

This bill is partially the result of a study made by a Committee appointed and funded by the Legislature. The best expertise available Statewide identified the need that prompted these bills.

Alaska is a State where firearms are an important part of everyday life. We should be taking the lead in providing the best training available anywhere, to the youngsters of our State, so that they can and will enjoy shooting safely and reduce the public risk.

I have taught firearms safety in Fairbanks for 18 years. We need the help of these bills to provide an adequate program Statewide.

Please assist us by supporting these bills.

Thank you.

9.6 Million dollars

Joe Nava

Joe Nava
SR Box 30202
Fairbanks, AK 99701

PROPOSED AMENDMENT

Page 2, following line 20, insert a new *Sec. 2 to read:

ALASKA LAND ACT - PERMITS

*Sec. 2. AS 38.05.330 is amended by adding a new subsection to read:

(c) The director, without the prior approval of the commissioner, may issue a permit for state land to a municipality or a nonprofit organization to develop and operate publi shooting ranges and facilities for training in the safe use of firearms. In granting a permit for lands under this subsection, the director shall provide lands to municipalities and organizations when requested by the Advisory Committee on Hunting and Firearm Safety. The land for which a permit is requested shall be granted if its use as a shooting range or facility for training in the safe use of firearms is consistent with the present or proposed use of adjacent parcels and tracts and protects the safety of the public. The commissioner may not charge a fee for a permit issued under this subsection. If the land for which a permit is given nder this subsection ceases to be operated as a public shooting range or facility for training in the safe use of firearms, the permit is revoked.

Renumber effective date section.

Provides that director of division of lands may issue a permit to a municipality or nonprofit organization for the development and operation of public shooting ranges on state land. Permits shall be granted when requested by the Advisory Committee on Hunting and Firearm Safety. This use of state land must be consistent with present or proposed use of adjacent parcels, and the safety of the public must be protected.

Recommendations of the State Range Planning Committee

In FY 1980 the Game Division received a legislative appropriation of $15,000 to establish a State Range Planning Committee consisting of representatives from most major communities within the State. This committee, with directions from Game Division's Hunter Safety Coordinator, was to assess the needs for shooting facilities in cities and towns throughout Alaska and to make recommendations regarding aquisition and development of apropriate shooting facilities. The committee's findings and recommendations are as follows:

The third meeting of the State Range Planning Committee was held December 20, 1979 in Anchorage. The purpose of the meeting was to determine cost of designating, acquiring, and developing indoor and outdoor shooting facilities.

In most communities of the state the Range committee agreed to allot up to $2500 and technical assistance to all the smaller villages and communities desiring to designate new or formalize existing shooting areas. Also, this money could be used to develop portable indoor shooting items that could be used for student training.

The committee determined that a transportable 80' x 30' predesigned building would be adequate to meet the needs of most communities for indoor shooting facilities. These would have 5 shooting points for smallbore shooting only and are estimated to cost $300,000 each.

The need for shooting facilities both indoor and outdoor was examined and cost determined for each community of the State with a population over 1,000 people. The cost figures for each community and the total cost are presented in Appendix B.

The committee's actions so far has identified 14 existing outdoor ranges and 12 indoor ranges located in 25 major communities and 116 small communities and villages. Some of these facilities are unusable or unavailable to the general public. The committee's recommendation to offer technical and financial assistance applies to about 155 communities and includes nearly 200 individual development projects.

MEMORANDUM State of Alaska

TO: Ron Somerville, Director
Division of Game, Juneau

DATE: November 20, 1979

FILE NO:

Regional Supervisors, Div. of Game

TELEPHONE NO:

Members, State Range Planning Committee

SUBJECT: Range Planning Meeting

FROM: Jack Alexander
Hunter Safety Coordinator

Attached are the minutes and recommendations made during the November 14th meeting of the State Range Planning Committee.

The second meeting of the State Range Planning Committee was held November 14, at the Anchorage Fish and Game office. Those in attendance included Ted Dixson, Joe Nava, Bob Dickens, Paul Weller, George Lyons, Ray Brown, Sam McDowell, Ted Nelson, Virgil Umphenour and Jack Alexander.

The first order of business was to review and approve the minutes of the October 4 and 5 meeting. Additional old business was to make additions and minor changes to the list of ranges known to the members. Members making additional reports included Virgil Umphenour, Ted Dixson, Ray Brown, Jack Alexander and Paul Weller.

The remainder of the meeting was spent establishing recommendations for range acquision, development and improvements. George Lyons suggested that recommendations be listed and considered by House districts. These recommendations are presented in Appendix B of the minutes.

The Committee established the date of December 20 for the next meeting, the purpose of which will be to determine cost and priorities for the recommended projects.

House District Name	Number	City	Recommended Facilities	Est. Cost
Ketchikan	1	Ketchikan *Craig *Hydaburg *Klawock *Metlakatla	1.Expand number of firing points at present site. 2.Develope small-bore indoor range available to high schools. *3.Provide assistance to communities establishing designated shooting areas.	
Wrangell-Petersburg	2	Petersburg	1.Assist in development of indoor smallbore range close to high school. 2.Upgrade existing city range.	
		Wrangell	1.Assist in development of indoor smallbore range. 2.Assist in upgrade existing outdoor facilities.	
		Kake	*Provide community assistance in establishing designated outdoor shooting areas.	
Sitka	3	Sitka	1.Develop existing outdoor facilities. 2.Assist in funding an allweather smallbore and pistol range.	
		*Angoon	* Provide community with assistance in establishing designated outdoor shooting area.	
Juneau	4	Juneau	1.Expand and improve existing outdoor range. 2.Inprovements to Subport Building indoor rang..	
Haines-Skagway	5	Haines	1.Minor improvements to existing out-door range. 2.Develop indoor facilities.	
		Skagway	1.Minor improvements to existing range. 2.Develop indoor smallbore and pistol range.	
		*Yakutat	*Provide community with assistance in establishing designated outdoor shooting area.	
Valdez-Cordova	6	Valdez	No recommendations.	
		Cordova	1.Land acquisition and improvements. 2.6pt. 50' indoor smallbore range.	

House District Name	Number	City	Recommended Facilities	Est. Cost
Palmer-Talkeetna-Wasilla	7	Palmer-Wasilla	1.Acquire land in central area.	
		Palmer	1.Indoor smallbore range.	
		Wasilla	1.Indoor smallbore range.	
		*Talkeetna	* Provide community with assistance in establishing designated outdoor shooting area.	
Anchorage		Anchorage	1.Improvements and expansion of two existing outdoor ranges. 2.Centralized indoor smallbore and pistol range. 3.Completion of two existing indoor high school smallbore ranges.	
Seward	9	Seward	1.Provide community with assistance in establishing outdoor shooting area.	
Kenai-Soldotna	10	Soldotna	1.Expansion and improvements to existing outdoor range. 2.Smallbore indoor range at high school.	
		Homer	1.Expand and improvements to existing outdoor ranges.	
Kodiak	11	Kodiak	1.Acquire site and improvements to existing range. 2.Designated shooting areas adjacent to city. 3.Smallbore and pistol indoor range.	
		Port Lions	1.Designated shooting area.	
Aleutian Island	12	*All villages	*Designated shooting areas.	
Dillingham	13	Dillingham	1.Designated shooting area. 2.Indoor smallbore range.	
		Naknek	1.Designated shooting area.	

House District Name	Number	City	Recommended Facilities	Est. Cost
Bethel	14	Bethel	1.Site acquision and development. 2.Smallbore indoor range.	
McGrath-Galena-Tanana	15	*McGrath *Galena *Tanana	*Designated shooting areas	
Fairbanks	16	Fairbanks	1.Central facilities with high-power, smallbore and pistol outdoor and smallbore and pistol indoor. 2.Four designated shooting areas adjacent to city. 3.Three indoor smallbore for high schools.	
		*Nenana *Healy	*Designated shooting areas.	
Barrow-Kotzebue	17	Kotzebue	1.Acquire outdoor highpower range site and improvements. 2.Indoor smallbore range adjacent to high school.	
		Barrow	1.Outdoor range. 2.Indoor smallbore range adjacent to school.	
Nome	18	Nome	1.Centralized smallbore range adjacent to community college. 2.Acquire land and improvements for 600 yard outdoor range.	
Hooper Bay	19	All major villages	Designated outdoor shooting areas	

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Sen. McLaughlin

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE
REVISED

I. REQUEST
Bill/Resolution No. S. B. 477
Title An Act relating to shooting and firearm safety
Requested by Senate Resources Committee Date 3/11/80

II. FISCAL DETAIL
Agency Affected Department of Fish and Game
Program Category Affected Natural Resources Management
BRU, Program, or Subprogram(s) Affected Game 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		10.0	10.0	10.0	10.0	10.0
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	10.0	10.0	10.0	10.0	10.0

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	10.0	10.0	10.0	10.0	10.0
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

There would be a continuing cost of operation of the Advisory Committee on Hunting and Firearm Safety to carry out provision of Section 16.55.040. All other aspects of the bill could be handled through the existing hunting safety program.

IV. DATE 3/11/80 PREPARED BY Russell H. Clark
AGENCY Department of Fish and Game
PHONE 465-4120

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

33-001 (Rev. 12/79)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. S.B. 477

Title An Act relating to shooting and firearm safety

Requested by Senate Resources Committee Date 2/20/80

II. FISCAL DETAIL

Agency Affected Department of Fish and Game

Program Category Affected Natural Resources Management

BRU, Program, or Subprogram(s) Affected Game 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		15.0	15.0	15.0	15.0	15.0
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	15.0	15.0	15.0	15.0	15.0

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	15.0	15.0	15.0	15.0	15.0
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

There would be a continuing cost of operation of the STATE Range Planning Committee to carry out provisions of Section 1 (3). All other aspects of the bill could be handled through the existing hunter safety program.

IV. DATE 2/28/80 PREPARED BY Russell H. Clark

AGENCY Department of Fish and Game

PHONE 465-4120

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

33-001 (Rev. 12/79)

Recommendations of the State Range Planning Committee

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SB
519

COMMITTEE REPORT

SENATE

FURTHER: Judiciary

3/12/80

Date: March 17, 1980

Mr. President:

The Committee on STATE AFFAIRS has had SB 519

use of limited entry permits as collateral for loans

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

Ben Berthelsen

L

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Patrick Kelly No Rec

Tim Kelly - No Rec

Brad Bradley No Rec

Ben Berthelsen

CHAIRMAN

S 60 (Rev. 12/78)

(16) provide technical services to shareholders; for the purposes of this paragraph, "technical services" includes services that will enhance the ability of the shareholder to obtain financial assistance from the bank;

(17) make loans, as provided in (1) of this section, secured by liens subordinate to valid first liens and security agreements granted to a private lending institution;

(18) participate with state departments and agencies in formulating policy and in planning for the development of commercial fishing and agriculture in the state;

(19) do what is necessary or desirable to carry out the corporate purposes and powers expressed or implied in this chapter.

(20) make loans to individual commercial fishermen for limited entry permits; a loan under this paragraph may be made only to an individual commercial fisherman who has been a state resident for a continuous period of five years immediately preceding the date of application for the loan and who has had a crewmember or commercial fishing license under AS 16.05.480 or a permit under AS 16.43 for any one of the past five years, and who has actively participated in the fishery during that period; loans made under this paragraph are subject to the provisions of AS 44.54.230. (§ 3 ch 159 SLA 1978; am § 4 ch 53 SLA 1979)

Effect of amendment. — The 1979 amendment added paragraph (20).

Sec. 44.54.220. Transition. Upon the repurchase of all the nonvoting, preferred shares initially issued by the bank and purchased by agencies of the state, the provisions of this chapter lapse and the bank may proceed to operate as a private cooperative corporation under the terms of its bylaws and subject to the provisions of AS 10.15.005 — 10.15.600. (§ 3 ch 159 SLA 1978)

Sec. 44.54.230. Loans for purchase of Alaska limited entry permits. (a) A loan under AS 44.54.210(20) for the purchase of a limited entry permit may be made only upon certification by the Alaska Commercial Fisheries Entry Commission (AS 16.43.020) that the fisherman is a person who qualifies as a transferee for the permit under AS 16.43 and the regulations adopted by the commission.

(b) Upon approval by the bank, the permit to be purchased may be pledged as security for a loan under (a) of this section, if

(1) the certificate for the pledged permit lists the executive director of the bank as the legal owner of the permit;

(2) the certificate for the pledged permit lists the debtor as the equitable owner of the permit;

(3) all annual permit cards issued under the pledged permit list the name of the debtor;

(4) all obligations and responsibilities of a permit owner are assumed by the debtor,

(5) co-signers or other sureties for performance under the note are not vested with any rights in the pledged permit and their obligation is limited to satisfaction of the note and payment of costs directly incurred by the bank in administering the loan.

(c) Upon satisfaction of the note by the debtor, the executive director shall certify to the commission that the note has been satisfied.

(d) Upon certification as provided in (c) of this section, the commission shall amend the permit certificate to list the debtor as the legal owner. (§ 5 ch 53 SLA 1979)

Sec. 44.54.240. Default and foreclosure of loans for limited entry permits. (a) If the debtor defaults upon a note for which a limited entry permit has been pledged as security under AS 44.54.230, the executive director of the bank shall provide the debtor, by registered or certified mail sent to his last known address on file with the bank, with a notice of default which includes

(1) a description of the security given for the note including the number assigned to the pledged permit by the Alaska Commercial Fisheries Entry Commission;

(2) the date upon which the default occurred;

(3) the amount of arrearages as of the date of the notice, the total amount remaining on the note less unearned interest, and the amount of daily interest;

(4) a statement that the debtor may, within 15 days of the postmark date of the notice, request a hearing at which he may submit evidence showing he has not defaulted;

(5) a statement that the note may be reinstated if brought current within 60 days from the postmark date of the notice;

(6) a statement that the note may be paid in full less unearned interest within 90 days from the postmark date of the notice;

(7) the place where reinstatement or payment in full may be made; and

(8) a notice in at least 10-point bold type stating: "IMPORTANT: YOUR FAILURE TO REINSTATE OR PAY THIS NOTE IN FULL BY THE DATE SPECIFIED WILL RESULT IN A FORFEITURE OF ALL RIGHTS TO THE PERMIT AND THE POSSIBILITY OF LEGAL ACTION BEING INSTITUTED AGAINST YOU."

(b) Upon the debtor's failure to reinstate or satisfy the note within the time specified in (a) of this section, his equitable interest is terminated by operation of law without further notice. Any entry permit cards issued to him under the permit shall be cancelled immediately upon receipt by the commission of a certificate of termination containing a copy of the notice required by (a) of this section issued by the executive director of the bank. (§ 5 ch 53 SLA 1979)

Sec. 44.54
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Chapter 5

Section
10. Creation of
20. Membership
30. Officers and
40. Compensatio
50. Staff
60. Legal counse
70. Purpose of a
80. General pow
90. Bonds of th
100. Submission
impact plan
110. Legislative a
115. Nomination

Sec. 44.54.250. Deficiencies and transfer of entry permits after foreclosure. (a) Upon a foreclosure on an entry permit as provided in AS 44.54.240, the executive director of the bank shall offer the Alaska Commercial Fisheries Entry Commission a right of first refusal if the permit is subject to a buy-back program under AS 16.43.290 — 16.43.330 at a price equal to the amount outstanding on the note plus any costs the bank directly incurred in administering the loan.

(b) If the commission does not exercise its right of first refusal within 30 days after it receives the offer, or if the permit is not subject to a buy-back program under AS 16.43.290 — 16.43.330, the bank shall promptly notify the debtor of this fact. The debtor has 30 days from the postmark date of the notice to nominate a person qualified to assume the note. The person nominated must qualify under the requirements of AS 44.54.230(a). If qualified, he may assume all rights and liabilities of the original debtor.

(c) If the debtor is unable to nominate a qualified person to assume the note under (b) of this section, the permit must be made available to a qualified person, chosen as provided in this section, who shall assume the note subject to all rights and liabilities of the original debtor. The Alaska Commercial Fisheries Entry Commission shall provide the bank with a list of persons chosen by lottery who qualify as transferees of entry permits under AS 16.43 and regulations adopted by the commission and who have met the residency and commercial fishing participation requirements of AS 44.54.210(20). The executive director of the bank shall then determine, in order of presentation, any remaining qualifications. The executive director shall allow the first applicant meeting all qualifications to assume the note.

(d) Nothing in this section affects the right of the executive director of the bank to institute legal action for a deficiency resulting from a default on a note given under AS 44.54.230. In addition to any deficiency, the debtor is liable for the costs of administering the note and for costs and attorney fees. (§ 5 ch 53 SLA 1979)

Chapter 55. Alaska Gas Pipeline Financing Authority.

Section
10. Creation of authority
20. Membership
30. Officers and quorum
40. Compensation
50. Staff
60. Legal counsel
70. Purpose of authority
80. General powers
90. Bonds of the authority
100. Submission of financial and Alaska impact plan
110. Legislative approval
115. Nomination of a member of the board
120. Trust indentures and trust agreements
130. Nonliability on bonds
140. Pledge of the state
150. Exemption from taxation
160. Bonds legal investments for fiduciaries
170. Regulations
180. Annual audit
190. Annual report
200. Definitions

HOUSECLEAN

SB 519 An Act relating to the use of limited entry permits as collateral for loans By State Affairs

Summary

Existing statutes under the Commercial Fishing and Agriculture Bank allow the use of entry permits as collateral for state loans.

However, this is not presently allowed under AS 16.43, "Terms and conditions of entry permit"--so a conflict exists between the statutes. This bill would amend AS 16.43 to allow the use of permits as collateral for lonas from the Commercial Fishing and Agriculture Bank, so the statutes would not conflict.

To Resolve the

Section 2 would allow the transfer of a permit by the Bank in the event of foreclosure of a loan, which would again resolve the conflict between the statutes under AS 16.43 and AS 44.54.

44.54.250 In the event of foreclosure, the Bank shall offer the Entry Commission the right of first refusal. If the Commission doesn't exercise the ht, the debtor may nominate a person qualified to assume the note. If the debtor is unable to nominate a qualified person, the Entry Commission shall provide the bank with a list of qualified applicants, and the bank shall allow the first applicant meeting the qualifications to assume the note.

SB 519 An Act relating to the use of limited permits as collateral for loans By State Affairs

Summary

Amends statutes concerning "Fish and Game, Regulation of Entry into Alaska Commercial Fisheries, Terms and conditions of entry permit; annual renewal" to provide for the use of entry permits as collateral for loans as already provided under existing statutes AS 44.54.230-44.54.250.

The section dealing with "Transfer of entry permits" under the same chapter is also amended to provide for the transfer of entry permits in the event of foreclosure of a loan as already provided under AS 44.54.230-44.54.250.

Background

This bill appears to be simply a house-cleaning measure to bring statutes under AS 16.43 into compliance with existing statutes under AS 44.54 ("State Government, Commercial Fishing and Agriculture Bank").

Statutes under AS 44.54.230-44.54.250 discuss state loans through the Commercial Fishing and Agriculture Bank for purchase of limited entry permits. They include provisions for using permits as collateral for such loans. This bill would make this use of permits as collateral consistent with statutes under AS 16.43.150 and AS 16.43.170.

March 13, 1980

SB 519 An Act relating to the use of limited entry permits as collateral for loans.

SUMMARY:

Statutes under AS 16.43 state that an entry permit may not be pledged, mortgaged, leased, or in any way encumbered and may not be transferred with any right of repossession or foreclosure. Statutes under AS 44.54.230 - 44.54.250 allow the use of an entry permit as collateral for a state loan from the Commercial Fishing and Agriculture Bank, and provide for the transfer of the permit in the event of foreclosure. This bill would amend the statutes under AS 16.43 to comply with the existing statutes under AS 44.54

SB

521

COMMITTEE REPORT

SENATE

FURTHER: Finance

3/12/80

Date: March 24, 1980

Mr. President:

The Committee on STATE AFFAIRS has had SB 521
Alaska Commercial Fishing and Agriculture Bank

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 521 [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

Bob Markham
Tim Kelly

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Patrick Rogers

Bob Markham
CHAIRMAN

S 60 (Rev. 12/78)

Definition in 521 - Shareholder to include members still public

SB 521 — An Act relating to the Alaska Commercial Fishing and Agriculture Bank; and providing for an effective date. — By State Affairs

According to Ken Vassar, the Legislative Counsel who drafted this bill, the definition of "shareholder" in Section 13 of this bill raises some questions. The bank is subject to statutes pertaining to cooperatives (AS 10.15.005 - 10.15.600) except as otherwise provided in AS 44.54, and members are specifically exempted from the definition of "shareholder" under AS 10.15.595(11). However, this bill would define "shareholder", for the purposes of the bank, as including members.

He suggests that "it might be more appropriate to delete the word 'shareholder' and insert the word 'member' in those parts of AS 44.54 relating to loans. The method used in this bill of defining 'shareholder' to include members would allow the bank to make loans to people who are not members but who hold capital stock of the bank or are patrons. It would also have an effect on the procedures by which the bank can be dissolved and the articles of incorporation of the bank can be amended."

Look on 44.54.210 (1) used word shareholder - intent to member

Amendments recommended by Ken Vassar

Sec. 44.54.010. Commercial Fishing and Agriculture Bank. (a) There is established the Alaska Commercial Fishing and Agriculture Bank. The bank is a public corporation and government instrumentality in the Department of Commerce and Economic Development but has a legal existence independent of and separate from the state. The exercise by the bank of the powers conferred by this chapter is considered an essential governmental function of the state. Except as otherwise provided in this chapter, the bank is subject to the provisions of AS 10.15.005 — 10.15.600.

(b) For the purpose of the initial funding of the bank's operations, the board of directors shall issue nonvoting, preferred shares of stock in the bank and shall determine the value of each share. The State of Alaska, through appropriate agencies, shall purchase the nonvoting, preferred shares initially issued by the bank. Shares purchased by the state shall be repurchased by the bank within 20 years after their purchase. If the bank fails to repurchase the shares within 20 years, the commissioner of commerce and economic development may dissolve the bank.

(c) After the board of directors has completed the necessary organizational matters described in §§ 30 and 40 of this chapter, the commissioner of revenue may purchase with funds from the general fund up to $2,000,000 of preferred stock of the bank during fiscal year 1979 at such time and with terms agreed upon by the commissioner and the board. (§ 3 ch 159 SLA 1978; am § 1 ch 53 SLA 1979)

Effect of amendment. — The 1979 amendment inserted "Alaska" in the first sentence of subsection (a).

Sec. 44.54.020. Board of directors. (a) The bank shall be managed by a board of directors consisting of seven members. At least one member of the board shall be an Alaska farmer with at least 10 years of Alaskan farm experience. Initial appointments to the board shall be made by the governor. Two of the initial appointments shall be made at the time of the first annual membership meeting of the bank. Thereafter, five board members shall be elected by the shareholders, with at least one of the elected board members being an Alaska farmer with at least 10 years of Alaskan farm experience, and two board members shall be appointed by the governor until the repurchase of all the nonvoting, preferred shares initially issued by the bank and purchased by agencies of the state. After repurchase is completed, all board members shall be elected by the shareholders. The board members shall annually elect a chairman from among themselves. The purpose of the board is to manage the assets of the bank.

(b) The governor shall designate the two members whose positions on the board will remain appointive for the period set out in (a) of this section. (§ 3 ch 159 SLA 1978; am § 2 ch 53 SLA 1979)

Delete "shareholders" insert "members of the bank."

§ 44.54.030

Effect of ame
amendment desig
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Sec. 44.5 070. E
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(b) The executive
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efficient performanc

Effect of amendment. — The 1979 amendment designated the provisions of this section as subsection (a) and in that subsection, substituted "seven members" for "five members" in the first sentence, added the present second, fourth and sixth sentences, inserted "five" preceding "board members" in the present fifth sentence, and added the language beginning "with at least one of the elected board members" at the end of the present fifth sentence. The amendment also added subsection (b).

Editor's note. — Section 6, ch. 53, SLA 1979, provides: "For the purposes of AS 44.54.020 and 44.54.090, the five members of the board of directors of the Commercial Fishing and Agriculture Bank who were appointed before August 4, 1979 shall continue to serve on the board of directors until their terms expire as provided in AS 44.54.090."

Sec. 44.54.030. Articles of incorporation. Not later than November 1, 1978, the board of directors shall file with the commissioner of commerce and economic development articles of incorporation as provided in AS 10.15.340 — 10.15.355 except that any filing fees shall be waived. (§ 3 ch 159 SLA 1978)

Sec. 44.54.040. Bylaws. The board of directors shall adopt the initial bylaws of the bank. The power to alter, amend or repeal the bylaws is vested in the board of directors. The bylaws may contain provisions for the regulation and management of the affairs of the bank not inconsistent with this chapter or other provisions of law. (§ 3 ch 159 SLA 1978)

Sec. 44.54.050. Membership meetings. Upon filing the articles of incorporation, the board of directors, with the assistance of the commissioner of commerce and economic development or his designee, may hold public meetings throughout the state for the purpose of explaining to members of the commercial fishing and farming industries the functions of the bank and to encourage membership in the bank. (§ 3 ch 159 SLA 1978)

Sec. 44.54.060. Membership stock. (a) The board of directors shall issue shares of membership stock in the bank in the amounts and with the value determined by the board and stated in the articles of incorporation.

(b) Loans made to shareholders of the bank under the provisions of this chapter shall be in accordance with a schedule of maximum amounts adopted by the board of directors based upon proportional ownership of shares. (§ 3 ch 159 SLA 1978)

Sec. 44.54.070. Executive director; staff. (a) The board of directors may hire and determine the salary of an executive director. The executive director shall be responsible for the ordinary business of the bank.

(b) The executive director, with the approval of the board of directors, may hire and determine the salary of staff reasonably necessary for the efficient performance of the duties of the bank. (§ 3 ch 159 SLA 1978)

Delete "shareholders" insert "members"

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 5, 1980

SUBJECT: Commercial Fishing and Agriculture Bank
(Work Order Number 8171)

TO: Senator Clem V. Tillion

FROM: Kenneth E. Vassar
Legislative Counsel KEV

Enclosed is the bill you requested amending various provisions of the statutes relating to the Commercial Fishing and Agriculture Bank. One of the provisions being added by this bill, the definition of "shareholder" in sec. 44.54.-260(3), raises some questions. I do not know what its intended effect is. The bank is subject to AS 10.15.005 - 10.15.600 except as otherwise provided in AS 44.54. The provisions of AS 10.15.005 - 10.15.600 relate to the functions of cooperative corporations, and AS 10.15.595(9) and (11) define "member" and "shareholder". This bill would define "shareholder", for the purposes of the bank, as including members. Members are specifically exempted from the definition of "shareholder" under AS 10.15.595(11). Thus, this departs from the general provisions relating to cooperative corporations.

I would guess that this intended to cure an apparent mistake in AS 44.54.210(1). That paragraph allows the bank to make loans to "shareholders". The intent, of course, was for the bank to be able to make loans to members, but since members are excluded from the definition of "shareholder" under AS 10.15.595, that intent is frustrated by the use of the word "shareholder". If this is intended to cure that mistake, it might be more appropriate to delete the word "shareholder" and insert the word "member" in those parts of AS 44.54 relating to loans. The method used in this bill of defining "shareholder" to include members would allow the bank to make loans to people who are not members but who hold capital stock of the bank or are patrons. It would also have an effect on the procedures by which the bank can be dissolved and the articles of incorporation of the bank can be amended.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
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MEMORANDUM March 5, 1980

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I also want to notify you that this bill does not include a provision similar to that on page 3 of the rough draft you delivered with your request which states:

> The foregoing right of indemnification shall not be exclusive of other rights to which any director, officer or employee may be entitled as a matter of law.

Since I was unable to determine what it meant, I have left it out of this draft; however, I will be happy to meet with you to try to determine what it means and how it can be restated in a more understandable manner.

KEV:ljb

Enclosure

March 24, 1980

SB 521 - An Act relating to the Alaska Commercial Fishing and Agriculture Bank, and providing for an effective date.

BY: State Affairs

Section 1: AS 44.54.070. EXECUTIVE DIRECTOR; STAFF is repealed and re-enacted to read PRESIDENT; OFFICERS AND EMPLOYEES.

(a) Provides for employment of a president as chief executive officer of the bank. President may not be a member of board of directors.

(b) Board shall appoint vice-president(s), secretary, treasurer, and other necessary officers.

(c) President may hire employees, may contract for advisors.

Section 2: AS 44.54.150 (a). NONLIABILITY ON BONDS. Amended to change executive director to president regarding non-liability.

Section 3: AS 44.54.210 (1).POWERS OF THE BANK. Amended to allow bank to make loans to commercial agriculture or fishing suppliers. Deletes 'primarily' from:"Bank may make loans to... corporations, partnerships, or joint ventures (primarily) involved in commercial agriculture or fishing."

Section 4: AS 44.54.210 Amended by adding a new paragraph.

(21) Provides for indemnification of directors, officers and employees against liabilities from the performance of official duties.

Section 5: AS 44.54.210 Amended by adding a new subsection.

(b) Bank is not authorized to indemnify director, officer, or employee adjudged liable for negligence or misconduct.

Section 6: AS 44.54.230 LOANS FOR PURCHASE OF ALASKA LIMITED ENTRY PERMITS.

(a) Amended to change 'Commercial Fisheries Entry Commission' to 'Commission'.

Section 7: AS 44.54.230 (b). Amended to give the bank, rather than the executive director, legal ownership of a limited entry permit pledged as collateral.

Section 8: AS 44.54.230 (c). Provides that the bank, rather than the executive director, must certify that a note has been satisfied.

Section 9: AS 44.54.240 DEFAULT AND FORECLOSURE OF LOANS FOR LIMITED ENTRY PERMITS.

(a) Amended to provide that bank, rather than executive director, shall give notice of default. Changes 'Commercial Fisheries Entry Commission' to 'Commission'.

(b) Provides bank, rather than executive director, shall send a copy of notice of default to the commission.

Section 10: AS 44.54.250 DEFICIENCIES AND TRANSFER OF ENTRY PERMITS AFTER FORECLOSURE.

(a) Amended by providing that bank, rather than executive director, shall offer the commission first refusal on a foreclosed permit. Changes 'Commercial Fisheries Entry Commission' to 'commission'.

Section 11: AS 44.54.250 (c). Changes 'Commercial Fisheries Entry Commission' to 'Commission'. Provides that bank, rather than executive director, shall transfer a note after foreclosure.

Section 12: AS 44.54.250 (d). Provides that bank, rather than executive director, may institute legal action for a deficiency resulting in a default.

Section 13: AS 44.54 is amended by adding a new section.
AS 44.54.260 DEFINITIONS. Defines "bank", "commission" and "shareholder".

Official Business

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

April 2, 1980

CSSB 521 - An Act relating to the Alaska Commercial Fishing and Agriculture Bank; and providing for an effective date.

BY: State Affairs

SECTIONAL ANALYSIS OF CHANGES IN CSSB 521:

SECTION 1 : AS 44.54.020. BOARD OF DIRECTORS.(a) is amended to provide for the election of board members by members of the bank (deletes "shareholders").

SECTION 2 : AS 44.54.060. MEMBERSHIP STOCK. (b) is amended to provide that loans made to members (deletes "shareholders") of the bank shall be in accordance with a schedule of maximum amounts adopted by the board of directors based upon proportional ownership of membership shares.

SECTION 3 : AS 44.54.070. PRESIDENT; OFFICERS AND EMPLOYEES. (b) is amended by adding a sentence to provide that the officers described in this subsection are not required to be members of the board of directors.

SECTION 5 : AS 44.54.210. POWERS OF THE BANK. (1) is amended to provide that the bank may make a loan to a qualified member (deletes "shareholder") of the bank.

SECTION 6 : AS 44.54.210 (16) is amended to provide that the bank may provide technical services to members of the bank (deletes "shareholders"); for purposes of this paragraph, "technical services" includes services that will enhance the ability of the member (deletes "shareholder") to obtain financial assistance from the bank.

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

CSSB 521 (Cont.)

SECTION 16 : AS 44.54.260 DEFINITIONS. Amended to add:

(3) "member of the bank" includes a holder of a share of membership stock of the bank or a portion of the bank with retained patronage earnings of $2,500 or more to his credit;

(4) "supplier" means a person whose main source of income is from providing goods and services that are directly related to commercial fishing or agriculture to individuals, corporations, partnerships, or joint ventures engaged in commercial fishing or agriculture.

("(3) 'shareholder' includes a holder of a share of membership stock of the bank, a holder of a share of capital stock in the bank, or a patron of the bank with retained patronage earnings of $2,500 or more to his credit." is deleted.)

March 24, 1980

SB 521 - An Act relating to the Alaska Commercial Fishing and Agriculture Bank, and providing for an effective date.

BY: State Affairs

Section 1: AS 44.54.070. EXECUTIVE DIRECTOR; STAFF is repealed and re-enacted to read PRESIDENT; OFFICERS AND EMPLOYEES.

(a) Provides for employment of a president as chief executive officer of the bank. President may not be a member of board of directors.

(b) Board shall appoint vice-president(s), secretary, treasurer, and other necessary officers.

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Section 4: AS 44.54.210 Amended by adding a new paragraph.
(21) Provides for indemnification of directors, officers and employees against liabilities from the performance of official duties.

Section 5: AS 44.54.210 Amended by adding a new subsection.
(b) Bank is not authorized to indemnify director, officer, or employee adjudged liable for negligence or misconduct.

Section 6: AS 44.54.230 LOANS FOR PURCHASE OF ALASKA LIMITED ENTRY PERMITS.

(a) Amended to change 'Commercial Fisheries Entry Commission' to 'Commission'.

Section 7: AS 44.54.230 (b). Amended to give the bank, rather than the executive director, legal ownership of a limited entry permit pledged as collateral.

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AS 44.54.260 DEFINITIONS. Defines "bank", "commission" and "shareholder".

Alaska Commercial Fishing and Agriculture Bank

The Commercial Fishing and Agriculture Bank was established in 1979 and is scheduled to start conducting Business on April 2, 1980. It is organized as a public corporation and government instrumentality within DOCED, but it has a legal existence independent of and separate from the state. The bank will operate along the lines of a cooperative, and is subject to the statutes governing cooperatives. As with other cooperatives, borrowing from the Bank is contingent on membership in the Bank. When someone receives a lona from the Bank, he must purchase membership stock in the Bank for an amount equal to 10% of the loan. This provides additional working capital that the Bank can reloan.

The Bank received its initial funding from an appropriation for $2 million. The chairman of the Bank, Frank Homan, estimates that about $30 million in capital is needed by the Bank. The state has offered to loan $30 million at 9.5% interest, and the papers have just been signed (March 14, 1980) for the first $15 million installment. The remaining $15 million will be loaned to the Bank this fall. In addition, the Federal Farm Credit System will be providing funds to the Bank at a 6 or 7 to 1 leverage ratio. The Bank plans to repurchase all the nonvoting preferred shares from the state within 20 years, so it ultimately will be completely divorced from the state.

Loans made by the Bank will be at the interest rate charged to the Bank plus a 2% service charge. There is a tentative ceiling of 20% of the Capital in the Bank to any one borrower.

Effect of amendment. — The 1979 amendment designated the provisions of this section as subsection (a) and in that subsection, substituted "seven members" for "five members" in the first sentence, added the present second, fourth and sixth sentences, inserted "five" preceding "board members" in the present fifth sentence, and added the language beginning "with at least one of the elected board members" at the end of the present fifth sentence. The amendment also added subsection (b).

Editor's note. — Section 6, ch. 53, SLA 1979, provides: "For the purposes of AS 44.54.020 and 44.54.090, the five members of the board of directors of the Commercial Fishing and Agriculture Bank who were appointed before August 4, 1979 shall continue to serve on the board of directors until their terms expire as provided in AS 44.54.090."

Sec. 44.54.030. Articles of incorporation. Not later than November 1, 1978, the board of directors shall file with the commissioner of commerce and economic development articles of incorporation as provided in AS 10.15.340 — 10.15.355 except that any filing fees shall be waived. (§ 3 ch 159 SLA 1978)

Sec. 44.54.040. Bylaws. The board of directors shall adopt the initial bylaws of the bank. The power to alter, amend or repeal the bylaws is vested in the board of directors. The bylaws may contain provisions for the regulation and management of the affairs of the bank not inconsistent with this chapter or other provisions of law. (§ 3 ch 159 SLA 1978)

Sec. 44.54.050. Membership meetings. Upon filing the articles of incorporation, the board of directors, with the assistance of the commissioner of commerce and economic development or his designee, may hold public meetings throughout the state for the purpose of explaining to members of the commercial fishing and farming industries the functions of the bank and to encourage membership in the bank. (§ 3 ch 159 SLA 1978)

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Sec. 44.54.070. Executive director; staff. (a) The board of directors may hire and determine the salary of an executive director. The executive director shall be responsible for the ordinary business of the bank.

(b) The executive director, with the approval of the board of directors, may hire and determine the salary of staff reasonably necessary for the efficient performance of the duties of the bank. (§ 3 ch 159 SLA 1978)

10.15 Alaska Cooperative Corporation Act

Sec. 10.15.010. General powers. Each cooperative may

(1) have perpetual succession unless a limited period of duration is stated in its articles;

(2) sue and be sued, complain and defend, in its corporate name;

(3) adopt a corporate seal and alter it, and use it by having it, or a facsimile of it impressed, affixed or reproduced;

(4) buy, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use and otherwise deal in, real or personal property, wherever situated;

(5) sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of its property and assets;

(6) buy, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in, shares or other interests in, or obligations of, other domestic or foreign cooperatives and corporations, partnerships or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, or its governmental district or municipality or instrumentality;

(7) make contracts and incur liabilities, borrow money at the rates of interest the cooperative determines, issue notes, bonds, certificates of indebtedness and other obligations, issue certificates representing equity interests in its assets, and secure its obligations by mortgage or pledge of its property, franchise and income;

(8) lend money for its corporation purposes, invest and reinvest its funds and take and hold real and personal property as security for the payment of funds loaned or invested;

(9) conduct business and affairs and have offices and exercise its powers in a state, territory, district or possession of the United States, or in a foreign country;

(10) elect or appoint officers and agents, and define their duties and fix their compensation;

(11) make and alter bylaws, consistent with its articles and the laws of the state, for the administration and regulation of its affairs;

(12) donate for the public welfare or for charitable, scientific or educational purposes;

(13) indemnify a director, officer or agent or former director, officer or agent, or a person who may have served at its request as a director or officer of another domestic or foreign cooperative of which it is a member, against expenses necessarily incurred in defense of a proceeding in which he is a party because he served as a director, officer or agent, but this paragraph does not apply to proceedings in which the director, officer or agent is adjudged liable for negligence or misconduct in the performance of duty, and indemnification under this paragraph is not exclusive of other rights to which the director, officer or agent may be entitled;

(14) cease its activities and surrender its franchise;

(15) have and exercise all powers necessary or convenient to carry out the purposes for which the cooperative is organized. (§ 4 ch 107 SLA 1959)

SB 521 — An Act relating to the Alaska Commercial Fishing and Agriculture Bank; and providing for an effective date. — By State Affairs

Main points of this bill are:

1) Renaming of executive director's position to become president (to conform with the organization of banks). Provides for appointment of vice-presidents, secretary, treasurer, and other necessary officers.
2) Conveyance of certain powers and duties now held by executive director to the bank as a whole
3) Indemnification of directors, officers, and employees against liabilities arising from a proceding brought against them because of an act or omission in the performance of official duties (conforms with 'cooperatives' statutes)
4) Enables bank to make loans to residents who are engaged in commercial fishing and agriculture who are "suppliers" (for example, shipyards).
5) Adds "Definitions" section to Commercial Fishing and Agriculture Bank statutes.

SB 521 - An Act relating to the Alaska Commercial Fishing and Agriculture Bank; and providing for an effective date.

BY: State Affairs Committee

Basically, this bill does the following:

1. Renames the executive director's position to become president (to conform with the organization of banks). Provides for the appointment of vice-presidents, secretary, treasurer and other necessary officers.

2. Conveys certain powers and duties now held by the ~~executive~~ EXECUTIVE director to the bank as a whole.

3. Indemnifies directors, officers and employees against liabilities arising from a proceding brought against them because of an act or omission in the performance of official duties (conforms with cooperatives' statutes, see attached). DOES NOT INCLUDE NEGLIGENCE OR MISCONDUCT IN PERFORMANCE OF DUTIES.

4. Enables bank to make loans to residents who are engaged in commercial fishing or agriculture who are "suppliers" (for example: shipyards).

5. Adds "Definitions" section to Commercial Fishing and Agriculture Bank statutes. Defines "bank", "commission" and "shareholder".

The Commercial Fishing and Agriculture bank - REQUESTED supports this bill ~~and helped~~ THEY ASSISTED in the drafting of it. The bank has received interest from shipyards desiring to participate in the program, hence the addition of "suppliers" to those who may receive loans from the Bank. (Suppliers is not defined in the legislation, however, and without knowing the intent, it might be too vague of a term. Perhaps should be defined.)

SB 521 An Act relating to the Alaska Commercial Fishing and Agriculture Bank; and providing for an effective date. By State Affairs.

Summary

Main points of this bill are:

1) Reorganization of administrative branch of Commercial Fishing and Agriculture Bank. Eliminates executive director's position - provides for employment of a president as the chief executive officer of the bank.
2) Conveyance of certain powers and duties now held by executive director to the bank as a whole.
3) Indemnification of directors, officers and employees against liabilities arising from a proceeding brought against them because of an act or omission in the performance of official duties.
4) Enables bank to make loans to ~~individual~~ residents engaged in commercial fishing or agriculture who are "suppliers" (for example, shipyards)
5) Adds definitions section to define "bank"; "commission" and "shareholder"

Background

Commercial Fishing and Agriculture Bank supports this bill - they assisted in the drafting of it. The Bank has received interest from shipyards desiring to participate in this program, hence the addition of "suppliers" to those who may receive loans from the Bank ("suppliers" is not defined in the legislation, however, and without knowing the intent might be too vague of a term).

Ken Vassar, the Legislative Counsel who drafted this bill, has

problems with the definition of "shareholder" included in the bill. "This bill would define would define 'shareholder', for the purposes of the bank, as including members. However, this departs from the general provisions relating to cooperative corporations, under which the Bank is organized and which specifically exempt members from the definition of 'shareholder.' According to Vassar, "the method used in this bill of defining 'shareholder' to include members would allow the bank to make loans to people who are not members but who hold capital stock of the bank or are patrons. It would also have an effect on the procedures by which the bank can be dissolved and the articles of incorporation of the bank can be amended. It might be more appropriate to delete the word 'shareholder' and insert the word 'member' in those parts of AS 44.54. relating to loans."

titles more recognizable

more flexibility in hiring people

change shareholder to 'member' or 'member of the bank'

44.54.020 (a) ✓

.060 (6) ✓

.210 (1) ✓

.210 (16) ✓

shareholder def. deleted.

CS SB 521 An Act relating to the Alaska Commercial Fishing and Agriculture ~~Act~~ Bank; and providing for an effective date. By State Affairs

Sectional Analysis of Changes in CSSB 521

Section 1 AS 44.54.020. BOARD OF DIRECTORS. (a) is amended to provide for the election of board members by members of the bank [deletes "shareholders"].

Section 2 AS 44.54.060. MEMBERSHIP STOCK. (b) is amended to provide that loans made to members [deletes "shareholders"] of the bank shall be in accordance with a schedule of maximum amounts adopted by the board of directors based upon proportional ownership of membership shares.

Section 3 AS 44.54.070. PRESIDENT; OFFICERS AND EMPLOYEES. (b) is amended by adding a sentence to provide that the officers described in this subsection are not required to be members of the board of directors.

Section 5 AS 44.54.210. POWERS OF THE BANK. (1) is amended to provide that the bank may make loans to a qualified member [deletes "shareholder"] of the bank.

Section 6

AS 44.54.210 (16) is amended to provide that the bank may provide technical services to members of the bank [deletes ~~shareholders~~ "shareholders"]; for purposes of this paragraph, "technical services" includes services that will enhance the ability of the member [deletes "shareholder"] to obtain financial assistance from the bank.

Section 16

AS 44.54.260. DEFINITIONS. Amended to add:

(3) "member of the bank" includes a holder of a share of membership stock of the bank or a patron of the bank with retained patronage earnings of $2,500 or more to his credit;

(4) "supplier" means a person whose main source of income is from providing goods or services that are directly related to commercial fishing or agriculture to individuals, corporations, partnerships, or joint ventures engaged in commercial fishing or agriculture.

[~~deletes "(5) 'shareholder' includes~~ a ~~(3) 'supplier'~~

["(3) 'shareholder' includes a holder of a share of membership stock of the bank, a holder of a share of capital stock in the bank, or a patron of the bank with retained patronage earnings of $2,500 or more to his credit." is deleted]

SB 521

By State Affairs

Relating to the Commercial Fishing and Agriculture Bank; providing eff. date

Summary

Amends or re-enacts numerous statutes under AS 44.54 (State Government, Alaska Commercial Fishing and Agriculture Bank).

Statute dealing with organization of the administrative branch of the bank (44.54.070) is repealed and re-enacted to read "President; officers and employees". Provides for the employment of a president by the bank's board of directors. Board shall also appoint one or more vice-presidents, a secretary, a treasurer and other necessary officers. One person may be appointed to more than one position. President may hire employees of the bank and may contract for advisors. Present statute ("Executive director, staff") specifies that the board may hire an executive director who may hire staff. Wording in the chapter is changed to reflect that the president rather than the executive director is the chief executive of the bank.

Numerous statutes are amended to provide that powers and responsibilities now given to the executive director would be conveyed to the bank as a whole. These powers and responsibilities are primarily in regard to loans for purchase of linited entry permits. Bank would be given:

1) Legal ownership of entry permits pledged as security for a loan (Sec 7)
2) Responsibility for certification of repayment of debt for which permit is pledged as security (Sec. 8)
3) Responsibility for notifying debtor of default on loan for limited entry permit (Sec. 9)
4) Bank would decide who gets permit in event of foreclosure of loan for limited entry permit (Sec. 11)
5) Bank has the right to institute legal action from default of a loan for a limited entry permit. (Sec. 12)

Statute concerning powers of the bank (44.54.210) is amended to allow the bank to make loans to "individuals who are residents and who are engaged in commercial agriculture or fishing, including suppliers or to corporations, partnerships or joint ventures ("primarily" is deleted) engaged in commercial fishing or agriculture."

Powers of the bank statute is also amended by adding a new paragraph providing that the bank may indemnify a director, officer or employee of the bank and his heirs, administrators, and executors against all liabilities and related expenses arising from a proceeding brought against him because of an act or omission in the performance of his official duties. This is regardless of whether he is director, officer or employee at the time the expenses are incurred. A new subsection added to the same statute also provides that the bank is not authorized to indemnify a director, officer, or employee who is adjudged liable for negligence or misconduct in the performance of his official duties.

A definitions section is added to this chapter to define "bank", "commission" and "shareholder".

Takes effect immediately

Effect of amendment. — The 1979 amendment designated the provisions of this section as subsection (a) and in that subsection, substituted "seven members" for "five members" in the first sentence, added the present second, fourth and sixth sentences, inserted "five" preceding "board members" in the present fifth sentence, and added the language beginning "with at least one of the elected board members" at the end of the present fifth sentence. The amendment also added subsection (b).

Editor's note. — Section 6, ch. 53, SLA 1979, provides: "For the purposes of AS 44.54.020 and 44.54.090, the five members of the board of directors of the Commercial Fishing and Agriculture Bank who were appointed before August 4, 1979 shall continue to serve on the board of directors until their terms expire as provided in AS 44.54.090."

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Sec. 44.54.040. Bylaws. The board of directors shall adopt the initial bylaws of the bank. The power to alter, amend or repeal the bylaws is vested in the board of directors. The bylaws may contain provisions for the regulation and management of the affairs of the bank not inconsistent with this chapter or other provisions of law. (§ 3 ch 159 SLA 1978)

Sec. 44.54.050. Membership meetings. Upon filing the articles of incorporation, the board of directors, with the assistance of the commissioner of commerce and economic development or his designee, may hold public meetings throughout the state for the purpose of explaining to members of the commercial fishing and farming industries the functions of the bank and to encourage membership in the bank. (§ 3 ch 159 SLA 1978)

Sec. 44.54.060. Membership stock. (a) The board of directors shall issue shares of membership stock in the bank in the amounts and with the value determined by the board and stated in the articles of incorporation.

(b) Loans made to shareholders of the bank under the provisions of this chapter shall be in accordance with a schedule of maximum amounts adopted by the board of directors based upon proportional ownership of shares. (§ 3 ch 159 SLA 1978)

Sec. 44.54.070. Executive director; staff. (a) The board of directors may hire and determine the salary of an executive director. The executive director shall be responsible for the ordinary business of the bank.

(b) The executive director, with the approval of the board of directors, may hire and determine the salary of staff reasonably necessary for the efficient performance of the duties of the bank. (§ 3 ch 159 SLA 1978)

10.15 Alaska Cooperative Corporation Act

Sec. 10.15.010. General powers. Each cooperative may

(1) have perpetual succession unless a limited period of duration is stated in its articles;

(2) sue and be sued, complain and defend, in its corporate name;

(3) adopt a corporate seal and alter it, and use it by having it, or a facsimile of it impressed, affixed or reproduced;

(4) buy, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use and otherwise deal in, real or personal property, wherever situated;

(5) sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of its property and assets;

(6) buy, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in, shares or other interests in, or obligations of, other domestic or foreign cooperatives and corporations, partnerships or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, or its governmental district or municipality or instrumentality;

(7) make contracts and incur liabilities, borrow money at the rates of interest the cooperative determines, issue notes, bonds, certificates of indebtedness and other obligations, issue certificates representing equity interests in its assets, and secure its obligations by mortgage or pledge of its property, franchise and income;

(8) lend money for its corporation purposes, invest and reinvest its funds and take and hold real and personal property as security for the payment of funds loaned or invested;

(9) conduct business and affairs and have offices and exercise its powers in a state, territory, district or possession of the United States, or in a foreign country;

(10) elect or appoint officers and agents, and define their duties and fix their compensation;

(11) make and alter bylaws, consistent with its articles and the laws of the state, for the administration and regulation of its affairs;

(12) donate for the public welfare or for charitable, scientific or educational purposes;

(13) indemnify a director, officer or agent or former director, officer or agent, or a person who may have served at its request as a director or officer of another domestic or foreign cooperative of which it is a member, against expenses necessarily incurred in defense of a proceeding in which he is a party because he served as a director, officer or agent, but this paragraph does not apply to proceedings in which the director, officer or agent is adjudged liable for negligence or misconduct in the performance of duty, and indemnification under this paragraph is not exclusive of other rights to which the director, officer or agent may be entitled;

(14) cease its activities and surrender its franchise;

(15) have and exercise all powers necessary or convenient to carry out the purposes for which the cooperative is organized. (§ 4 ch 107 SLA 1959)

Alaska Commercial Fishing and Agriculture Bank

The Commercial Fishing and Agriculture Bank was established in 1979 and is scheduled to start conducting Business on April 2, 1980. It is organized as a public corporation and government instrumentality within DOCED, but it has a legal existence independent of and separate from the state. The bank will operate along the lines of a cooperative, and is subject to the statutes governing cooperatives. As with other cooperatives, borrowing from the Bank is contingent on membership in the Bank. When someone receives a loan from the Bank, he must purchase membership stock in the Bank for an amount equal to 10% of the loan. This provides additional working capital that the Bank can reloan.

The Bank received its initial funding from an appropriation for $2 million. The chairman of the Bank, Frank Homan, estimates that about $30 million in capital is needed by the Bank. The state has offered to loan $30 million at 9.5% interest, and the papers have just been signed (March 14, 1980) for the first $15 million installment. The remaining $15 million will be loaned to the Bank this fall. In addition, the Federal Farm Credit System will be providing funds to the Bank at a 6 or 7 to 1 leverage ratio. The Bank plans to repurchase all the nonvoting preferred shares from the state within 20 years, so it ultimately will be completely divorced from the state.

Loans made by the Bank will be at the interest rate charged to the Bank plus a 2% service charge. There is a tentative ceiling of 20% of the Capital in the Bank to any one borrower.

10.15 Alaska Cooperative Corporation Act

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(2) sue and be sued, complain and defend, in its corporate name;

(3) adopt a corporate seal and alter it, and use it by having it, or a facsimile of it impressed, affixed or reproduced;

(4) buy, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use and otherwise deal in, real or personal property, wherever situated;

(5) sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of its property and assets;

(6) buy, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in, shares or other interests in, or obligations of, other domestic or foreign cooperatives and corporations, partnerships or individuals, or direct or indirect obligations of the United States or of any other government, state, territory, or its governmental district or municipality or instrumentality;

(7) make contracts and incur liabilities, borrow money at the rates of interest the cooperative determines, issue notes, bonds, certificates of indebtedness and other obligations, issue certificates representing equity interests in its assets, and secure its obligations by mortgage or pledge of its property, franchise and income;

(8) lend money for its corporation purposes, invest and reinvest its funds and take and hold real and personal property as security for the payment of funds loaned or invested;

(9) conduct business and affairs and have offices and exercise its powers in a state, territory, district or possession of the United States, or in a foreign country;

(10) elect or appoint officers and agents, and define their duties and fix their compensation;

(11) make and alter bylaws, consistent with its articles and the laws of the state, for the administration and regulation of its affairs;

(12) donate for the public welfare or for charitable, scientific or educational purposes;

(13) indemnify a director, officer or agent or former director, officer or agent, or a person who may have served at its request as a director or officer of another domestic or foreign cooperative of which it is a member, against expenses necessarily incurred in defense of a proceeding in which he is a party because he served as a director, officer or agent, but this paragraph does not apply to proceedings in which the director, officer or agent is adjudged liable for negligence or misconduct in the performance of duty, and indemnification under this paragraph is not exclusive of other rights to which the director, officer or agent may be entitled;

(14) cease its activities and surrender its franchise;

(15) have and exercise all powers necessary or convenient to carry out the purposes for which the cooperative is organized. (§ 4 ch 107 SLA 1959)

Effect of amendment. — The 1979 amendment designated the provisions of this section as subsection (a) and in that subsection, substituted "seven members" for "five members" in the first sentence, added the present second, fourth and sixth sentences, inserted "five" preceding "board members" in the present fifth sentence, and added the language beginning "with at least one of the elected board members" at the end of the present fifth sentence. The amendment also added subsection (b).

Editor's note. — Section 6, ch. 53, SLA 1979, provides: "For the purposes of AS 44.54.020 and 44.54.090, the five members of the board of directors of the Commercial Fishing and Agriculture Bank who were appointed before August 4, 1979 shall continue to serve on the board of directors until their terms expire as provided in AS 44.54.090."

Sec. 44.54.030. Articles of incorporation. Not later than November 1, 1978, the board of directors shall file with the commissioner of commerce and economic development articles of incorporation as provided in AS 10.15.340 — 10.15.355 except that any filing fees shall be waived. (§ 3 ch 159 SLA 1978)

Sec. 44.54.040. Bylaws. The board of directors shall adopt the initial bylaws of the bank. The power to alter, amend or repeal the bylaws is vested in the board of directors. The bylaws may contain provisions for the regulation and management of the affairs of the bank not inconsistent with this chapter or other provisions of law. (§ 3 ch 159 SLA 1978)

Sec. 44.54.050. Membership meetings. Upon filing the articles of incorporation, the board of directors, with the assistance of the commissioner of commerce and economic development or his designee, may hold public meetings throughout the state for the purpose of explaining to members of the commercial fishing and farming industries the functions of the bank and to encourage membership in the bank. (§ 3 ch 159 SLA 1978)

Sec. 44.54.060. Membership stock. (a) The board of directors shall issue shares of membership stock in the bank in the amounts and with the value determined by the board and stated in the articles of incorporation.

(b) Loans made to shareholders of the bank under the provisions of this chapter shall be in accordance with a schedule of maximum amounts adopted by the board of directors based upon proportional ownership of shares. (§ 3 ch 159 SLA 1978)

Sec. 44.54.070. Executive director; staff. (a) The board of directors may hire and determine the salary of an executive director. The executive director shall be responsible for the ordinary business of the bank.

(b) The executive director, with the approval of the board of directors, may hire and determine the salary of staff reasonably necessary for the efficient performance of the duties of the bank. (§ 3 ch 159 SLA 1978)

Introduced: 3/12/80
Referred: State Affairs
and Finance

IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

SENATE BILL NO. 521

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the Alaska Commercial Fishing and Agriculture Bank; and providing for an effective date."

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

* Section 1. AS 44.54.070 is repealed and re-enacted to read:

Sec. 44.54.070. PRESIDENT; OFFICERS AND EMPLOYEES. (a) The board of directors shall employ a president. The president may not be a member of the board of directors. The president serves at the pleasure of the board of directors. The president is the chief executive officer of the bank.

(b) The board of directors shall appoint one or more vice-presidents, as prescribed in the bylaws of the bank, a secretary, a treasurer and other officers, as the board of directors considers necessary. The (none of whom need be directors) - insert board of directors may appoint one person to more than one of the positions described in this subsection.

(c) The president may hire employees of the bank reasonably necessary for the efficient performance of the functions of the bank. Subject to the approval of the board of directors, the president may also contract for and engage the services of professional and technical advisors. The board of directors shall prescribe the duties and compensation of employees of the bank.

* Sec. 2. AS 44.54.150(a) is amended to read:

(a) Neither the members of the board of directors, the <u>president</u> [EXECUTIVE DIRECTOR], staff, nor a person executing the bonds is liable personally on the bonds or subject to personal liability or account-

ability by reason of the issuance of the bonds.

* Sec. 3. AS 44.54.210(1) is amended to read:

(1) make variable rate or fixed rate loans to individuals who are residents and who are engaged in commercial agriculture or fishing, including harvesters, processors, suppliers and marketers, or to corporations, partnerships or joint ventures [PRIMARILY] engaged in commercial agriculture or fishing, the majority interest of which is beneficially owned by residents of the state and a majority of the owners of which are residents of the state, if the recipient of the loan is a shareholder of the bank; however, the bank may make a loan under this paragraph to a corporation, partnership, or joint venture for the purchase of a new or existing fishing vessel or for the repair or renovation of an existing fishing vessel, the primary purpose of which is to commercially harvest fishery resources, only if the corporation, partnership, or joint venture is wholly owned and controlled by residents of the state and if the recipient of the loan is a shareholder of the bank.

* Sec. 4. AS 44.54.210 is amended by adding a new paragraph to read:

(21) indemnify a director, officer or employee of the bank and his heirs, executors and administrators against all liabilities and related expenses including, but not limited to, court costs and attorney fees, judgments, and the cost of reasonable settlements, incurred by him in connection with or arising out of an action or proceeding brought against him because of an act or omission in the performance of his official duties as director, officer or employee of the bank regardless of whether he is a director, officer or employee at the time the expenses or liabilities are incurred.

* Sec. 5. AS 44.54.210 is amended by adding a new subsection to read:

(b) The provisions of (a)(21) of this section do not authorize the bank to indemnify a director, officer or employee of the bank who is

adjudged liable for negligence or misconduct in the performance of his official duties.

* Sec. 6. AS 44.54.230(a) is amended to read:

(a) A loan under AS 44.54.210(20) for the purchase of a limited entry permit may be made only upon certification by the commission [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION (AS 16.43.020)] that the fisherman is a person who qualifies as a transferee for the permit under AS 16.43 and the regulations adopted by the commission.

* Sec. 7. AS 44.54.230(b) is amended to read:

(b) Upon approval by the bank, the permit to be purchased may be pledged as security for a loan under (a) of this section, if

(1) the certificate for the pledged permit lists [THE EXECUTIVE DIRECTOR OF] the bank as the legal owner of the permit;

(2) the certificate for the pledged permit lists the debtor as the equitable owner of the permit;

(3) all annual permit cards issued under the pledged permit list the name of the debtor;

(4) all obligations and responsibilities of a permit owner are assumed by the debtor;

(5) co-signers or other sureties for performance under the note are not vested with any rights in the pledged permit and their obligation is limited to satisfaction of the note and payment of costs directly incurred by the bank in administering the loan.

* Sec. 8. AS 44.54.230(c) is amended to read:

(c) Upon satisfaction of the note by the debtor, the bank [EXECUTIVE DIRECTOR] shall certify to the commission that the note has been satisfied.

* Sec. 9. AS 44.54.240 is amended to read:

Sec. 44.54.240. DEFAULT AND FORECLOSURE OF LOANS FOR LIMITED ENTRY

PERMITS. (a) If the debtor defaults upon a note for which a limited entry permit has been pledged as security under AS 44.54.230, [THE EXECUTIVE DIRECTOR OF] the bank shall provide the debtor, by registered or certified mail sent to his last known address on file with the bank, with a notice of default which includes

(1) a description of the security given for the note including the number assigned to the pledged permit by the commission [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION];

(2) the date upon which the default occurred;

(3) the amount of arrearages as of the date of the notice, the total amount remaining on the note less unearned interest, and the amount of daily interest;

(4) a statement that the debtor may, within 15 days of the postmark date of the notice, request a hearing at which he may submit evidence showing he has not defaulted;

(5) a statement that the note may be reinstated if brought current within 60 days from the postmark date of the notice;

(6) a statement that the note may be paid in full less unearned interest within 90 days from the postmark date of the notice;

(7) the place where reinstatement or payment in full may be made; and

(8) a notice in at least 10-point bold type stating: "IMPORTANT: YOUR FAILURE TO REINSTATE OR PAY THIS NOTE IN FULL BY THE DATE SPECIFIED WILL RESULT IN A FORFEITURE OF ALL RIGHTS TO THE PERMIT AND THE POSSIBILITY OF LEGAL ACTION BEING INSTITUTED AGAINST YOU."

(b) Upon the debtor's failure to reinstate or satisfy the note within the time specified in (a) of this section, his equitable interest is terminated by operation of law without further notice. Any entry permit cards issued to him under the permit shall be cancelled immedi-

ately upon receipt by the commission of a certificate of termination containing a copy of the notice required by (a) of this section issued by [THE EXECUTIVE DIRECTOR OF] the bank.

* Sec. 10. AS 44.54.250(a) is amended to read:

(a) Upon a foreclosure on an entry permit as provided in AS 44.54.-240, [THE EXECUTIVE DIRECTOR OF] the bank shall offer the commission [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION] a right of first refusal if the permit is subject to a buy-back program under AS 16.43.290 - 16.43.330 at a price equal to the amount outstanding on the note plus any costs the bank directly incurred in administering the loan.

* Sec. 11. AS 44.54.250(c) is amended to read:

(c) If the debtor is unable to nominate a qualified person to assume the note under (b) of this section, the permit must be made available to a qualified person, chosen as provided in this section, who shall assume the note subject to all rights and liabilities of the original debtor. The commission [ALASKA COMMERCIAL FISHERIES ENTRY COMMISSION] shall provide the bank with a list of persons chosen by lottery who qualify as transferees of entry permits under AS 16.43 and regulations adopted by the commission and who have met the residency and commercial fishing participation requirements of AS 44.54.210(20). The [EXECUTIVE DIRECTOR OF THE] bank shall then determine, in order of presentation, any remaining qualifications. The bank [EXECUTIVE DIRECTOR] shall allow the first applicant meeting all qualifications to assume the note.

* Sec. 12. AS 44.54.250(d) is amended to read:

(d) Nothing in this section affects the right of [THE EXECUTIVE DIRECTOR OF] the bank to institute legal action for a deficiency resulting from a default on a note given under AS 44.54.230. In addition to any deficiency, the debtor is liable for the costs of administering the

note and for costs and attorney fees.

* Sec. 13. AS 44.54 is amended by adding a new section to read:

Sec. 44.54.260. DEFINITIONS. In this chapter

(1) "bank" means the Alaska Commercial Fishing and Agriculture Bank;

(2) "commission" means the Alaska Commercial Fisheries Entry Commission (AS 16.43.020);

(3) "shareholder" includes a holder of a share of membership stock of the bank, a holder of a share of capital stock of the bank, or a patron of the bank with retained patronage earnings of $2,500 or more to his credit.

* Sec. 14. This Act takes effect immediately in accordance with AS 01.10.-070(c).


SCR
1

SCR 1 — Relating to the transferral of state employment positions from urban areas to rural areas. — Sumner

SUMMARY

This resolution requests the Governor to direct the appropriate state departments to conduct a study on the feasibility of transferring state employment positions from urban to rural areas. The study is to be presented to the second session of the 11th legislature by Fberuary 1, 1980.

FISCAL NOTE: Requested 1/31/79 from the Office of the Governor. Expected by

SUPPORTING INFORMATION

This was SCR 82 last session. It died in Senate Labor and Management Committee. This bill and other legislation relating to jobs all came out of a Job Symposium held by Sumner in 1977. The main backing of this bill, according to Sumner's office, is that state operations have been centralized in urban areas with no apparent necessity. There are many jobs that could be performed in rural areas without affecting the efficiency of duty performance, and providing employment ~~in rural areas~~ where it is greatly needed. (See example in attached statement from Sumner's office). Sumner will testify.

RELATED LEGISLATION:

INTERESTED PARTIES: Sen. Sumner
Office of the Governor

FROM SUMNEE'S OFFICE
2/1/79

SCR 1

JOB TRANSFER

Senate Concurrent
Resolution 82
Senate Bill 537

Government is the major employer in the state. The state's operations have been centralized in urban areas -- with no apparent necessity. Permanent state employees are distributed throughout the state as follows:

20%	Juneau
36%	Anchorage
12%	Fairbanks
2%	Ketchikan
2%	Sitka
2%	Palmer
4%	Valdez
1½%	Nome
12%	scattered

During a committee meeting following the Jobs Symposium, Commissioner of Revenue Sterling Gallagher pointed out that his department needed a processing center for state tax returns. Following present state trends, the center would automatically be planned for an urban area even though a center could be located in a rural area without affecting the efficiency with which the duties are performed. The result would be jobs for Alaskans in an area where they are most needed.

The committee introduced Senate Concurrent Resolution 82. The resolution requested the Governor to direct the appropriate departments to conduct a study to answer these two questions:

1) Which state positions could be transferred from Juneau, Anchorage and Fairbanks, to the more rural areas without affecting performance in the positions; and

2) which areas of the state would be most suitable for the transferral of state positions in terms of existing facilities and resources.

No action was taken on the resolution by the Senate Labor and Management Committee and it will be re-introduced during the 11th Legislature.

The committee also introduced Senate Bill 537 which requested a $10,000 special appropriation to the Department of Revenue for a positions relocation feasibility study. The bill passed the Employment Resources and Opportunities Committee but no action was taken by the Senate Finance Committee.

Introduced: 1/18/79
Referred: State Affairs

IN THE SENATE BY SUMNER

SENATE CONCURRENT RESOLUTION NO. 1

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

Relating to the transferral of state employment positions from urban areas to rural areas.

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

WHEREAS unemployment is a problem which afflicts and has afflicted the rural communities of the state more seriously than the more populated areas; and

WHEREAS the state government is one of the leading providers of jobs in Alaska; and

WHEREAS many positions in state government which are located in the high population areas of the state could be performed in rural areas without affecting the efficiency with which the duties of those positions can be performed; and

WHEREAS the transferral of these positions into the rural areas of the state would benefit the state by creating more employment positions where they are most needed;

BE IT RESOLVED by the Alaska State Legislature that the Governor is respectfully requested to direct the appropriate departments of the executive branch of the state government to conduct a study to answer the following questions:

(1) Which state employment positions could be transferred from Juneau, Anchorage, and Fairbanks to the more rural areas of the state without affecting efficiency of performance in the positions?

(2) Which areas of the state would be most suitable for the transferral of state positions in terms of existing facilities and resources?

(3) Which areas of the state would be most benefited by the transferral of state positions in terms of existing unemployment conditions?

(4) What financial considerations might be relevant in terms of costs for facilities, transportation of personnel, and benefits to local governmental units?

(5) What other considerations, problems, and alternatives might be relevant to the initiation of a program of position transferral; and be it

FURTHER RESOLVED that the results of the study shall be presented to the Second Session - Eleventh Legislature no later than February 1, 1980.

FRIDAY

Ready w SB 59.

Westward → Ferry Schedule

Herring Com. Calls

[Let to the Com.]

Ron School

SCR

2

SCR 2 Relating to employment of persons in permanent part time positions in state government — Sumner

In Resources

This passed committee while Kelly was chairman with four "do passes" (Rodey, Bradley, Kelly, Ziegler)

This resolution urges the Governor and heads of all state agencies to hire as many permanent part time employees as is practicable.

Attached:

1) Bill
2) Staff Summary
3) Minutes

Introduced: 1/18/79
Referred: State Affairs

IN THE SENATE BY SUMNER

SENATE CONCURRENT RESOLUTION NO. 2

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

Relating to the employment of persons in permanent part-time positions in state government.

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

WHEREAS unemployment in the state is traditionally high, especially in the rural areas of the state; and

WHEREAS a contributing factor to the high rate of rural unemployment is the engagement of many rural citizens in traditional subsistence hunting and fishing activities which makes them unavailable on a year-round basis for many state employment opportunities; and

WHEREAS AS 39.25.150(24) requires that the state's personnel rules provide for the employment of persons in permanent part-time positions in order to enable two persons to fill one permanent full-time position; and

WHEREAS there is an apparent reluctance on the part of many state agencies to utilize the permanent part-time employees in order to increase employment opportunities for the citizens of the state;

BE IT RESOLVED by the Alaska State Legislature that the Governor and the heads of all state agencies are respectfully requested to urge the hiring of as many persons as is practicable in the classification of permanent part-time employees of the state so as to encourage the concept of job sharing in state government.

SCR 2 Relating to the employment of persons on permanent part time positions SUMNER

SUMMARY

This was SCR 76 last year. It died in the Senate Labor and Management Committee.

The current law 39.25 150(24) does provide for the employment of persons in permanent part time positions so that two people can fill one fulltime position.

Out of 7321 permanent positions, 90 were permanent part time. (As of December 1978)

This resolution urges the Governor and heads of all state agencies to hire as many permanent part time employees as is practicable.

SUPPORTING INFORMATION

Concurring Kodiak Constituents.

Talked to Gil Jarvella with the Department of Highways in Kodiak and he liked the permanent part time arrangements. (they were eliminated there)

Norm Cleven with D.O.T. said jobs in the Department of Highways in Kodiak were eliminated because two were never filled and one was transferred to King Salmon.

STATE AFFAIRS COMMITTEE

February 21, 1979

The meeting was called to order by Senator Tim Kelly.

The first subject to be discussed was the Muldoon Cloverleaf, SCR 11.

Kelly said he wrote the legislation because he lived in the general area of the cloverleaf and constituents at Fort Richardson, Elmendorf Air Force Base and in the Muldoon area had complained that there were no adequate guardrails. He noted that he had been in Anchorage over the weekend and that he too noticed the problem.

Martin Nickerson, State Traffic Engineer with the Department of Transportation said he had just received the information about the bill that morning. He and Kelly discussed which portion of the road did not have adequate guardrails and they looked at a map.

Kelly said the problem was with the inside ramp.

Nickerson said that 15,000 cars a day used the cloverleaf or 14 million a year.

He said there were 4 accidents at the intersection in 1976 with two injuries, 18 accidents in 1977 with 1 fatality and 4 accidents in the first 6 months of 1978. Overall this is considered a very low accident rate - 1.2 accidents per million vehicles. He described the bridge as having an outside abutment, 3% grade and 20 foot drop off.

Eleven out of the 18 accidents in 1977 were in slush conditions - since that time groves had been put in the road to help mitigate the problem.

Kelly wanted to know the cost and type of study that could be done to see whether guardrails should be put on the outside.

Dick Holden said for $5,000 they could look into accident reports to try to develop traffic records. If they developed a histroy where people go off of the road more than the norm the department would then do a study to correct the problem.

Bradley and Kelly wanted to know if a study of the Fort Richardson cloverleaf could also be included in the $5,000 report.

Affirmative.

Holden requested that the wording of the bill be "30 days after the resolution passes rather than specifying a specific effective date."

Bradley made a motion the amendment be added and that the bill be passed out of committee. There were no objections.

Art Peterson, Assistant Attorney General testified on SB 3. He said he had no prepared presentation - that he still opposed the bill in its current form. He was not convinced of the need for the bill but if the committee felt it was important he preferred his proposed Committee Substitute .

Kelly said the author (who was not present) would like to amend the bill by deleting "adopted" and adding "enforced".

Peterson said one of his major objections to the wording of the bill is that compensation is set by law, never by guidelines.

He said for the administrative agencies to operate under the bill it would require regulations be enforced - this would be related to the contract. He felt his two significant changes would make the bill more acceptable to the administration.

Senator Kelly asked Mike if Senator Sumner favored Petersons changes.

Mike said it was his understanding that the Senator did not favor Peterson's version of the bill.

Kelly said that the author wanted SB 86 attached in its entirety to the bill as an amendment.

Peterson said that he "flatly disgree with the recollection of the staff - Senator Sumner recognizes that compensation is not set by law and regulation."

Thompson asked Peterson if he had met with Sumner since the last hearing.

Peterson said that he had not.

Kelly asked for a motion to add the amendment and to refer the bill to Finance stating Peterson and Sumner could fight it out there.

Bradley asked if staff member Cheryl Frasca had any comments on Sumners behalf. Cheryl said she had not discussed the bill for a couple of weeks, however, she recollected that Mike was correct - the Senator was not pleased with Petersons version.

Bradley moved the amendment be adopted and the bill be moved to Finance.

Ziegler recommended that Mike put together the amended bill and bicycle it to the various committee members for signiture.

SCR 3 - there was no one present to testify. Kelly said he had spoken to Ray and that he had no problem with the bill that flex time was already used in many state departments.

Bradley said he had no objections that he was already using flex time with his employees as was H & SS - he moved the bill be passed to the finance committee.

SCR 2 There was no one present to testify. Kelly said he'd read the bill and had no problems with it. He requested a motion to have it passed out for individual recommendations.

Bradley made the motion. No objections.

SJR 23 Senator Colletta was unable to testify because he was at another hearing. A staff member from Colletta's office passed out more supporting information for the bill.

Kelly said he had reservations with the bill but since no one was present to tesitify on its behalf that it be postpored for a future hearing.

The meeting was adjourned.

B&B

Gil JARUELLA - 486-3264

Dept. Highways

tempory

why perm/parttime

vs.

temp/parttime

GOOD

Longevity

~~Type~~ used ech yr SEASonal

2 pos.

div AVIATION

Oct Nov

"very Fine arrangement"

experienced who new JOB.

WKed well w/ Fisher man.

Short

WINTER

Administration

Shortly AFter AS

D.O.T. transpo NOV.

eliminated.

MR. Scoogle — JACK Clark
PAPER

positions



200 positions

D.O.T.

Norm Clever merely eliminated positions to cut back.

SCR2

JOB SHARING

Senate Concurrent
Resolution 76

While the committee encourages transferring some state positions to rural areas, it also recognized that the lifestyle of many in the bush would not permit availability of a year-round basis. Present statute (AS 29.25.150(24)) requires the state's personnel rules to provide for employment of persons in permanent part-time positions in order to enable two persons to fill one permanent full-time position. To date (December, 1978), of the 7321 permanent employees within the Executive Branch, 90 were permanent part-time. State agencies have appeared reluctant to implement job sharing opportunities.

As a result, the committee introduced Senate Concurrent Resolution 76 urging the Governor and heads of all state agencies to hire as many persons as is practicable as permanent part-time employees. The resolution was referred to the Senate Labor and Management Committee where no action was taken. It will be re-introduced next session.

THE KODIAK DAILY MIRROR

Vol. 38 No. 231 Monday, November 27, 1978 25 cents

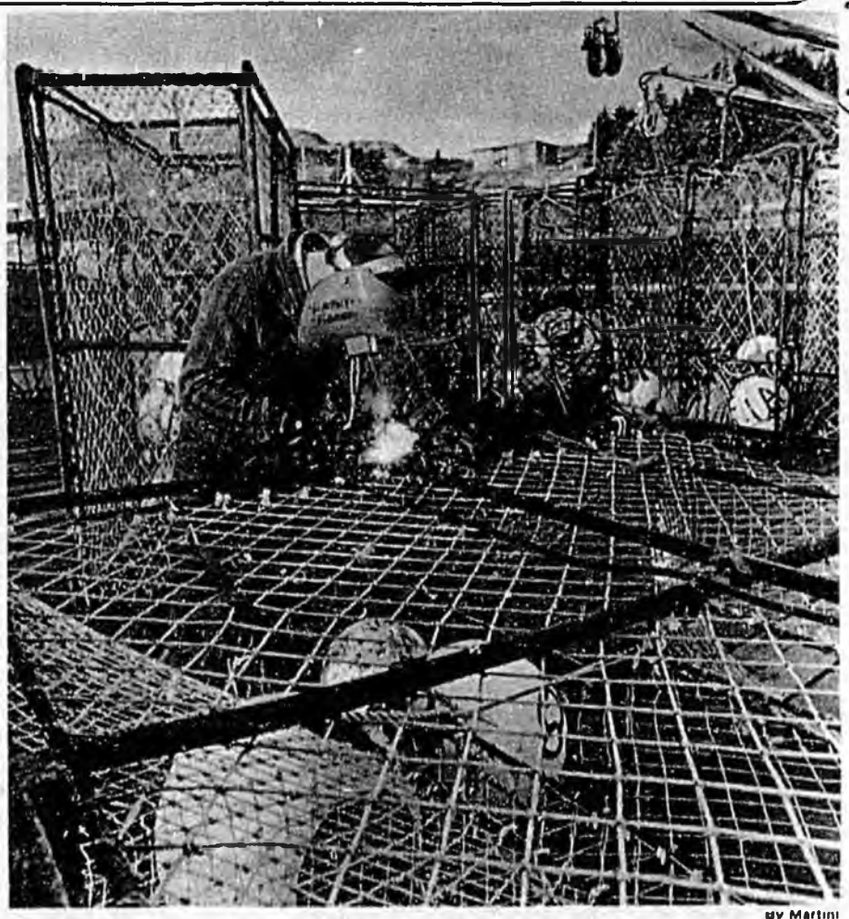
Local power outages caused by storm

Winter's first storm of the season hit Kodiak this weekend with winds gusting up to 58 miles per hour yesterday, resulting in electrical outages in several Kodiak areas.

Ed Kozak, staff engineer for KEA, said that KEA experienced damage to it's distribution system yesterday due to the high gusty winds and the falling of trees, with the first report of trouble coming from the Miller Point and Island Lake areas at 11:15 a.m. Electrical consumers in those areas were without electricity for approximately four hours. Their electricity was restored at 3:54 p.m., said Kozak.

Larch Street residents were without electricity yesterday for almost nine hours; from 12:20 p.m. until 9:11 p.m.

As a result of the electrical outage, KOTV was off the air for approximately eight hours in the Spruce Cape, Mission Road, Mill Bay Road and Rezanof Drive areas. Kozak said that KOTV was effected by the outage because some of their amplifiers and power supplies which utilize electricity were in the electrical outage areas.



Jay Martini

Stu Ferris, skipper of the crabber Belair, welds pots in preparation for the 7½-inch king crab season which opens Dec. 1.

Work limit called 'ploy'

Ed Sharp, a representative from Juneau from the Alaska Public Employees Association, was present at the Kodiak Apea chapter's meeting Friday night to discuss the change in APEA regulations, which decrees that a temporary employee can only work six months a year instead of nine months.

Bill Johnson, chairperson of the temporary employees advisory committee of the Kodiak chapter of the APEA, said that at the meeting Sharp openly stated that the change in the regulations was a ploy by the APEA to disrupt programs that use temporary employees, thereby forcing the creation of permanent seasonal positions.

Johnson stated that for him, the primary question for temporary employees to answer is how they feel about having their livelihoods put in jeopardy as a bargaining tool.

Johnson said that his committee has sent out 130 questionaires to all temporary personnel to ascertain how they feel about the change in regulations, how frequently they work, for what department, and for what duration of a period they work.

The committee has also sent letters to the governor, the state ombudsman, and various groups around the state, protesting the ruling.

Johnson stated that the Fairbanks and Glen Allen APEA chapters have already officially expressed their disagreement with the change in regulations, and he said the committee in Kodiak will be contacting APEA chapters around the state to formulate a united stand against the ruling.

To the Commander of the U.S. Coast Guard:

Thanks for the professionalism, quick response, kindness and hospitality displayed by the Kodiak Coast Guard Air Station Nov. 21.

The crew of the Crow
Hal Monsen
Bill Wiegan
Jeremy James
David Wright
Bill Nekeferoff

We owe you a lot.

Jack Kristiansen

Editor's Note: The 117-foot navy landing barge Crow sank 15 miles off Wide Bay Nov.21. A helicopter from the Kodiak Coast Guard Air Station rescued the crew from a life raft in rain and 15 foot seas.

Kodiak tops list for cultural center

At the Cultural Facilities Development meeting held in Juneau Nov. 18, Kodiak was given the top priority listing for cultural facilities development out of the 12 communities present at the meeting.

Kodiak Cultural Facilities committee member Fred Gaffney, who represented Kodiak at the meeting, said that it was very evident to all of the communities represented at the meeting that Kodiak had the best organization and community support. The group concurred that if funding were to be made available, that Kodiak would be the first community to be funded. Gaffney said at present, the proposed cultural facility for Kodiak would cost approximately $5 million.

The Kodiak Cultural Facilities group, which has been in existence for three years, attempted last year to obtain funds on a bond issue. The total for cultural facilities requested to be constructed amounted to $80 million for 12 communities. The request for funds was cut to $30 million by the close of the legislature, but the proposal never made it out of the legislature, because Governor Jay Hammond had threatened to cut excess bonding proposals, said Gaffney.

Gaffney said that since the bonds are only voted upon every two years, this year the committee is aiming for direct appropriation from the general fund of the state legislature, to the tune of $30 million. Gaffney said it may be an uphill battle, because he said he believes the legislature will probably want voter's approval for this size of an allotment. However, Shirley Rediger, statewide coordinator for the Cultural Facilities Development Committee, will be lobbying the legislature for it's support, said Gaffney.

The committee is also interested in gaining the support from the Alaska Visitor's Association, which is interested in building convention centers throughout the state in promotion of the tourism industry for Alaska. Gaffney said the association lobbies intensely in Juenau, so the cultural facilities committee is interested in gaining their support in constructing a multi-purpose center.

"We would like to see a theater constructed that could also be utilized for conventions, rather than the other way around," said Gaffney.

Correction

Danes, not Norwegians

It is the Danes, not the Norwegians as reported in Friday's Mirror, who are coming to Kodiak Nov. 29 to discuss the possibilities of installing a floating drydock facility in Kodiak.

The Kodiak Daily Mirror regrets the "glinch" which inserted the wrong country in Friday's article and accepts 30 lashes with an international treaty.

The four member Danish group interested in putting a floating drydock in Kodiak will be headed by . Erik Norgaard of Denconsult A-S.

The Danes hope to talk with fishemen and local officials during their one day visit. The Danish group may be contacted through the Alaska Shrimp Trawler's offices in Kodiak.

Management plans up for Council review

Five fishing management plans will be discussed during the Nov. 30 - Dec. 1 meeting of the North Pacific Fishery Management Council which begins at 8:30 a.m., both days, in the Alaska Room of the Anchorage-Westward Hotel.

Up for discussion this week will be the final draft of the "High Seas Salmon Fishery off the Coast of Alaska east of 175 Degrees East Longitude" management plan, the first draft of the "Shrimp in the Bering Sea" management plan, amendments to the "Gulf of Alaska Groundfish Fishery" management plan, amendments to the "Tanner Crab Fishery off the Coast of Alaska" management plan and the "Halibut off the Coast of Alaska" management plan.

The Council's Scientific and Statistical Committee is scheduled to meet in the Council offices Nov. 28 and 29. The Advisory Panel is scheduled to meet Nov. 29 in the Anchorage Westward's Aleutian Room.

During the Nov. 30-Dec. 1 meeting the council will also make appointments to the Advisory Panel, hear current reports from the U.S. Coast Guard and National Marine Fisheries Service and final reports on research contracts let by the Council.

A public comment session has been scheduled for 3:30 p.m. Nov. 30.

Buker search enters sixth day

The search for missing Flirite Air Service owner Paul Buker entered its sixth day today. Buker disappeared Nov. 21 on a flight from Old Harbor to Kodiak.

Search efforts were badly hampered over the weekend by wind, rain and poor visibility. Today two Kodiak Coast Guard Air Station helicopters are searching the mountain ridge lines betweek Old Harbor and Kodiak, according to Air Station officials, and a C-130 is flying over the water east of Kodiak in case there is any debris in the water.

Weather —

FORECAST: Cloudy with widely scattered showers. Rain tonight and tomorrow. Wind 5 to 10 miles per hour, from the northwest this afternoon changing to easterly tonight.

THE KODIAK DAILY MIRROR

Vol. 38 No. 230 | Friday, November 24, 1978 | 25 cents

Weather hampers search for Buker

The search for Paul Buker, missing in his light plane since Tuesday, is continuing today, reported Coast Guard Public Affairs Officer Ken Freeze this morning.

Buker was making cargo runs between Kodiak and Old Harbor when he failed to return to Kodiak. A Coast Guard helicopter equipped with a "night sun" search light began the search Tuesday night.

Wednesday's search expanded to include four Coast Guard helicopters, and a Coast Guard C-130, with a number of private aircraft assisting. Over 3,000 square miles were searched.

Freeze reported that Thursday's search included four Coast Guard helicopters, one Coast Guard C-130 and 14 private aircraft, and once again over 3,000 square miles were covered

Today's search will include three Coast Guard helicopters and a C-130, and private aircraft as they volunteer.

No debris or wreckage from the aircraft have been found so far, said Freeze, and no signals have been picked up from the emergency locator transmitter that Buker reportedly had on board his airplane.



By Martini

Christy Lindsey, 8, is a solemn pilgrim in a Thanksgiving play performed by Jane Nuttall's third grade class at East Elementary Wednesday afternoon.

Kodiak floating drydock proposed by Norwegians

A group of Norwegians interested in putting a floating dry dock facility in Kodiak are scheduled to arrive here Nov. 29.

The four-member Norwegian group will be headed by Erik Morgaard of Denconsult A-S, according to Al Burch, manager of the Alaska Shrimp Trawlers Assocation in Kodiak.

Burch said the Norwegians are considering putting in a floating dry dock in Kodiak which could be used both for ship repair and renovation and also a ship building facility.

During their one day Kodiak visit the Norwegian group plans to meet with Kodiak officials and is interested in talking with local fishermen, Burch said.

Those interested in meeting with the Norwegians may contact Burch at the Alaska Shrimp Trawler's office.

Six-month work limit opposed

The Alaska Public Employees Association (APEA) has decreed that temporary state employees can only work six months a year, instead of nine months.

Chairperson of the Kodiak chapter of the Alaska Public Employees Association Jim Blackburn, said the Kodiak chapter of the Association learned in early September of the letter of agreement signed between the APEA and the State Dept. of Administration limiting the work of temporary employees to six months a year. Since then the Kodiak chapter has been working to reverse the decision.

Blackburn said that this ruling is aimed at the employers, to encourage them to hire full time help, because temporary employees do not receive benefits.

"What it really does," explained Blackburn, "is effect the individual, because he can only work six months a year, while the employer can keep rehiring successive temporary help instead of one full time employee."

Blackburn said that a number of individuals have written letters to the governor, the state ombudsman, and to various groups around the state, protesting the ruling. He said questionaires are being passed out to temporary employees, requesting their reactions to the change in regulations.

A meeting will be held regarding the change in regulations tonight at 7:00 in the Fish and Game Library, and APEA representative Ed Sharpe will be present at the meeting, to listen to the opinions of individuals regarding the change in regulations.

U.S. may take Vietnamese refugees

KUALA LUMPUR, Malaysia (AP) — Malaysia says the United States has promised to take in all the Vietnamese refugees aboard the freighter Hai Hong who cannot find refuge in other foreign countries.

Reporters were told of the purported U.S. promise today by Osman Cassim, secretarygeneral of Malaysia's Home Affairs Ministry.

Malaysia and the United States appear to be at odds over whether Washington will take in refugees from the Hai Hong, anchored off Port Klang 20 miles west of here, or an equivalent number from the 40,000 Vietnamese already crammed into refugee camps on islands off the Malaysian coast.

Earlier this week Washington raised its quote for Indochinese refugees from 25,000 to 27,500 for the year ending next May 1.

Robert Hsvel, deputy director of information for the U.S. Department of Justice, said Thursday evening in Washington that the United States would take refugees from camps to free places for Hai Hong passengers.

But Cassim insisted the United States had agreed to take all the Hai Hong refugees who can't be placed in other countries, possibly as many as 1,400 people. He said they will not be allowed into the camps.

Adasiak's resignation announced

JUNEAU (AP) — Gov. Jay Hammond has announced the resignation of Commercial Fisheries Entry Commission Chairman Allan Adasiak.

Hammond named commissioner John Garner to serve as chairman following Adasiak's depature on or before Jan. 15. A replacement for Adasiak on the commission was not announced.

Adasiak says he is resigning to join the editorial staff of Alaska Northwest Publishing Co. in Anchorage. The firm publishes Alaska Magazine.

Adasiak joined the commission as executive director upon its creation six years ago. He was elevated to a member of the commission last year.

The commission regulates Alaska's limited entry program which currently covers the salmon fishery.

Jones sect

More bodies found, count doubles, at sect's Guyana suicide site

GEORGETOWN, Guyana (AP) — Searchers have found at least 775 bodies at the scene of the Jonestown mass suicide-murder, almost twice as many as previously counted, the U.S. Embassy reported today. It said many of the newly discovered bodies were those of children huddled beneath their parents' corpses.

For days investigators had been unable to determine the whereabouts of hundreds of camp residents who apparently were missing. It was believed many may have fled the death ritual, hiding in the jungle. The grisly new discoveries gave the answer.

Embassy spokeswoman Patricia Moser said that as of 1 p.m. local time — 11 a.m. EST — 485 bodies had been removed from Jonestown.

She said 20 more had been placed in body bags and a still-continuing hand count had located an additional 270.

She emphasized that the count was still continuing and more bodies were being found.

She said the bodies were being found under previously counted corpses.

"We understand the bodies have been found piled and there were a lot of children. Many children were found under the bodies of their parents and were not counted originally," she said.

The official toll reported here previously was 408 or 409 dead at Jonestown.

A U.S. Embassy official had said Thursday that 803 passports were found at the colony, which at that time meant 300 or more persons were unaccounted for. Officials and survivors had variously estimated that from 100 to 800 members of the Jonestown commune were unaccounted for.

Although precise figures are not expected for days, if ever, today's discoveries apparently meant that almost all of the

exhorted hundreds of his followers to "die with dignity."

Peoples Temple member Odell Rhodes, who fled from the Jonestown camp midway through the death rite last Saturday, told reporters the population of the agricultural commune was more than 600, though never as much as 1,000.

Some camp residents are known to have fled into the surrounding jungle rather than take poison, and about 30 have since emerged.

A U.S. military airlift today continued flying bodies from Jonestown back to the United States.

Jones led his Peoples Temple followers in the suicide after a squad from the commune allegedly gunned down a U.S. congressman, three newsmen and a defecting cultist. Rep. Leo Ryan, D-Calif., was in Guyana

needleless syringes, squirting the liquid into the mouths of babies and children first.

Rhodes had told reporters Thursday he had information that could lead to murder charges in connection with the Ryan slayings, but said he wanted to tell his story to Guyanese police.

Justice nixed investigation

WASHINGTON (AP) — The Justice Department ruled out investigations into alleged brainwashing and physical abuse in religious cults because of fears such inquiries would violate constitutional guarantees of freedom of religion, a department spokesman said.

Spokesman Robert Hovel said

Weather — FORECAST: Cloudy with rain and snow mixed. Winds SE 10 m.p.h. HIGH: 40 LOW: 37
MARINE FORECSAT: Small craft advisory. Winds N-NW 20 knots becoming E-SE 30 knots tonight. Seas rough 10 feet.
OUTLOOK: E 40 knots.

SAT-LOW: 2:13 a.m. 1.8 4:1b p.m. 0.8

Introduced: 1/18/79
Referred: State Affairs

IN THE SENATE BY SUMNER

SENATE CONCURRENT RESOLUTION NO. 2

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

Relating to the employment of persons in permanent part-time positions in state government.

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

WHEREAS unemployment in the state is traditionally high, especially in the rural areas of the state; and

WHEREAS a contributing factor to the high rate of rural unemployment is the engagement of many rural citizens in traditional subsistence hunting and fishing activities which makes them unavailable on a year-round basis for many state employment opportunities; and

WHEREAS AS 39.25.150(24) requires that the state's personnel rules provide for the employment of persons in permanent part-time positions in order to enable two persons to fill one permanent full-time position; and

WHEREAS there is an apparent reluctance on the part of many state agencies to utilize the permanent part-time employees in order to increase employment opportunities for the citizens of the state;

BE IT RESOLVED by the Alaska State Legislature that the Governor and the heads of all state agencies are respectfully requested to urge the hiring of as many persons as is practicable in the classification of permanent part-time employees of the state so as to encourage the concept of job sharing in state government.

1129 Don Cleven positions in Roorkee.

problem

eliminate → never filled them!

3 pos ① transferred to K. Salmon

the other 2 were not filled.

---

temp. 9 months
6 months

SCR 2 Relating to the employment of persons on permanent part time positions SUMNER

SUMMARY

This was SCR 76 last year. It died in the Senate Labor and Management Committee.

The current law 39.25 150(24) does provide for the employment of persons in permanent part time positions so that two people can fill one fulltime position.

Out of 7321 permanent positions, 90 were permanent part time. (As of December 1978)

This resolution urges the Governor and heads of all state agencies to hire as many permanent part time employees as is practicable.

SUPPORTING INFORMATION

Concurring Kodiak Constituents.

Talked to Gil Jarvella with the Department of Highways in Kodiak and he liked the permanent part time arrangements. (they were eliminated there)

Norm Cleven with D.O.T. said jobs in the Department of Highways in Kodiak were eliminated because two were never filled and one was transferred to King Salmon.

How is this done.

SCR

3

COMMITTEE REPORT

SENATE

FURTHER: Finance

1/25/79 Date: 2/21/79

Mr. President:

The Committee on STATE AFFAIRS has had SCR 3

utilization of "flex time" for state employees

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

Mike Foley
Bud Bradley
Tim Kelly
3 DP

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Tim Kelly
CHAIRMAN

S 60 (Rev. 12/78)

SCR 3 Relating to utilization of "flex time" for state employees — Ray

SUMMARY

The resolution originated from public hearings held by the Blue Ribbon Commission. The commission was created November 1978 to review the personnel act and labor relations.

The resolution, if adopted, would urge the Governor to pursue a policy of granting state employees the option of flexible working hours.

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM

December 15, 1978

SUBJECT: "Flex Time" for State Employees (W.O. #5892)

TO: The Honorable Bill Ray

FROM: O. Alexander Hoke
Policy Analyst O. Alexander Hoke

"Flex time," an idiom only recently emergent in common usage, is an umbrella expression for the innumerable variations of the scheduled work day and/or work week devised to tailor the hours of work to the nature and requirements of the job. The ultimate goal of "flex time" is maximizing the efficiency of the work force in the pursuit of their daily job functions. The objective of some "flex time" arrangements, however, may be to establish a more convenient work schedule for interested employees.

Rule 7 of the State of Alaska Personnel Rules (see attachment) defines the normal work week as "five consecutive days, Monday through Friday," and the normal work day as "seven and one-half (7 1/2) hours, beginning at 8:00 a.m. and ending at 4:30 p.m." Any departure from the normal work day or the normal work week is considered an application of "flex time."

"Flex time" might be the answer, for example, to the situation in which one group of state employees must perform certain tasks before another group can begin to work effectively at their own tasks. In this case, "flex time" could mean starting the first group's work day an hour early. A second example is the practice of working a four-day work week with a 9.4 hour work day (equals 37.6 hours/week) in order to more efficiently execute a daily routine which requires greater than 7.5 hours to accomplish. Other purposes for departing from the normal five day week, 8:00 a.m. to 4:30 p.m. each day, include: (1) making a more effective use of costly or marginally accessible equipment; (2) enhancing employee morale on jobs involving long hours of monotonous or mentally taxing effort; (3) alleviating periods of congestion of employee transit or use of facilities; and (4) improving communication links to clients or sister agencies residing in another time zone.

Uses of "flex time" as described above are currently in effect for many state employees. The Department of Administration's Division of Personnel and Labor Relations director, Patrick Hunt, estimates that perhaps as many as 20 or 30 percent of state employees are affected by a "flex time" arrangement during some portion of the calendar year. All of these arrangements have been made through the collective bargaining process. Mr. Hunt states that he is presently unaware of any additional group of state employees who have expressed a desire to alter their work schedules. Should any such group of employees emerge, he feels that the Collective Bargaining Act is a sufficient mechanism by which changes in the normal work schedule can be modified.

It appears that the nature of legislation providing "flex time" for state employees could assume one of three approaches: (1) establish a statutory authority in AS 39.25 for the director of personnel to pursue, through the bargaining process, changes in work hours for employees as is currently being done; (2) express, through a legislative resolve, the legislature's intention that the director of personnel attempt to accommodate the wishes of state employees to modify their work hours; or (3) provide, through AS 39.25, the freedom of choice of a work schedule on an individual employee basis.

As I am leaving for a two-week vacation, Mr. Ken Humphreys, senior policy analyst for Legislative Research, will be contacting you early the week of December 18 - 22 to solicit your guidance as to which, if any, of the three options listed above you wish to pursue. In the meantime, if you have any additional questions on this matter, please give us a call.

OAH:jm
Attachment

cc: Ken Humphreys

7-1

Rule 7

HOURS OF WORK

7 01.0 Scheduled Hours of Work

Each appointing authority, with the prior approval of the Director, shall establish the scheduled hours of work for employees within his department. Such hours shall not be less than the minimum hours described herein and shall, as far as practicable, be uniform for employees in the same unit assigned to perform the same duties.

7 02.0 Minimum Work Week

37 1/2 hours of actual attendance on duty shall constitute the minimum work week for full-time employees in the classified service and the partially exempt service with due allowance for authorized holidays and leaves of absence with pay.

7 03.0 Normal Work Week

The normal work week shall consist of five consecutive work days, Monday through Friday.

7 04.0 Normal Work Day

The normal work day shall consist of seven and one-half (7 1/2) hours, beginning at 8:00 A.M. and ending at 4:30 p.m. with a one hour period therein constituting a lunch period.

7 05.0 Overtime

7 05.1 All hours of work performed by an employee which fall between any Sunday midnight and the following Sunday midnight, whether scheduled in accordance with Rule 7 01.0 or authorized to meet peak work loads or emergency situations, shall be included in the same work week.

7 05.2 Payment of overtime shall be subject to policies and regulations prescribed by the Commissioner of Administration.

7 05.3 Hours worked in excess of the minimum work week by an employee who is eligible under 7 05.2 shall be considered overtime hours for compensation purposes, provided that overtime shall not be paid in cash unless authorized in writing by the appointing authority.

7 06.0 Other Employment

No employee shall engage in any other employment, either public, private or self employment, during the hours he is scheduled to work for the

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Concurrent Resolution 3

Title Utilization of "Flex-time"/State Employees

Requested by Senate State Affairs Date February 5, 1979

II. FISCAL DETAIL

Agency Affected All Agencies

Program Category Affected All

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 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 resolution would not add any costs to the operation of State government.

SCR

11

SCR 11 Muldoon Cloverleaf (& Ft. Richardson) Kelly

This was passed out of committee while Kelly was chairman. The vote was four "do passes" (Kelly, Rodey, Zeigler, Bradley)

This resolution would request a study to determine what additional placement of guardrails or other measures are necessary to improve safety of the Muldoon and Ft. Richardson cloverleaves.

Attached:

1) Bill
2) Staff summary
3) Fiscal
4) Minutes

Introduced: 2/13/79
Referred: State Affairs and Finance

IN THE SENATE BY KELLY

SENATE CONCURRENT RESOLUTION NO. 11

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

Relating to the hazardous condition of the Muldoon (Ft Richardson) cloverleaf on the Glenn Highway due to lack of adequate guardrails.

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

WHEREAS numerous motor vehicle accidents have occurred on the Muldoon cloverleaf of the Glenn Highway, especially during the winter months; and

WHEREAS numerous residents of the Municipality of Anchorage have complained to no avail about the lack of adequate guardrails on the Muldoon cloverleaf;

BE IT RESOLVED that the Alaska State Legislature respectfully requests the Governor to direct the commissioner of transportation and public facilities to conduct a study to determine what additional placement of guardrails or other measures are necessary to improve the safety of the Muldoon (Ft Richardson) cloverleaf (Al) and to submit the results of the study to the legislature, including proposals for corrective action, no later than ~~March 30, 1979~~ 30 DAYS following passage of this Resolution.

SCR 11 Relating to the hazardous condition of the Muldoon cloverleaf on the Glenn Highway due to lack of adequate guardrails. KELLY

SUMMARY

This resolution requests the Governor to direct the Department of Transportation to conduct a study to determine what additional placement of guardrails or other measures are necessary to improve safety of the Muldoon cloverleaf. The results of the study are to be submitted to the legislature by March 30, 1979.

FISCAL

See attached Fiscal and additional comments prepared by the Department of Transportation

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SCR 11
Title Muldoon Cloverleaf Improvements
Requested by Senator Mulcahy Date 2/16/79

II. FISCAL DETAIL
Agency Affected Dept. Trans & P.F.
Program Category Affected Highways
Budget Request Unit(s) Affected

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES			5.0			
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL			5.0			

FUNDING (Thousands of Dollars)

GENERAL FUND			5.0			
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

A. At the present time--without any accident analysis or current data-- slope flattening appears to be the best solution to this problem, with extra lane second.

B. Guardrail is the least desireable option because it is believed that it would cause more property damage than it could relieve.

C. The study would determine which option is best.
NOTE: this is not qualified as a "high accident area in Anchorage.

IV. DATE 2/20/79 PREPARED BY JAB
AGENCY Design & Const.
PHONE 4-2121 X236

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

33-001 (Rev. 10/76)

Introduced: 2/13/79
Referred: State Affairs and Finance

IN THE SENATE BY KELLY

SENATE CONCURRENT RESOLUTION NO. 11

IN THE LEGISLATURE OF THE STATE OF ALASKA

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More accidents than should be, but not high accident area.
1. Region doesn't want guardrail.
A. Might cause more prop. dam. than relieved
2. Maybe signing, additional lanes, slope flattening
A. Slope flattening seems most desireable at this time - a study may prove otherwise.

STATE AFFAIRS COMMITTEE

February 21, 1979

The meeting was called to order by Senator Tim Kelly.

The first subject to be discussed was the Muldoon Cloverleaf, SCR 11.

Kelly said he wrote the legislation because he lived in the general area of the cloverleaf and constituents at Fort Richardson, Elmendorf Air Force Base and in the Muldoon area had complained that there were no adequate guardrails. He noted that he had been in Anchorage over the weekend and that he too noticed the problem.

Martin Nickerson, State Traffic Engineer with the Department of Transportation said he had just received the information about the bill that morning. He and Kelly discussed which portion of the road did not have adequate guardrails and they looked at a map.

Kelly said the problem was with the inside ramp.

Nickerson said that 15,000 cars a day used the cloverleaf or 14 million a year.

He said there were 4 accidents at the intersection in 1976 with two injuries, 18 accidents in 1977 with 1 fatality and 4 accidents in the first 6 months of 1978. Overall this is considered a very low accident rate - 1.2 accidents per million vehicles. He described the bridge as having an outside abutment, 3% grade and 20 foot drop off.

Eleven out of the 18 accidents in 1977 were in slush conditions - since that time groves had been put in the road to help mitigate the problem.

Kelly wanted to know the cost and type of study that could be done to see whether guardrails should be put on the outside.

Dick Holden said for $5,000 they could look into accident reports to try to develop traffic records. If they developed a histroy where people go off of the road more than the norm the department would then do a study to correct the problem.

Bradley and Kelly wanted to know if a study of the Fort Richardson cloverleaf could also be included in the $5,000 report.

Affirmative.

Holden requested that the wording of the bill be "30 days after the resolution passes rather than specifying a specific effective date."

Bradley made a motion the amendment be added and that the bill be passed out of committee. There were no objections.

Art Peterson, Assistant Attorney General testified on SB 3. He said he had no prepared presentation - that he still opposed the bill in its current form. He was not convinced of the need for the bill but if the committee felt it was important he preferred his proposed Committee Substitute .

Kelly said the author (who was not present) would like to amend the bill by deleting "adopted" and adding "enforced".

Peterson said one of his major objections to the wording of the bill is that compensation is set by law, never by guidelines.

He said for the administrative agencies to operate under the bill it would require regulations be enforced - this would be related to the contract. He felt his two significant changes would make the bill more acceptable to the administration.

Senator Kelly asked Mike if Senator Sumner favored Petersons changes

Mike said it was his understanding that the Senator did not favor Peterson's version of the bill.

Kelly said that the author wanted SB 86 attached in its entirety to the bill as an amendment.

Peterson said that he "flatly disgree with the recollection of the staff - Senator Sumner recognizes that compensation is not set by law and regulation."

Thompson asked Peterson if he had met with Sumner since the last hearing.

Peterson said that he had not.

Kelly asked for a motion to add the amendment and to refer the bill to Finance stating Peterson and Sumner could fight it out there.

Bradley asked if staff member Cheryl Frasca had any comments on Sumners behalf. Cheryl said she had not discussed the bill for a couple of weeks, however, she recollected that Mike was correct - the Senator was not pleased with Petersons version.

Bradley moved the amendment be adopted and the bill be moved to Finance.

Ziegler recommended that Mike put together the amended bill and bicycle it to the various committee members for signiture.

SCR 3 - there was no one present to testify. Kelly said he had spoken to Ray and that he had no problem with the bill that flex time was already used in many state departments.

Bradley said he had no objections that he was already using flex time with his employees as was H & SS - he moved the bill be passed to the finance committee.

SCR 2 There was no one present to testify. Kelly said he'd read the bill and had no problems with it. He requested a motion to have it passed out for individual recommendations.

Bradley made the motion. No objections.

SJR 23 Senator Colletta was unable to testify because he was at another hearing. A staff member from Colletta's office passed out more supporting information for the bill.

Kelly said he had reservations with the bill but since no one was present to tesitify on its behalf that it be postponed for a future hearing.

The meeting was adjourned.

SCR 11 Relating to the hazardous condition of the Muldoon cloverleaf on the Glenn Highway due to lack of adequate guardrails. KELLY

SUMMARY

This resolution requests the Governor to direct the Department of Transportation to conduct a study to determine what additional placement of guardrails or other measures are necessary to improve safety of the Muldoon cloverleaf. The results of the study are to be submitted to the legislature by March 30, 1979.

FISCAL

See attached Fiscal and additional comments prepared by the Department of Transportation

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SCR 11
Title Muldoon Cloverleaf Improvements
Requested by Senator Mulcahy Date 2/16/79

II. FISCAL DETAIL
Agency Affected Dept. Trans & P.F.
Program Category Affected Highways
Budget Request Unit(s) Affected

EXPENDITURES (Thousands of Dollars)

		FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100	PERSONAL SERVICES			5.0			
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL			5.0			

FUNDING (Thousands of Dollars)

GENERAL FUND			5.0			
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

A. At the present time, without any accident analysis or current data -- slope flattening appears to be the best solution to this problem, with extra lane second.

B. Guardrail is the least desireable option because it is believed that it would cause more property damage than it could relieve.

C. The study would determine which option is best.
Note: this is not qualified as a "high accident" area in Anchorage.

IV. DATE 2/20/79 PREPARED BY JAB
AGENCY Design & Const.
PHONE 4-2121 x2.36

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

33-001 (Rev. 10/76)

Introduced: 2/13/79
Referred: State Affairs and Finance

IN THE SENATE BY KELLY

SENATE CONCURRENT RESOLUTION NO. 11

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

Relating to the hazardous condition of the Muldoon and Ft Richardson cloverleaf on the Glenn Highway due to lack of adequate guardrails.

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

WHEREAS numerous motor vehicle accidents have occurred on the Muldoon and Ft Richardson cloverleaf of the Glenn Highway, especially during the winter months; and

WHEREAS numerous residents of the Municipality of Anchorage have complained to no avail about the lack of adequate guardrails on the Muldoon and Ft Richardson cloverleaf;

BE IT RESOLVED that the Alaska State Legislature respectfully requests the Governor to direct the commissioner of transportation and public facilities to conduct a study to determine what additional placement of guardrails or other measures are necessary to improve the safety of the Muldoon and Ft Richardson cloverleaf and to submit the results of the study to the legislature, including proposals for corrective action, no later than March , 1979..

SCR 11 Relating to the hazardous condition of the Muldoon cloverleaf on the Glenn Highway due to lack of adequate guardrails. KELLY

SUMMARY

This resolution requests the Governor to direct the Department of Transportation to conduct a study to determine what additional placement of guardrails or other measures are necessary to improve safety of the Muldoon cloverleaf. The results of the study are to be submitted to the legislature by March 30, 1979.

FISCAL

See attached Fiscal and additional comments prepared by the Department of Transportation

SJR

23

Introduced: 2/13/79
Referred: State Affairs

IN THE SENATE BY COLLETTA, RAY AND SUMNER

SENATE JOINT RESOLUTION NO. 23

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

Requesting the Secretary of the United States Department of Transportation to revise the standard time zones in which Alaska is located.

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

WHEREAS, alone among the 50 states Alaska spans four time zones; there is a three-hour time differential between Ketchikan and Nome; and

WHEREAS the present two-hour time differential between Southeastern Alaska and Anchorage, Fairbanks and the communities of the Kenai Peninsula and Prince William Sound creates confusion and difficulty in achieving and maintaining sound commercial, efficient government and satisfying personal communications; and

WHEREAS the elimination of this time differential between the existing state capital and the centers of finance, trade and commerce and the future state capital in Southcentral and Interior Alaska would resolve one of Alaska's most compelling needs: the elimination of artificial barriers that impair efforts to improve communications, thus welding together the widely scattered population centers of this vast and varied state and bringing state government closer to all the people of Alaska; and

WHEREAS "with due regard to the convenience of commerce and the junction and division of points of common carriers engaged in interstate and foreign commerce," the transfer of Southcentral and Interior Alaska to the Pacific Standard Time Zone would foster "adherence to a greater uniformity of time" within the State of Alaska and place most Alaskans on an identical time schedule that would not inconvenience the traveler, the transportation in-

dustry, nor other commercial enterprise with important connections both in Alaska and the "lower 48"; and

WHEREAS federal law (15 U.S.C. secs. 260-267; 49 U.S.C. sec. 1655(e)(5)) regulates the time on which all federal offices and common carriers engaged in interstate and foreign commerce operate and grants to the U. S. Secretary of Transportation the authority to redefine the boundaries of time zones that serve the entire United States.

BE IT RESOLVED that the Alaska Legislature requests the Secretary of the United States Department of Transportation to redefine the boundaries of the time zones in which Alaska is located by shifting those portions of it located in the Alaska Standard Time Zone and the Yukon Standard Time Zone into the Pacific Standard Time Zone at the earliest date possible.

COPIES of this resolution shall be sent to the Honorable Brock Adams, Secretary, U. S. Department of Transportation; and to the Honorable Ted Stevens and the Honorable Mike Gravel, U. S. Senators, and the Honorable Don Young, U. S. Representative, members of the Alaska delegation in Congress.

Interested parties: ex Mayor Sullivan Anchorage. @ Air Lines.

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

SJR 23 — Requesting the Secretary of the United States Department of Transportation to revise the standard time zones in which Alaska is located. — Colletta, Ray & Sumner

SUMMARY

For reasons of inefficiency, confusion and difficulties that time differences within the state create for government, commerce, finance and trade, it is requested that the Secretary of the United States Department of Transportation redefine the boundaries of the time zones in Alaska by shifting portions within the Alaska Standard Time Zone and the Yukon Standard Time Zone into the Pacific Standard Time Zone at the earliest possible date.

NOTE: The Juneau City and Borough Assembly has introduced a resolution, Serial No. 569, requesting the United States Department of Transportation to extend the Yukon Standard Time Zone in Alaska to include the City and Borough of Juneau and other northern panhandle communities. The U.S. Department of Transportation will be scheduling local hearings on the request sometime this Spring. (See attachments)

SUPPORTIVE INFORMATION

Randy Phillips might have some backup on this. We are waiting to hear from him.

RELATED LEGISLATION: None

FISCAL NOTE: None

		Notified of Hearing
INTERESTED PARTIES:	Senator Colletta	2/20/79
	Senator Ray	2/20/79
	Senator Sumner	2/20/79
	City & Borough of Juneau	2/20/79

Presented by: Mayor Overstreet
Introduced: 1-18-79
Referred to:

RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 569

A RESOLUTION REQUESTING THE UNITED STATES SECRETARY OF TRANSPORTATION TO EXTEND THE YUKON STANDARD TIME ZONE IN ALASKA TO INCLUDE THE CITY AND BOROUGH OF JUNEAU AND OTHER NORTHERN PANHANDLE COMMUNITIES.

WHEREAS, Alaska's capital, the City and Borough of Juneau, and other northern panhandle communities are presently in the Pacific standard time zone, and

WHEREAS, other major population centers in Alaska are in the Alaska standard time zone which creates a two hour time difference between the capital of Alaska and other major population centers of the state, and

WHEREAS, still other communities of Alaska are in the Bering standard time zone which creates a three hour time difference between the capital of Alaska and such other communities, and

WHEREAS, these two and three hour time differences create confusion and difficulty in achieving and maintaining sound commercial and efficient governmental communications, and

WHEREAS, geographically, the Southeast Alaska panhandle in the Pacific standard time zone stems from territorial days when the commercial orientation of the panhandle was primarily with Seattle, and

WHEREAS, with the growth of the State of Alaska since statehood, the commercial, financial, transportation, government and other social and economic ties of the northern panhandle communities have shifted significantly from the Seattle area to the growing population centers of interior and southcentral Alaska, and,

WHEREAS, southern panhandle communities have evidenced a preference for continued commercial ties to the Seattle area, and

WHEREAS, the reduction of the two and three hour differences in time to one and two hour differences between the northern panhandle communities and the other more populous areas of the state would vastly improve the convenience of commerce and the efficiency of government in Alaska, and

WHEREAS, federal law (15 U.S.C. §260-267) grants to the United States Secretary of Transportation the authority to redefine the boundaries of time zones that serve the entire United States;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

1. That the assembly hereby petitions the Secretary of the Department of Transportation to redefine the boundary between Yukon standard time and Pacific standard time in such a manner that northern panhandle communities will be placed in Yukon standard time. Such communities are those lying northerly of a line described as follows:

> Beginning at boundary peak No. 79 on the Alaska/Canadian border line at North 58°57'44.96" latitude and West 133°10'13.94" longitude; thence southwesterly along the northerly boundary of the City and Borough of Juneau on a straight line to Point Coke near Holkham Bay in Stevens Passage at North 57°47'30" latitude and West 134°42' longitude; thence continuing on the projection of said straight line to the mid-channel of Stevens Passage; thence southerly along the mid-channel of Stevens Passage and extension thereof to the mid-channel of Frederick Sound; thence southwesterly along the mid-channel of Frederick Sound and extension thereof to the mid-channel of Chatham Strait also being on the easterly line of the City and Borough of Sitka; thence northerly along the easterly boundary of the City and Borough of Sitka along the mid-channel of Chatham Strait until the mid-point of a line drawn between East Point and South Passage Point at the mouth of Tenakee Inlet bears due west; thence northwesterly along the northerly boundary of the City and Borough of Sitka along the mid-channel of Tenakee Inlet until an intersection is made with the line of mean high tide at the extreme northwesterly end of Tenakee Inlet; thence on a line bearing South 23°30' West more or less, but in any event until the extreme southeasterly point of the mean high tide line at the southeasterly point of Lisianski Inlet is reached; thence on a line bearing approximately due west until Star

Rock off the mouth of Lisianski Strait is reached being the northwesterly corner of the City and Borough of Sitka; thence due west until an intersection is reached with 137° West longitude.

2. That the Secretary of Transportation is requested to redefine the boundaries of the Yukon standard time zone at the earliest possible date.

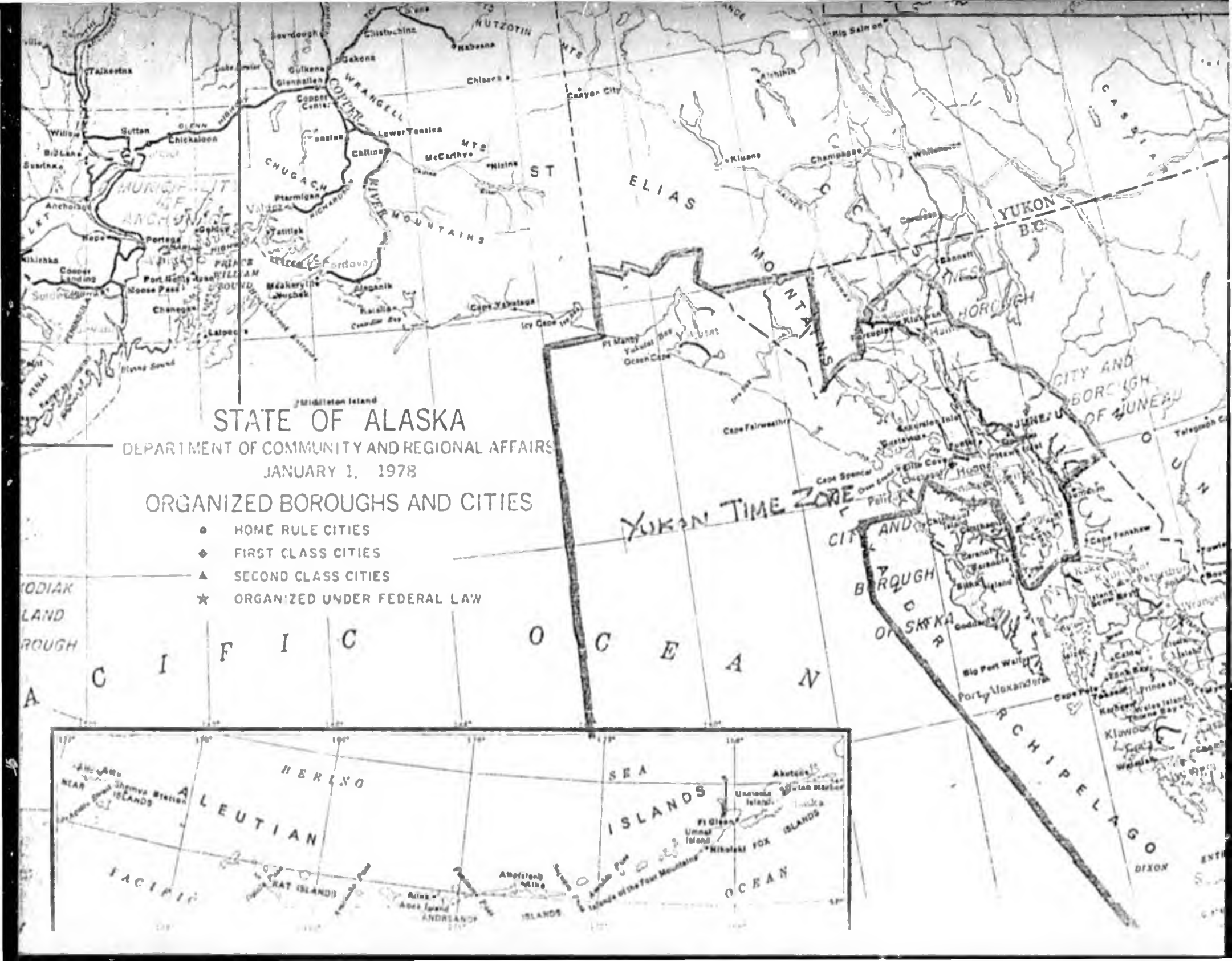
3. That copies of this resolution shall be sent to the Secretary of the Department of Transportation; to the Honorable Ted Stevens and the Honorable Mike Gravel, U. S. Senators, and the Honorable Don Young, U. S. Representative, members of the Alaska delegation in Congress.

Adopted this 18th day of January, 1979.

W. D. Quinteer
Mayor

Attest:

Elmer J. Emery
Clerk


STATE OF ALASKA
DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS
JANUARY 1, 1978
ORGANIZED BOROUGHS AND CITIES
HOME RULE CITIES
FIRST CLASS CITIES
SECOND CLASS CITIES
ORGANIZED UNDER FEDERAL LAW
YUKON TIME ZONE
PACIFIC OCEAN
BERING SEA
ALEUTIAN ISLANDS
ANCHORAGE
MATANUSKA-SUSITNA BOROUGH
KENAI PENINSULA BOROUGH
KODIAK ISLAND BOROUGH
ALEUTIAN ISLANDS
FAIRBANKS NORTH STAR BOROUGH
YUKON-KOYUKUK
NOME
NORTHWEST ARCTIC
NORTH SLOPE BOROUGH
WRANGELL-PETERSBURG
CITY AND BOROUGH OF SITKA
CITY AND BOROUGH OF JUNEAU
HAINES BOROUGH
SKAGWAY-YAKUTAT-ANGOON
CORDOVA-MCCARTHY
VALDEZ-GLENNALLEN
DENALI
YUKON
B.C.
Talkeetna
Willow
Big Lake
Sutton
Chickaloon
Glenallen
Copper Center
Tonsina
Lower Tonsina
Chitina
McCarthy
Mt. Sanford
Mt. Wrangell
Mt. Blackburn
Mt. Drum
Mt. Jarvis
Mt. Hayes
Mt. Deborah
Mt. Hess
Mt. Moffit
Mt. Fairweather
Mt. Crillon
Mt. Lituya
Mt. Cross
Mt. Vancouver
Mt. Natazhat
Mt. Kimball
Mt. Churchill
Mt. Wood
Mt. Kennedy
Mt. Steele
Mt. Logan
Mt. St. Elias
Mt. Augusta
Mt. Bona

MIKE GRAVEL
ALASKA

United States Senate

WASHINGTON, D.C 20510

FEB 7 1979

February 2, 1979

The Honorable W. D. Overstreet
Mayor, City and Borough of Juneau
155 South Seward Street
Juneau, Alaska 99801

Dear Bill:

I recently received your letter and petition to Secretary Adams regarding the desire to have the Borough placed on Yukon time.

I have had my staff contact the Secretary's office and I am informed that at this time their general counsel is reviewing the request and will shortly be issuing an announcement of local hearings on the request. I have been assured that I will be consulted as to an appropriate time and place for such hearings. I will contact your office as soon as this information has been requested of me.

In the meantime, if there is any other way in which I can be of assistance, please do not hesitate to let me know.

Best regards.

Sincerely,

Mike

Mike Gravel

MG/mb

WARREN G. MAGNUSON, WASH., CHAIRMAN
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LOWELL P. WEICKER, JR., CONN.

FEB 7 1979

United States Senate

COMMITTEE ON APPROPRIATIONS
WASHINGTON, D.C. 20510

February 1, 1979

The Honorable W. D. Overstreet
Mayor
The City and Borough of Juneau
155 South Seward Street
Juneau, Alaska 99801

Dear Bill:

Thank you for sending me a copy of the Resolution of the City and Borough of Juneau, regarding the inclusion of Juneau in the Yukon Standard Time Zone.

We have contacted the General Counsel of the Department of Transportation, and have recommended that DOT hold public hearings in Juneau to consider the change to Yukon time.

I will keep you informed of the progress of our discussions with DOT. In the meantime, please contact my office if we may provide further assistance.

With best wishes,

Cordially,

TED STEVENS
United States Senator

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

STATE AFFAIRS COMMITTEE
February 21, 1979

SJR 23 Requesting the Secretary of the United States Department of Transportation to revise the standard time zones in which Alaska is located — Colletta, Ray & Sumner

SUMMARY

For reasons of inefficiency, confusion and difficulties that time differences within the state create for government, commerce, finance and trade, it is requested that the Secretary of the United States Department of Transportation redefine the boundaries of the time zones in Alaska by shifting portions within the Alaska Standard Time Zone and the Yukon Standard Time Zone into the Pacific Standard Time Zone at the earliest possible date.

NOTE

The Juneau City and Borough Assembly has introduced a resolution, Serial No. 569, requesting the United States Department of Transportation to extend the Yukon Standard Time Zone in Alaska to include the City and Borough of Juneau and other northern panhandle communities. The U.S. Department of Transportation will be scheduling local hearings on the request sometime this Spring.
(See attachments)

FISCAL: There is no fiscal note.

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

Presented by: Mayor Overstreet
Introduced: 1-18-79
Referred to:

RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 569

A RESOLUTION REQUESTING THE UNITED STATES SECRETARY OF TRANSPORTATION TO EXTEND THE YUKON STANDARD TIME ZONE IN ALASKA TO INCLUDE THE CITY AND BOROUGH OF JUNEAU AND OTHER NORTHERN PANHANDLE COMMUNITIES.

WHEREAS, Alaska's capital, the City and Borough of Juneau, and other northern panhandle communities are presently in the Pacific standard time zone, and

WHEREAS, other major population centers in Alaska are in the Alaska standard time zone which creates a two hour time difference between the capital of Alaska and other major population centers of the state, and

WHEREAS, still other communities of Alaska are in the Bering standard time zone which creates a three hour time difference between the capital of Alaska and such other communities, and

WHEREAS, these two and three hour time differences create confusion and difficulty in achieving and maintaining sound commercial and efficient governmental communications, and

WHEREAS, geographically, the Southeast Alaska panhandle in the Pacific standard time zone stems from territorial days when the commercial orientation of the panhandle was primarily with Seattle, and

WHEREAS, with the growth of the State of Alaska since statehood, the commercial, financial, transportation, government and other social and economic ties of the northern panhandle communities have shifted significantly from the Seattle area to the growing population centers of interior and southcentral Alaska, and,

WHEREAS, southern panhandle communities have evidenced a preference for continued commercial ties to the Seattle area, and

WHEREAS, the reduction of the two and three hour differences in time to one and two hour differences between the northern panhandle communities and the other more populous areas of the state would vastly improve the convenience of commerce and the efficiency of government in Alaska, and

WHEREAS, federal law (15 U.S.C. §260-267) grants to the United States Secretary of Transportation the authority to redefine the boundaries of time zones that serve the entire United States;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

1. That the assembly hereby petitions the Secretary of the Department of Transportation to redefine the boundary between Yukon standard time and Pacific standard time in such a manner that northern panhandle communities will be placed in Yukon standard time. Such communities are those lying northerly of a line described as follows:

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Rock off the mouth of Lisianski Strait is reached being the northwesterly corner of the City and Borough of Sitka; thence due west until an intersection is reached with 137° West longitude.

2. That the Secretary of Transportation is requested to redefine the boundaries of the Yukon standard time zone at the earliest possible date.

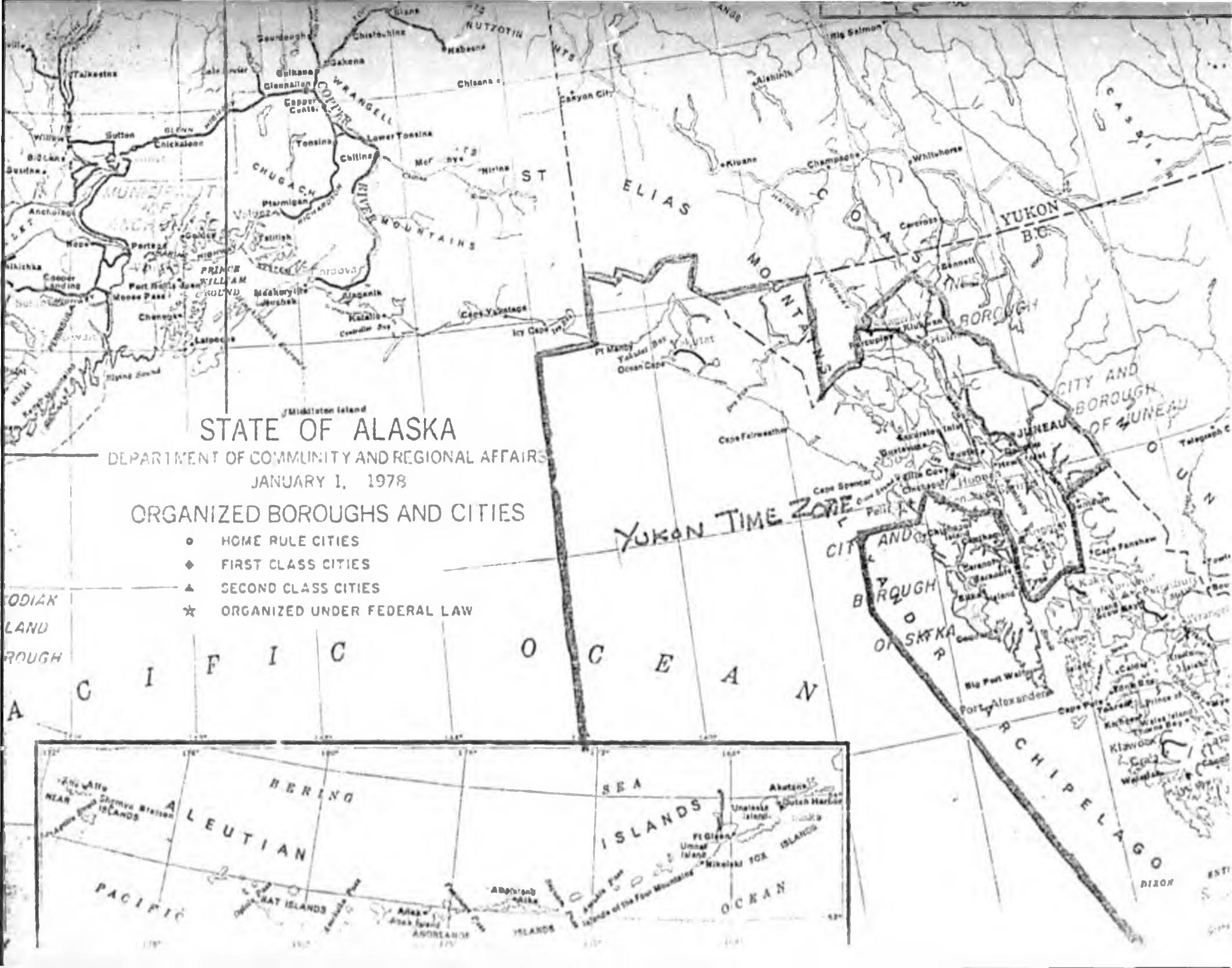
3. That copies of this resolution shall be sent to the Secretary of the Department of Transportation; to the Honorable Ted Stevens and the Honorable Mike Gravel, U. S. Senators, and the Honorable Don Young, U. S. Representative, members of the Alaska delegation in Congress.

Adopted this 18th day of January, 1979.

Mayor

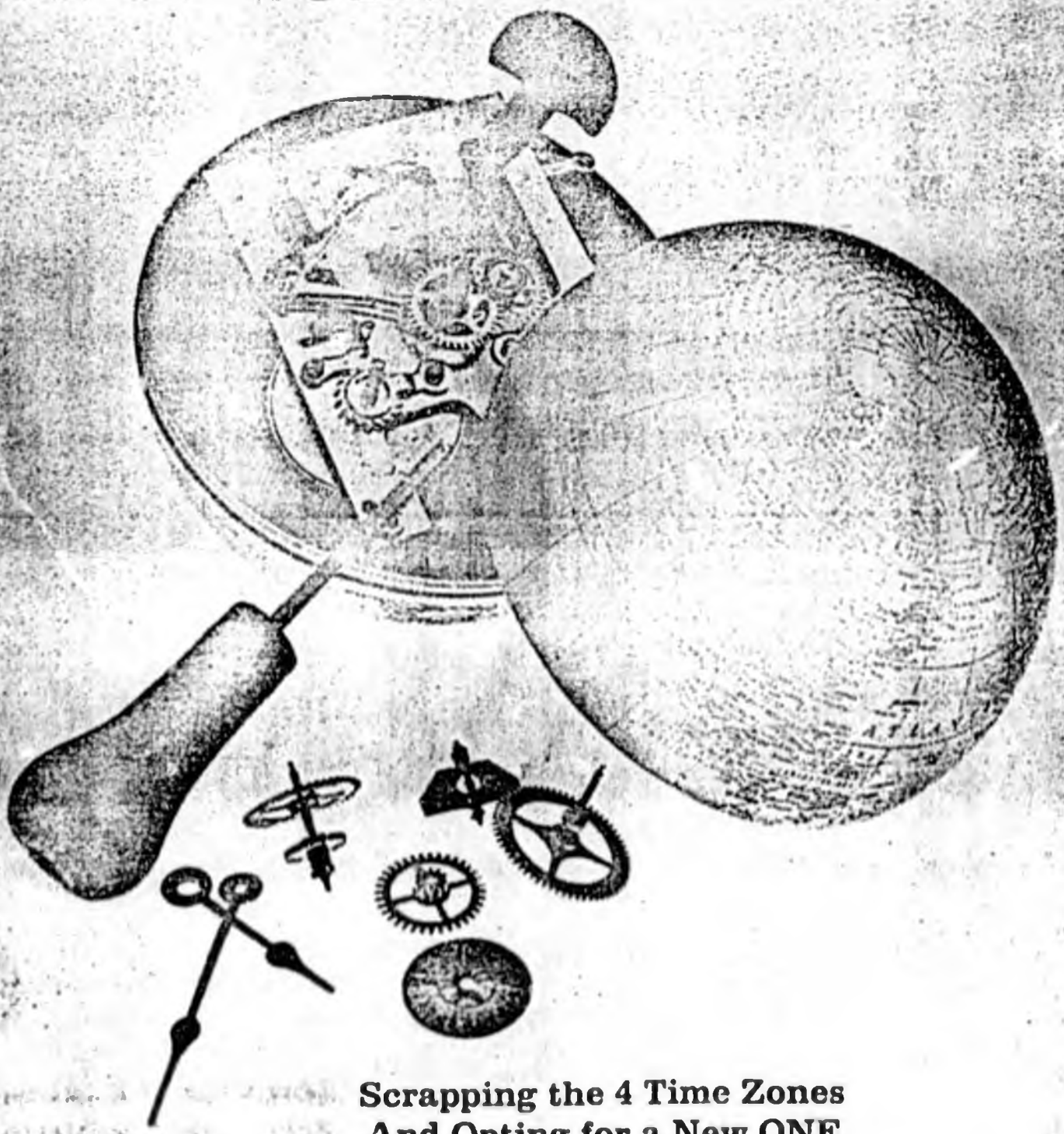
Attest:

Clerk


STATE OF ALASKA
DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS
JANUARY 1, 1978
ORGANIZED BOROUGHS AND CITIES
HOME RULE CITIES
FIRST CLASS CITIES
SECOND CLASS CITIES
ORGANIZED UNDER FEDERAL LAW
YUKON TIME ZONE
PACIFIC OCEAN
BERING SEA
ALEUTIAN ISLANDS
PACIFIC OCEAN
ELIAS MOUNTAINS
CHUGACH MOUNTAINS
WRANGELL
COPPER RIVER
ST ELIAS
YUKON B.C.
BOROUGH
CITY AND BOROUGH OF JUNEAU
ARCHIPELAGO
Talkeetna
Anchorage
Kodiak
Valdez
Cordova
Kenai
Seward
Homer
Juneau
Ketchikan
Sitka
Petersburg
Wrangell
Haines
Skagway
Whitehorse
Kluane
Carcross
Atka
Adak
Attu
Unalaska
Dutch Harbor
Nikolski
Umnak Island
Aleutian Islands
Pribilof Islands
Shemya
Near Islands
Andreanof Islands
Islands of the Four Mountains

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

A Case for U.S.A. Time



Scrapping the 4 Time Zones And Opting for a New ONE

Based on the research of Paul Mullinax,
Intelligence Research Specialist, Defense Intelligence Agency,
Washington, D.C.

Bill O

April 73

Four different time zones for the continental United States has not been a practical idea since the invention of the telephone and the airplane. One of the best solutions for modernizing time in the United States is to create a single time belt. We call this U.S.A. Time.

U.S.A. Time, a concept of it being 10 a.m. in New York, Chicago, Denver and Los Angeles simultaneously—rather than our present system of one hour differences between Eastern, Central, Mountain and Pacific time—could provide instant relief for the communications and travel problems of the millions of business people who keep the heart of America pumping.

Then why don't we adopt U.S.A. Time?

Your first reaction might be that it is a "slap in the face of Mother Nature." Before 1880, your opinion would have been popular, since our forefathers operated on the Mother Nature system of time. The instant the sun reached overhead in their home cities, they designated it "high noon" or 12 o'clock. This was a good system, provided you never left your hometown. Each city was on a different time. If you traveled a hundred miles in any direction from your city, the base time would vary several minutes.

Mother Nature complicated this further by her inconsistency. The sun would not be directly overhead at the same time on any given day in any given city since the difference between the shortest day of winter and the longest day of summer is more than five hours.

The Railroads Pushed for a Change

By the 1880s, high noon city-by-city time became obsolete due to the increased speed of telegraphic communication and railroad travel. The railroads found scheduling impossible on the high noon system. They pushed for a change. It worked.

In 1883, Time Zones—approved by international conventions—were introduced. The United States adopted Eastern, Central, Mountain and Pacific Time Zones with one hour differences. In an age when it took a full day to cross one of the wide U.S. time zones, this new system was practical. Besides, the country was sectionalized and the time zone boundaries usually ran through relatively uninhabited areas of the country.

The practicality of the new Time Zone decreased as the speed of travel and communication increased. Over the decades, progress has been made in other obvious areas—cars replaced horses, paved highways replaced dirt roads, planes began to be a major form of commercial travel, then faster planes replaced them, jets replaced props, until finally we were a jet age nation. Jet age, yes, but a country which still operates on an 1883 railroad time system.

Modern America began to play with the clock in the 1940s. During World War II we moved the national clock ahead one hour and called it Daylight Savings Time. After the War, Daylight Savings Time was observed by local option.

This caused more confusion than can be described. While most cities observed Daylight time only in the summer, many cities ended it in September, others October. Often towns within 10 miles of each other would split over the time. Town A would go on Daylight Time, Town B would decide to remain on standard.

In 1967, the Uniform Time Act divided the United States and its possessions into eight time zones: Atlantic, Eastern, Central, Mountain, Pacific, Yukon, Alaska/Hawaii and Bering.

The Act also said that all states, possessions and the District of Columbia *must* observe Daylight Savings Time from 2 a.m. on the last Sunday of April until 2 a.m. on the last Sunday of October. Did this solve any problems? Some.

However, the Act also allowed any state, by legislative action, to exempt itself from going on Daylight Savings Time. Hawaii, Arizona, Michigan and Indiana chose this way out.

In 1972, the Act was further watered down when the states were allowed to split themselves into time zones and to exempt either part. As a result western Indiana observes Daylight Time; eastern Indiana does not.

States which have been allowed to split themselves between time zones are Michigan, Utah, North Dakota, Nebraska, Kansas, Oregon, Texas and Indiana.

One thing is certain, the Uniform Time Act has done very little to eliminate the confusion caused by multiple time zones and Daylight Savings Time. It definitely has not simplified the job of interstate commerce or travel.

How Can U.S.A. Time Be Accomplished?

The change to U.S.A. time could come in two phases. Phase I would establish only two zones—Eastern and Western. Then Phase II would combine these with a half-hour change.

The change to U.S.A. Time should be enthusiastically embraced by those Americans living in the Central and Mountain Time Zones. Under Phase I they would not change. They also would not go on Daylight Savings Time.

The plan for U.S.A. Time concerns only the continental United States. (We would also recommend that Alaska drop its four time zones and standardize on Alaska/Hawaii Time; and that Puerto Rico and the Virgin Islands move from Atlantic Time to the new Eastern Time).

Eastern (now Central Time Zone) and Western (now Mountain Time Zone) would become the standards for a two-zone continental system. Here's how it would work.

In the continental United States, we would divide into two time zones—Eastern and Western. Residents in the Pacific Time Zone would go on a year-around Daylight Time, in effect, moving their clocks forward one hour to Mountain Standard Time. This shouldn't be difficult since the four states in the Pacific Zone all now go on Daylight Time each summer anyway.

Major objections most logically would come from residents in our present Eastern Standard Time Zone. They would set their clocks back one hour to Central Standard Time under the new system.

The East has a high concentration of businesses, however, which are involved with interstate commerce. Our present railroad inspired zones adversely affect them. Therefore, resistance might not be as great as anticipated since there would be many obvious advantages to dealing with the Midwest on the same time.

Assuming the Pacific, Mountain and Central Standard Time zones residents could persuade the Eastern Standard Time Zone residents to move their clocks back one hour—which is a reasonable assumption—Phase I of U.S.A. Time would be accomplished.

Examine the following illustration, and it explains that Phase I of the U.S.A. time change would nearly double the number of convenient hours to telephone coast to coast during the normal business day. More work would be done simultaneously.

Example: There are only three convenient hours to telephone from New York to Los Angeles today. This is due to different starting times, quitting times and lunch times.

Today you can only conveniently reach the East from Los Angeles from 10 a.m. to 12 noon, and from 1 p.m. to 2 p.m. Under the new system, calls from west to east would be regularly placed from 9 a.m. to 11 a.m., and from 1 p.m. to 4 p.m. From east to west, New Yorkers could call from 10 a.m. to noon, and from 2 p.m. to 5 or 6 p.m.





Problems of the Present System Are M

The problems wrought by our present syste[illegible]nany. Those businessmen involved with the stock market [illegible] any of its related activities must make personal adjustments to impersonal zones. Since market operations must begin simultaneously across the U.S. (to prevent trading advantages), brokers in San Francisco mu[illegible] rise three hours earlier than their eastern counterparts in N[illegible]w York in order to be ready for the market's early morning operations.

Shippers must constantly plot arrival and departure times for shipments in distant locales. Businesses with scattered branch offices must fight time differences daily.

Network television spends millions because it must reschedule, retape and rebroadcast thousands of hours of programming to serve the present zoning system. It has, however, already accomplished Phase I by combining the Central and Eastern Time Zones into one. There have been few complaints.

Jet lag for air travelers is a real problem which affects the normal eating and sleeping patterns of passengers arriving at a transcontinental destination. (See *Health*, page 14).

Today when a passenger leaves Los Angeles for New York, he is literally on a five-hour air trip. However, when he arrives, he discovers that the trip has actually taken *eight* hours by the clock.

Suppose he leaves Los Angeles at 5:30 after the closing of a business day. He boards, jets away, and instead of arriving at 10:30 p.m. (still a decent hour), he arrives at 1:30 a.m. New York time. If his business meeting the following day is scheduled for 9 a.m., he gets up at 7:30 New York time. However, his mind and body are still attuned to Los Angeles time which is 4:30 a.m. His body reacts accordingly out of habit.

Does anyone really know what time it is? Yes, it's time for a change.

Why Phase I and Phase II Can Work

Let's look at the four major time zones across the United States and how they can be eliminated.

Phase I, as mentioned earlier, would form two zones instead of four, thus making the difference between New York and Los Angeles only one hour instead of three.

This would be done by combining the Eastern and Central Zones, and the Mountain and Pacific Zones. We would now have only Eastern (now called Central) and Western (now called Mountain) time. This would result in no change across most of the country and a change of one hour for the Coasts.

Now there would be no time change on flights between New York and Chicago, Memphis and Atlanta, New Orleans and Miami. In the West, we'd travel with ease between Los Angeles and Denver, Phoenix and San Francisco, Seattle and Salt Lake City without the disruption of time change.

Phase II Would Be Crucial to Unification of Time

The final step would combine the remaining two zones into a single zone from Maine to California. At that time, we would have to change our clocks only 30 minutes. The east would turn its clocks back 30 minutes; the West would move 30 minutes ahead. Now we would be on standardized U.S.A. Time.

Though it will aid airlines and their passengers greatly, it will, in fact, benefit every citizen of the country. Families with scattered members will be able to communicate with ease. The problems mentioned earlier—shippers, brokers and television delays—will be resolved. Efficiency will increase and we will have truly entered the jet age.

Objections will be raised. The first will be that changing the zones will not actually change anything—that there will *still* be

Some Parts of the World Have Already Opted for Standard Time

Several countries or regions have already united under the same time zone.

All world time is measured from Greenwich Mean Time, based on the London suburb of Greenwich. Yet, even before they entered the Common Market, Great Britain and Ireland joined Europe in the summer by going on Daylight Time which moved them an hour ahead and into step with the rest of western and central Europe. Now the continent from Portugal to Poland and from Ireland to Yugoslavia tells time the same.

The People's Republic of China, a nation which is broader from east to west than the United States, has been unified under one national time.

India, another large country, has combined her time zones into one by moving the eastern part of the country back a half hour and the western part ahead a half hour.

All of southern Africa, from the Atlantic to the Indian Oceans, maintains the same time. While political problems keep these nations apart, at least keeping the same time may help them talk about their differences.

Other Countries Also Have Complicated Time Zone Problems

While the continental United States puzzles through the problems of four time zones, other parts of the world have managed to confuse their citizens even more.

Canada has seven different time zones; the Soviet Union, an incredible eleven. Brazil, a country equal to the United States in size, divides itself into three zones with her island possessions in a fourth.

As mentioned earlier, our own State of Alaska, where air travel is sometimes the *only* means of transportation, copies the "lower 48" and splits itself into four unnecessary time zones.

Australia, a nation also as large as the continental United States, divides herself into three zones—and further confuses the matter by having the central zone be only 30 minutes behind the eastern zone, while it is 90 minutes ahead of the western zone.

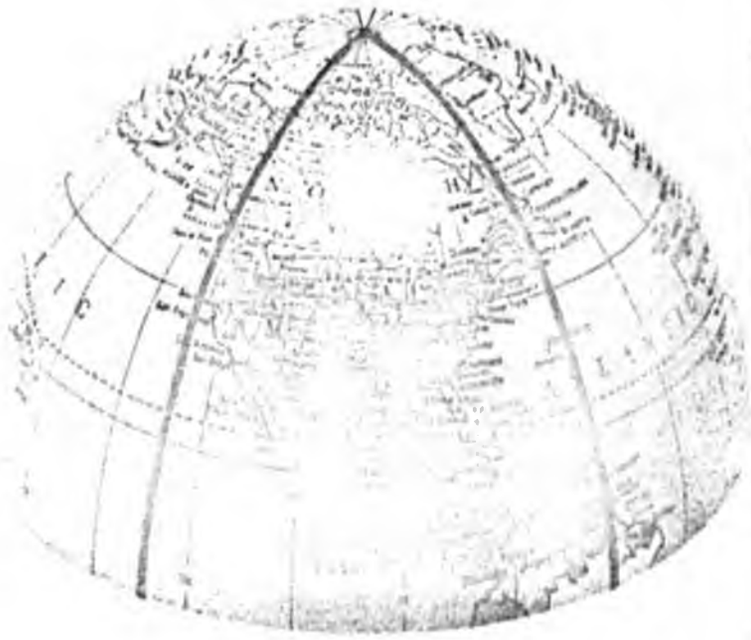
The Arab world invites problems of unity as it maintains six different kinds of time.

Most baffling of all is Saudi Arabia which keeps Arabic Time. This time is based on the concept that each day begins and ends at sundown which makes midnight different every day of the year.

In short, if time zone reform is accomplished in the continental United States, it would point the way for other nations to reduce or eliminate the hours which divide their people.

Americans, who pride themselves on progress, should take a look at the needs of their countrymen and what they must do to standardize time. It will literally take an "act of Congress" to change to Phase I or II of U.S.A. Time, but the impetus for this change begins with each of us. ❦

Mainliner Magazine invites its readers to comment—pro or con—on the proposed change to U.S.A. Time. Address your comments to: Time Change, c/o Mainliner Magazine, 3540 Wilshire Blvd., Suite 707, Los Angeles, California 90010



UST

SJR 23	Requesting the Secretary of the United States Department of Transportation to Revise the standard time zones in which Alaska is located.	Colletta, Ray Sumner

SUMMARY

For reasons of inefficiency, confusion and difficulties that time differences within the state create for government, commerce, finance and trade, it is requested that the Secretary of the U.S. Department of Transportation redefine the boundaries of the time zones in Alaska by shifting portions within the Alaska Standard Time zone and the Yukon Standard Time zone into the Pacific Standard Time zone at the earliest date possible..

SUPPORTING INFORMATION

RELATED LEGISLATION:

FISCAL NOTE: None

		Notified
INTERESTED PARTIES:	Colletta	2/20/79
	Ray	2/20/79
	Sumner	2/20/79

The Juneau City and Borough Assembly has introduced a resolution (Serial No. 569) requesting the United States Secretary of Transportation to extend the Yukon Standard Time zone in Alaska to include the City and Borough of Juneau and other northern panhandle communities.

Copies of the resolution were sent to Brock Adams, Secretary of U.U. DOT, Sen. Stevens, Sen. Gravel and Rep. Young. They have replied informing the Assembly that the Department of Transportation will be scheduling local hearings on the request sometime in the Spring.

See attached

SJR

32

COMMITTEE REPORT

SENATE

FURTHER: None

4/10/79

Date: 4/10/79

Mr. President:

The Committee on STATE AFFAIRS has had SJR 32

Expressing concern over the reported persecution of members of the Baha'i religious community in Iran

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

Tom Kelly
Fred Bradley
Bob Parker

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bob Parker
CHAIRMAN

S 60 (Rev. 12/78)

SRA BOX 226 ANCHORAGE, ALASKA 99507
TELEPHONE (907) 349-3515

March 28, 1979

Honorable Patrick Rodey
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Rodey:

Recent events in Iran have raised fears for the future of religious minorities, particularly the largest of them—the Baha'i community. Since last September a number of anti-Baha'i outbreaks occurred in various cities, towns and villages with some deaths and a great deal of injury of persons and properties.

The campaign directed against the Baha'is has reached the shores of America. On February 8, 1979, Mansour Farhang, an Iranian who teaches at Sacramento State College, accused the Iranian Baha'is of hating Muslims and committing many crimes against the nation. He claimed that General Nasiri, former head of SAVAK, is a Baha'i, implying the guilt of all Baha'is by association. The fact is that Nasiri is not a Baha'i. The February 14 issue of the New York Times reported the assurance given to Jewish leaders by a representative of Ayatollah Khomeni that all religious minorities except the Baha'is would have "full political, cultural and religious rights." The Ayatollah, it was said, regards the Baha'i Faith as a "political rather than a religious movement."

The Baha'i community in Iran, like Baha'i communities everywhere, abstains from all political activity, is peaceful, works toward brotherhood among nations and races, promotes religious tolerance, and seeks mutual understanding with members of all faiths and groups. It is therefore most regrettable that the more fanatical and extremist elements among the Iranian Muslims have once again chosen the Baha'is as scapegoats and have extended their campaign to the United States.

As representatives of the Baha'is of Alaska, we wish herewith to supply you and your colleagues in the State Senate with some accurate background information on the nature and history of the Baha'i Faith. And we stand ready to provide any further information you may desire.

Very truly yours,

NATIONAL SPIRITUAL ASSEMBLY
OF THE BAHA'IS OF ALASKA

Janet Smith

Janet Smith
Secretary

Attacks on Bahá'ís in Iran

The recent mob attacks on Bahá'ís in Iran have once again called attention to the status of the Bahá'í Faith in the land of its origin. In cities, towns and villages—among them Isfahan, Fathabad, Arak, Sangsar, Nayriz, Sarvestan—over three hundred private homes and dozens of shops and business enterprises have been looted, burned down or otherwise destroyed. In Isfahan a clinic that belonged to Bahá'ís was dynamited. Elsewhere, orchards were seized and farmers deprived of their means of livelihood. A number of Bahá'í centers have been demolished or burned to the ground. Bahá'í communities have been terrorized, individuals and families beaten, and, in some instances, driven to the mosques and forced to recant their faith.

Many find it difficult to understand why members of a religious minority dedicated to tolerance, peace, and universal brotherhood arouse hatred in those among whom they live. The reasons for the persecutions, the hatred, and the violence lie deep in the socio-psychological structure of Persian society and go back more than a century to the year 1844, when a young merchant of Shiraz, later known as the Báb, founded a new religion whose followers rejected the literal interpretation of the Koran and held that soon "He Whom God Shall Make Manifest" would appear on earth to bring a new Law and to inaugurate a new era in the history of mankind. In 19th century Iran, where even the notion of religious liberty did not exist, the teachings of the Báb were bound to produce a violent reaction. Accused of heresy, the Báb was imprisoned for several years and finally executed in 1850. This did not stop the spread of the Báb's teachings, nor did it stop the resistance of his disciples who defended themselves with great valor against attacks by the united forces of the clergy and the government. There ensued a campaign of extermination in which some twenty thousand Bábís were killed. The cruelty of the suppression, the indiscriminate massacre of women and children, the tortures inflicted upon masses of innocent people have been eloquently described both by participants and outside observers, among the latter Comte de Gobineau and Edward G. Browne. The episode left a legacy of suspicion, fear, and hate.

Thirteen years after the martyrdom of the Báb, one of his leading disciples who had been exiled to Baghdad by the Persian government proclaimed himself to be the One whom even the Báb had prophesied. He became known as Bahá'u'lláh. Most of the Báb's followers accepted Bahá'u'lláh's claim and became known as Bahá'ís. Over the next forty years Bahá'u'lláh produced a vast number of works that today constitute the scripture of the religion he founded. He taught the unity of mankind and the equality of races and nations. He taught the unity of religions and universal peace. He proclaimed the harmony of religion and science, the need for universal education, and the equality of sexes. He also established the essential principles for the life and operation of a world-wide community of his followers who would govern themselves through elective bodies, would have no clergy, and would be dedicated to the common interests of all mankind.

The authorities, both religious and secular, kept Bahá'u'lláh in confinement and exile for forty years. Feeling threatened by ideas that challenged the outworn formulas they had mouthed for hundreds of years, Muslim clergy continued to demand the extermination of the Bahá'ís, whom they always called "heretics" and "harmful misleaders." The Bahá'ís were turned into the scapegoats of Iranian society. As their numbers increased, they became an ever more attractive target for demagogic attacks by those who wanted to distract the public or create turmoil. Since the Bahá'ís emphasized education and placed value on work, they achieved a relatively high standard of living, which made them promising targets of pogroms. Last but not least, the tolerant and peaceful nature of the Bahá'í community made it possible to attack Bahá'ís without fear of violent retaliation.

In moments of national stress, during famines, revolutions, and invasions of the country, Bahá'ís could be blamed for the nation's miseries. If one did not wish to pay a debt, one could accuse the creditor of being a Bahá'í. If an epidemic spread through a province, one could blame the Bahá'ís. Bahá'í ideals of world unity could be twisted to appear as a lack of patriotism. Bahá'í acceptance of the truth inherent in all great religions of mankind could be interpreted as a betrayal of Islam.

When in 1896 Nasir'i-Din Shah was assassinated by a Pan-Islamist terrorist, the Bahá'ís were immediately accused of that deed. In the brief but violent persecution that followed, several Bahá'ís lost their lives. In 1903 more than a hundred Bahá'ís were massacred in Yazd. In that city, history records, "Hájí Mírzá-i-Halabísáz was so mercilessly flogged that his wife flung herself upon his body, and was in her turn

severely beaten, after which his skull was lacerated by the cleaver of a butcher. His eleven-year-old son was pitilessly thrashed, stabbed with penknives and tortured to death [illegible]. A crowd of about six thousand people, of both sexes, vented their fury upon the helpless victims, a few going so far as to drink their blood."

The outbreak of the revolution in 1906 precipitated new attacks on the Bahá'ís all over Iran, with particularly bloody episodes taking place in Sirjan, Dughabad, Tabriz, Qom, Najafabad, Sangsar, Shahmirzad, Isfahan, Jahrom, Mashhad, Kermanshah, and Hamadan. As the constitutional movement developed, "the reactionaries brought groundless accusations against the Bahá'ís and publicly denounced them as supporters and inspirers of the nationalist cause." In the chaotic conditions of World War I and its aftermath, Bahá'ís once again suffered scattered attacks in various parts of the country.

During the 1930's, attacks on the Bahá'ís were less numerous and less violent. However, the pressure against them was never entirely relaxed. Bahá'í schools were closed, Bahá'í marriages were refused recognition, Bahá'í literature was banned, gatherings were prohibited, Bahá'ís in government service were frequently dismissed from their jobs, nurses and doctors were fired from hospitals, teachers were refused employment. Occasionally, here and there, a Bahá'í was murdered. This pattern continued through World War II and the immediate [illegible] period.

A large-scale attack on the Bahá'í community was launched in the month of Ramadan, 1955. At one of Tehran's [illegible] Shaykh Muhammad Taqi Falsafi, a fanatical [illegible], daily urged his flock to rise up against the "[illegible] religion." He accused the Bahá'ís of being [illegible] and called for severe measures against them. [illegible] was permitted to preach his incendiary sermons [illegible]. The effect of the broadcasts was immediate. Old suspicions were revived. [illegible] was made to discredit a religion [illegible] known as the Bahá'ís.

[illegible] police locked the gates of the Bahá'í [illegible] in Tehran, and five days later the [illegible] was overrun by the army. On May 17, [illegible] Parliament [illegible] had been banned. A contemporary [illegible]

This was followed by an orgy of senseless murder, rape, pillage and destruction the like of which has not been recorded in modern times. The dome of the Hazíratu'l-Quds (National Center) in Tihrán was demolished; the House of the Báb was twice desecrated and severely damaged; Bahá'u'lláh's ancestral home in Takur was occupied, the house of the Báb's uncle was razed to the ground, shops and farms were plundered; crops burned; livestock destroyed, bodies of Bahá'ís disinterred in the cemeteries and mutilated; private homes broken into, damaged and looted, adults execrated and beaten, young women abducted and forced to marry Muslims; children mocked, reviled, beaten and expelled from schools, boycott by butchers and bakers was imposed on hapless villagers; young girls were raped, families murdered, government employees dismissed and all manner of pressure brought upon the believers to recant their Faith.

A world-wide campaign of publicity, expressions of sympathy for the Bahá'ís on the part of outstanding individuals in Europe, Asia, and the Americas, and appeals to the United Nations resulted in some relief to the Bahá'ís of Iran. However, it took several years for passions to abate and for normalcy to return. Since then Bahá'ís have continued to live under pressure in the way forced upon them by the circumstances of history.

Though the Bahá'ís are the largest religious minority in Iran, their existence is not officially recognized and, unlike other minorities such as the Christians, the Jews, and the Zoroastrians, they enjoy no specific human rights. Being in their vast majority ethnic Iranians, speaking Persian [illegible] Azerbaijani, they are no foreign element, but a part [illegible] the Iranian nation to which they have always been loyal. It is only the medieval intolerance of certain fanatical elements that strives to set them apart from their Muslim brothers and fellow citizens. Being non-political, law-abiding and opposed to violence, they constitute no threat to anyone, yet they have been the most frequently persecuted group in the nation. The current outbreak of persecutions are only an episode in the long history of cruel and senseless oppression with which the Bahá'ís have been afflicted.

BAHA'I STATISTICS

WORLDWIDE

National Spiritual Assemblies.		130
Countries opened to the Faith:		
Independent Countries	152	
Significant Territories and Islands	188	340
Number of Localities where Baha'is reside:		
As of August, 1978		88,031
Number of Local Spiritual Assemblies:		
As of August, 1978		22,275
Number of Languages into which Baha'i Literature has been translated and published. . .		685
Baha'i Schools and Institutes.		133
Sites acquired for future Temples.		105
Number of Tribes and Minority Groups represented in the Faith:		
In excess of		1,640

UNITED STATES (48 CONTIGUOUS STATES)

Number of Localities where Baha'is reside. . . .	6,400
Number of Local Spiritual Assemblies	1,440

ALASKA

Number of Localities where Baha'is reside. . . .	200
Number of Local Spiritual Assemblies	58

Introduced: 4/10/79
Referred: State Affairs

IN THE SENATE BY KELLY AND KERTTULA

SENATE JOINT RESOLUTION NO. 32

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

Expressing concern over the reported persecution of members of the Baha'i religious community in Iran.

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

WHEREAS there have been numerous recent reports in the news media of mob attacks directed at Baha'i believers throughout Iran; and

WHEREAS these news reports indicate that hundreds of homes, shops, and business enterprises owned by Baha'is, together with many of their religious centers, have been looted, burned or otherwise destroyed as a direct result of these attacks; and

WHEREAS members of the Baha'i religious minority in Iran have in the past been the objects of widespread discrimination; and

WHEREAS this ongoing persecution of members of the Baha'i faith in the land of its origin causes much distress amongst Baha'is belonging to their 58 local Spritual Assemblies located throughout Alaska; and;

WHEREAS all Alaskans, regardless of religious persuasion, deplore religious persecution or intolerance wherever it exists and share and sympathize with the concern of Alaskan Baha'is on the current situation confronting members of the Baha'i faith in Iran;

BE IT RESOLVED by the Alaska State Legislature that it expresses its concern over the reported persecution of members of the Baha'i religious community in Iran; and be it

FURTHER RESOLVED that the United States government is urged to use its best efforts to put an end to both religious persecution and restriction of human rights in Iran, wherever it exists.

COPIES of this resolution shall be sent to the Honorable Jimmy Carter, President of the United States; the Honorable Cyrus Vance, Secretary of State; and to the Honorable Ted Stevens and the Honorable Mike Gravel, U. S. Senators, and the Honorable Don Young, U. S. Representative, members of the Alaska delegation in Congress.

HB

12

COMMITTEE REPORT

SENATE

3/23/79

FURTHER: Finance

Date: 4/12/79

Mr. President:

The Committee on STATE AFFAIRS has had CSHB 12(Fin)
relating to northern technology

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

S 60 (Rev. 12/78)

SENATE AMENDMENT

BY STATE AFFAIRS

To: _____ SENATE BILL No. _____

To: FINANCE HOUSE BILL No. 12

PAGE: 3 LINE: 1 and 2 delete [After consultation with the Alaska Council on Science and technology.]

Page: 3 Line: 20 Change 80 to 50.

S 70

April 16, 1979

CSHB 12

Section 1. FINDINGS (lines 9-16)

This section states that there is a need for development of small scale, low cost alternatives for Alaskans in regard to building design, food production, recycling, transportation, energy generation, waste disposal. Thus, we find it appropriate that development and wider use of low cost, small scale technologies be encouraged.

(The above section will be placed in statute findings in small print.)

Section 2. 37.12.070 (lines 16-20)

(Current Title 37.12.070 sets out powers of the Alaska Renewable Resources Corporation. This legislation adds number 16 which gives the A.R.R. Corporation the power to provide funds to the Alaska Council of Science and Technology.

Section 3. 44.19.182 Purpose, Powers and duties (of Alaska Council of Science and Technology.)

This adds to the current powers and duties of the Alaska Council of Sciende and Technology subsection (d) which states as funds are appropriated from Alaska Renewable Resources Corporation, the council may make grants of up to $5,000 to persons engaged in the development or implementation of northern technology. The applicant must state the project will be available for public inspection. Patents accruing from projects funded through grants made by the council shall remain property of individual.

Section 4. 44.19.188 Difinition.

1) defines "council" to mean Alaska Council of Science and Technology. This definition is currently in the statutes.

2) Defines "northern technology to mean the application in Alaska of methods of energy generation, waste disposal, recycling, food production, transportation, building design, and industrial enterprise, which may be more efficient and less costly, and less energy intensive than those presently utilized.

Section 5. 45.88.010 FUND ESTABLISHED.

The current statute has established in the Department of Commerce and Economic Development an alternative power resource revolving fund to carry out purposes of this chapter. This bill would include technology to the revolving fund. Which means that loans may be made for "northern technology" purpose.

Section 6. 45.88.020 Powers and Duties of the Department in admi istering the fund.

State Affairs amendment: Per request of original sponsor in sec. (a) the phrase after consultation with the Alaska Council on Science and Technology is being deleted so that the council does not have to be consulted in every aspect of administering the fund.. This would be an unreasonable burden on the council.

(1) Number 1 is amended to include the ability to make loans for development of more efficient, less costly, less energy intensive technolgies.

(2) (b) is amended to include coordination with the Council when the department develops eligibility Standards for Loans and when adopting guidelines for loan terms.

Section 7. 45.88.030 LOAN TERMS.

This section merely includes northern technology in stating of the terms.

State Affairs proposes changing the % financed from 80% down to 50%.

Reason: Since these are high risk loans anyhow, how fiscally sound is it to finance 50% of cost.

April ~~18~~ 16, 1979

CS FOR HOUSE BILL NO. 12

An Act relating to northern technology

1. Representative Brian Rogers testimony

HB 12 intent to stimulate small scale and low cost technology - it's called the backyard inventors Bill.

Summary of Bill

Sec. 2. Allows existing Renewable Resource Corporation to make block grants to Alaska Council of Science and technology.

Sec. 3. Allows Council to make small grants of up to $5,000 for development or implementation of technologies.

Sec. 5, 6, and 7. Extends the existing alternative Power Resource Revolving resource loan fund to include alternative technologies.

2. Clarissa Quinlan from Division of Energy & Power Resource

The U.S. Government is sponsoring an energy related grants program and Alaska to date has had the highest percapita response of any State in the Union. This shows there is a need and interest in energy related small-scale technologies. Ms. Quinlan is in support of the bill.

Agency Affected Dept. of Commerce and Economic Development

Program Category Affected Development

BRU, Program, or Subprogram(s) Affected Alternative Power Revolving Loan Fund

(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.						
Misc.		100	100	100		
TOTAL		100	100	100		

FUNDING (Thousands of Dollars)

GENERAL FUND		100	100	100		
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		0	0	0		
PART TIME		0	0	0		
TEMPORARY						

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

THIS WAS CUT BY HOUSE FINANCE

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 Sept. 1, 1978

Jay S. Hammond
Governor

Aug. 21, 1978
Date

JSH:jp
7/13/78

Orig. Sponsor: Rogers

CSHB 12 An act relating to northern technology; and providing for an effective date. House Finance

SUMMARY

CSHB 12 states that it is a legislative finding that the development and wider use of low-cost and small scale technologies appropriate to Alaska should be encouraged. The bill amends the powers of the Renewable Resources Corporation by adding a new paragraph enabling the corporation to provide funding to the Alaska Council on Science and Technology. Adds a new subsection to "Purposes, powers and duties" of the Alaska Council on Science and Technology which provides that they may "make grants of financial assistance of up to $5,000 to persons engaged in the development or implementation of northern technology". Amends the definition section to include "northern technology" and defines it as "the application in Alaska of methods of energy generation, waste disposal, recycling, food production, transportation, building design and industrial enterprise which may be more efficient and less costly and less energy intensive than those methods presently utilized and which are appropriate to the Alaska environment". Amends section entitled "Alternative Power Resource Revolving Loan Fund, Fund Established" to include loans used for northern technology and states that the department shall consult with the Alaska Council on Science and Technology before making loans. Amends "Loan Terms" to include northern technology.

SUPPORTING INFORMATION

Under Administrative Order No. 51 (8/31/78) Governor Hammond established the Office of Northern Technology within DPDP. (See copy of Order attached, outlines duties and responsibilities). Rogers submitted the original HB 12 to make the Office of Northern Technology statutory and therefore law, legally giving the office the power to implement the intent of HB 12 which is to provide money for grants related to small scale northern technology. T. Neil Davis, when asked to comment on HB 12, (he is a professor of Geophysics, the University of Alaska) wrote to Rogers supporting the concept of HB 12 but recommending that it would be

more efficient and less costly to use existing offices (specifically the Alaska Council on Science and Technology) to implement HB 12 rather than statutorily creating a new office and all the paperwork etc. that would go along with that. He felt that ACST was already set up to take care of something like this. CSHB 12 (Finance)does do this.

Please see attached memo from Roger's office to Chris Noah, Executive Director of the Alaska Council on Science and Technology, explaining the changes made by the CS and the reasoning behind it. For your information: The Alaska Council on Science and Technology was created by statute in 1978 and consists of seven members appointed by the Governor at recommendation of experts in fields of science and technology. It is within DPDP. The purpose of the Council is to review and recommend the scientific and technological research needs of state government and to issue research grants and contracts, to oversee the issued grants and contracts, to promote the high standards of research for the priorities proposed by the council and to address stated legislative or administrative requests for research.

CSHB 12 (Finance) was adopted on March 22 and the bill passed the House 26-9. Nays: Barnes, Haugen, Hayes, Martin, Metcalfe, Montgomery, Phillips, Randolph and Smith. Effective date clause was adopted.

FISCAL NOTE: Attached.

RELATED LEGISLATION: None

INTERESTED PARTIES: Rogers
Dick Holden, Alaska Council on Science and Tech.
Chris Noah, ACST
Renewable Resources Corp.



Reported back to House with Mod 3141, 2 years w/ major recommendation w/ substitute adopted at DO Pass. Montgomery, Haugo, Berg, Hill seconded NO REC. Pa~~ssed House~~ 2nd Comm Rec. adopted 3/22/79. Vote of 26-9 ~~Rogers~~ Hoys: Burns, Bowman, Hoyt, Nicholas, Metcalfe, Montgomery, Phillips, Rundle, Reed.

Rogers

Hoyt for Bargaining Power.

Original sponsor: Rogers

Offered: 3/14/79
Referred: Rules

IN THE HOUSE BY THE FINANCE COMMITTEE

CS FOR HOUSE BILL NO. 12 (Finance)

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 regard to 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 37.12.070 is amended by adding a new paragraph to read:

(10) provide funds to the Alaska Council on Science and Technology, to be awarded and administered in the manner prescribed by AS 44.19.181 - 44.19.189 when the funds are to be expended to accomplish a corporate purpose under AS 37.12.015.

* Sec. 3. AS 44.19.182 is amended by adding a new subsection to read:

(d) The council may, as funds are appropriated, make grants of financial assistance of up to $5,000 to persons engaged in the development or implementation of northern technology. An application for a grant under this subsection shall be submitted to the council which shall determine the manner in which applications are reviewed and approved. The council may make grants in coordination with other sources of funding. An applicant for funds for a demonstration project shall include with his application a statement that the completed pro-

ject will be available for public inspection. Any patents or royalties accruing from projects funded through grants made by the council shall remain the property of the individual receiving the grant.

* Sec. 4. AS 44.19.188 is amended to read:

Sec. 44.19.188. DEFINITION. In AS 44.19.181 - 44.19.189,

(1) "council" means the Alaska Council on Science and Technology established in AS 44.19.181;

(2) "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 more efficient, and less costly and less energy-intensive than those methods presently utilized and which are appropriate to the Alaskan environment.

* Sec. 5. AS 45.88.010 is amended to read:

Sec. 45.88.010. FUND ESTABLISHED. There is established in the Department of Commerce and Economic Development the alternative technology and power resource revolving loan fund to carry out the purposes of this chapter. Loans made under this chapter may [ARE TO] be used to develop means of energy production utilizing energy sources other than fossil or nuclear fuel, including, but not limited to, windmills, water and solar power devices. In addition, loans made under this chapter may be used to develop and implement methods of energy production, waste disposal, recycling, food production, transportation, building design, and industrial enterprise which may be more efficient, less costly, and less energy intensive than those methods presently utilized and which are appropriate to the Alaska environment. The fund may be used for no other purposes [PURPOSE].

* Sec. 6. AS 45.88.020 is amended to read:

Sec. 45.88.020. POWERS AND DUTIES OF THE DEPARTMENT IN ADMINIS-

TERING THE FUND. (a) The department may, after consultation with the Alaska Council on Science and Technology,

(1) make loans for the purchase, construction, and installation of alternative power resources and for the development and implementation of more efficient, less costly, less energy intensive, and more appropriate technologies;

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

(b) The department, in coordination with the Alaska Council on Science and Technology, shall develop eligibility standards for loans made under this chapter and adopt guidelines for the determination of loan terms.

* Sec. 7. AS 45.88.030 is amended to read:

Sec. 45.88.030. LOAN TERMS. (a) A loan for the development of an alternative power resource or for the development or implementation of a northern technology under this chapter may not exceed $10,000.

(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 [30] per cent of the cost of purchase, construction, and installation of the alternative power resource or the development and implementation of methods of energy production, waste disposal, recycling, food production, transportation, building design, and industrial enterprise which may be more efficient, less costly, and less energy intensive than those methods presently utilized and which are appropriate to the Alaska environment.

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

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

* Sec. 8. This Act terminates June 30, 1984.

* Sec. 9. This Act takes effect July 1, 1979.

WHILE IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4925

HOME:
BOX K - COLLEGE
FAIRBANKS, ALASKA 99708
(907) 456-2037

BRIAN ROGERS
Alaska State Legislature

March 9, 1979

To: Chris Noah, Executive Director, Alaska Council on Science and Technology
From: Mark Wittow, A.A.
Re: Changes in HB 12 (an act relating to northern technology)

Attached is a new version of HB 12, which has come out as the Finance Committee Substitute. The old bill established an "office" of northern technology within DPDP, and funded a full-time position. The office was charged with disseminating information about northern technology, assisting state agencies and individuals, and making small grants. The majority of funding that the bill required went to administrative costs in one form or another.

A number of existing agencies are already doing work related to the purposes of the bill. The Division of Energy and Power Development, the Renewable Resources Corp. and an existing office of northern technology set up by the governor are involved in furthering various aspects of northern technology. The key purpose of HB 12 is the small grants program, and its encouragement and help for the backyard inventor. In order to avoid unnecessary duplication, we decided to redesign the program, with the focus on the small grants program.

The Council on Science and Technology seemed an ideal group for reviewing the grant applications. The council's membership has contacts across a wide range of the Alaskan scientific and technical community. Applications could be sent to the people possessing expertise or interest in the proposed work. The broad range of the council's composition would aid the program.

The new bill adds the ability to make grants of up to $5000. to the powers of the council. Procedures for reviewing grant applications will be determined by the council. They will not have to promulgate formal regulations. Sixteen thousand dollars will be budgeted for administrative costs (see attached fiscal note.). Fifty thousand dollars will be budgeted for the grants. We are discussing the possibility of a block grant from the Renewable Resources corporation.

That's the essence of the northern technology bill's new form. I will be glad to talk with you or any of the members of the council about this.

Mark

Original sponsors: Parr, Brown
Buchholdt, et al

IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

SENATE CS FOR CS FOR HOUSE BILL NO. 75

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to privacy and public information; and changing Rule 65 of the Civil Rules of Court."

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

* Section 1. AS 40 is amended by adding a new chapter to read:

CHAPTER 25. PRIVACY AND PUBLIC INFORMATION.

Sec. 40.25.010. STATE POLICY. It is the policy of the state that

(1) all governmental units exist to aid in the conduct of the people's business;

(2) the people of this state do not yield their sovereignty to the agencies which serve them;

(3) the people, in delegating authority, do not give their public servants the right to decide what is best for the people to know and what is best for them not to know;

(4) the people's right to remain informed shall be protected so that they may retain control over the instruments they have created;

(5) the people's right to privacy as provided by the constitution is recognized and shall not be infringed;

(6) the records of governmental units shall be open for public inspection unless the inspection infringes on a person's right to privacy or is otherwise prohibited by statute.

Sec. 40.25.015. RECORDS TO BE OPEN TO INSPECTION; EXCEPTIONS. (a) Except as otherwise specifically provided by law, all records are open to inspection and copying by any person during the regular office hours of the lawful custodian of the records or his designee, unless the

inspection infringes on a person's right to privacy. The custodian of the records shall take all necessary precautions for their preservation and safekeeping.

(b) Every custodian of records shall make them available for public inspection and shall give a copy of the record on request and payment of fees, if any. A custodian shall permit memoranda, transcripts, and copies of the public writings and records in his office to be reproduced in any reasonable manner. In addition, a custodian shall furnish proper and reasonably accessible facilities for inspection of records, subject to reasonable restrictions, as are necessary for the protection of the writings and records and to prevent interference with the regular discharge of the duties of the custodian and his employees. If a certified copy is requested, that copy is in all cases evidence of the original.

(c) Copies of records may be requested by telephone, electronic communication, or by mail. These requests shall be treated in accordance with the provisions of (a) and (b) of this section.

(d) The commissioner of administration shall prescribe a uniform schedule of fees to be limited to reasonable standard charges for documents search and duplication, providing for recovery of only the direct cost of the search and duplication.

(e) The following records are excluded from the provisions of this section:

(1) those exempted from disclosure by state statute, municipal charter or ordinance, or supreme court rule;

(2) any tax or information return, or record or report relating to that return, which is required to be filed in accordance with the provisions of AS 43 or municipal ordinance, except that access may not be denied to the person who is the subject of the records, or that

person's designee;

(3) subject to (i) of this section personal information in files maintained on public employees, except that access may not be denied to the person who is the subject of the records, or that person's designee;

(4) personal information in files maintained on students in public schools, except that access may not be denied to the student, a parent or guardian of the student, a person responsible for supervising the student, or his designee;

(5) personal information in files maintained on students at the University of Alaska, except that access may not be denied to the student or his designee;

(6) personal information in medical, psychological, and sociological files maintained on individual persons, except that access may not be denied to the person who is the subject of the record, or his designee, or to the parent or guardian of a minor who is the subject of the record except where this access would violate the physician-patient privilege;

(7) personal information in files maintained on recipients of social services, except that access may not be denied to the person who is the subject of the records, or his designee;

(8) personal information similar to personal information in files under (3) - (7) of this subsection, except that access may not be denied to the person who is the subject of the records, or that person's designee;

(9) archival materials donated by natural persons to the extent of any written limitati · placed on them as a condition of the contribution; however, all archival materials become public information after not more than 50 years and any statement of limitations must be

produced upon denial of access;

(10) circulation records maintained by public libraries, public school libraries, and University of Alaska libraries showing personal transactions by those borrowing from them;

(11) trade secrets, privileged information and confidential commercial, financial, geological or geophysical data furnished in compliance with state law or regulation, or in compliance with a municipal ordinance;

(12) test materials, questions and answers to be used in future license, employment or academic examination;

(13) intelligence, investigatory and original entry records, maintained by state or municipal law enforcement agencies, or any other governmental unit, but only to the extent that the production of the records would

(A) interfere with enforcement proceedings;

(B) deprive a person of a right to a fair trial or an impartial adjudication;

(C) constitute an unjustifiable intrusion into a person's right of privacy;

(D) disclose the identity of a confidential source and, in case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, confidential information furnished only by the confidential source;

(E) disclose investigative techniques and procedures;

(F) endanger the life, property, or physical safety of a person;

(G) identify a victim of a criminal sexual assault;

(H) disclose any information otherwise exempt under this chapter or a state statute,

(14) records of security systems and procedures established for the purpose of the protection of persons or property, or securing a penal institution or place of detention of persons accused or convicted of a crime or persons under the jurisdiction of the court under AS 47.10, but only to the extent that disclosure would compromise the effectiveness of the system;

(15) attorney work product in the possession of a governmental unit;

(16) any notes, memoranda, draft decisions, opinions, or other similar documents prepared by a justice or a judge, or a person working under his supervision, in the process of deciding any legal issue;

(17) records related solely to the internal practices of a governmental unit where the effect of disclosure would be to enable law violators to escape detection;

(18) trade secrets and commercial or financial information loaned to the University of Alaska to conduct research.

(19) the executive office of the Governor;

(20) the executive office of the Lieutenant Governor;

(21) the legislature;

(f) Unless specifically exempted from disclosure by statute, all records become public after they are 50 years old.

(g) Information contained in records exempted from fidclosure under (e) of this section may be released for valid statistical or other information-gathering purposes if

(1) any information which would tend to identify the person to whom the record pertains is deleted; and

(2) disclosure is made in a manner which would not compromise or defeat the purposes of any statutory provision designed to maintain the confidentiality of certain information.

(h) The exceptions provided under this chapter do not preclude the release or production of subpoenaed records or information to a state or municipal agency during the course of an investigation;

(i) All personnel records showing salary or compensation shall be open for public inspection. This public access is not an infringement of a person's right to privacy.

(j) The fact that a crime has been committed, the name of the crime, the time of commission and location, the name of any victim (Unless the victim of a criminal sexual assault) and the name of any person who is charged with the crime is a matter of public information and record, except as provided in AS 47.10.090.

(k) Records required to be kept confidential by a federal law or regulation.

Sec. 40.25.020. REQUESTS FOR RECORDS. (a) Each governmental unit, upon any request for records made under this section, shall

(1) produce the record immediately; or

(2) if the record is in active use or storage and not available at the time a request to examine it is made, the custodian shall at that time state this fact in writing to the applicant and set a date and hour within 10 days (excepting Saturdays, Sundays and legal public holidays) at which the record may be examined.

(b) A person making a request to a governmental unit for records under this section shall be considered to have exhausted his administrative remedies with respect to the request if the governmental unit fails to comply with the applicable time limit provisions of this section. If the governmental unit can show exceptional circumstances exist and that it is exercising due diligence in responding to the request, the court

may retain jurisdiction and allow the governmental unit additional time to complete its review of the records. Upon a determination by a governmental unit to comply with a request for records, the records shall be made promptly available to the person making the request.

(c) When the lawful custodian of a record determines that contents of a record render it exempt under the provisions of this section, he shall also determine whether a deletion of the exempt parts of the record will make it suitable for release, and, if so, the deletion shall be made and the record released, with the notation that exempt material has been removed. If the custodian determines that the record, or a portion of the record, is not open to inspection, he shall, in a certified writing, inform the person requesting the records of his determination, of the statutory basis for this decision, and that under AS 40.25.025 a suit may be brought to compel production of records that are improperly withheld.

(d) A notification of denial of a request for records under this section shall set out the names and titles or positions of each person responsible for the denial of the request.

Sec. 40.25.025. ENFORCEMENT: INJUNCTIVE RELIEF. (a) A person having custody or control of a record who obstructs or attempts to obstruct, or a person not having custody or control who aids or abets another person in obstructing or attempting to obstruct, the inspection of a record subject to inspection under AS 40.25.015 may be enjoined by the superior court from obstructing, or attempting to obstruct, the inspection of records subject to inspection under AS 40.25.015.

(b) No security may be required by the court from an applicant seeking an injunction under this section.

(c) The superior court shall make available to an applicant, free of charge, a simplified form for proceeding without counsel under this

section. The form shall require only identification of the applicant and the name of the custodian alleged to be improperly withholding records, and a simple explanation of the records sought.

(d) In a suit brought under this section the court may enjoin withholding of the records and order the production to the complainant of records improperly withheld. In such a case the court shall determine the matter de novo, and may examine the contents of any records in camera to determine whether the records or any portion of them may be withheld under any of the exceptions set out in AS 40.25.015, and the burden is on the agency to sustain its action.

Sec. 40.25.030. MISHANDLING OF RECORDS. A person who has the legal custody of and who unlawfully and intentionally destroys, conceals, alters, erases, or mutilates a record, book, paper, or writing, or a person who unlawfully and intentionally destroys, conceals, alters, erases, or mutilates a record, book, paper or writing, or wrongfully takes a public record, book, paper, or writing from the person having legal custody of it, or who has obtained possession wrongfully and refuses or neglects to return or produce it when lawfully required or demanded to do so, upon conviction, is punishable by a fine of not more than $500, or by imprisonment for not more than one year, or by both.

Sec. 40.25.035. OBSTRUCTION OF ACCESS TO RECORDS. (a) A custodian of a record subject to inspection under this chapter who intentionally obstructs or attempts to obstruct, or a person not having custody or control who intentionally aids or abets the custodian in obstructing or attempting to obstruct, the inspection of the record, in violation of this chapter, is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than $500. Upon a subsequent conviction that person is guilty of a misdemeanor and is punishable by a fine of not more than $1,000 or by imprisonment for not more than six

months, or by both.

(b) A good faith reliance upon the provisions of this chapter or of applicable law governing the confidentiality of public records is a defense to a criminal action brought under this section.

Sec. 40.25.040. DEFINITIONS. In this chapter, unless the context otherwise requires,

(1) "attorney work product" means documents and tangible things prepared by or for a governmental unit in anticipation of or during litigation;

(2) "custodian" means the head of any governmental unit or his designee;

(3) "governmental unit" means an agency, political subdivision, board of regents, or an administrative body, board, commission, committee, subcommittee, authority, council, departments, divisions, bureaus, agency, or other organization, including subordinate units of the state;

(4) "personal information" means information about an individual person, the disclosure of which would constitute an unjustifiable intrusion into a person's right of privacy;

(5) "record" means any document, paper, memoranda, book, letter, drawing, map, plat, photo, photographic file, motion picture, film, microfilm, microphotograph, exhibit, magnetic or paper tape, punched card, or other document of any other material, regardless of physical form or characteristic, developed or received under law or in connection with the transaction of official business and preserved or appropriate for preservation by a governmental unit as evidence of the organization, function, policies, decisions, procedures, operations or other activities of the state or political subdivision or because of the informational value in them; it also includes staff manuals and instruc-

tions to staff that directly or indirectly affect the public.

* Sec. 2. AS 44.62.310 is amended by adding a new subsection to read:

(g) Nothing in this section may be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences are subject to the same regulations for holding executive or closed sessions as are applicable to any other public body.

* Sec. 3. In sec. 1 of this Act, AS 40.25.025(b) has the effect of changing Rule 65 of the Civil Rules of Court relating to security deposits required in civil actions.

* Sec. 4. AS 09.25.110, 09.25.120, 09.25.125, AS 11.30.240 and 11.30.245 are repealed.

those here to testify.

Bill	Name
12	1 Chris Noah (Information Source) AK. Science + Tech.
	2 Clarissa Rowan - Div. of Energy + Power Dev
x x x	3 Virginia del Pilar - AK Conservation Society

Orig. Sponsor: Rogers

CSHB 12 An act relating to northern technology; and providing for an effective date. House Fina

SUMMARY

CSHB 12 states that it is a legislative finding that the development and wider use of low-cost and small scale technologies appropriate to Alaska should be encouraged. The bill amends the powers of the Renewable Resources Corporation by adding a new paragraph enabling the corporation to provide funding to the Alaska Council on Science and Technology. Adds a new subsection to "Purposes, powers and duties" of the Alaska Council on Science and Technology which provides that they may "make grants of financial assistance of up to $5,000 to persons engaged in the development or implementation of northern technology". Amends the definition section to include "northern technology" and defines it as "the application in Alaska of methods of energy generation, waste disposal, recycling, food production, transportation, building design and industrial enterprise which may be more efficient and less costly and less energy intensive than those methods presently utilized and which are appropriate to the Alaska environment". Amends section entitled "Alternative Power Resource Revolving Loan Fund, Fund Established" to include loans used for northern technology and states that the department shall consult with the Alaska Council on Science and Technology before making loans. Amends "Loan Terms" to include northern technology.

LOST aprox 100,000 granted a yea
y-seal was prep. by sponsor

STATE OF ALASKA

JAY S. HAMMOND
GOVERNOR

OFFICE OF THE GOVERNOR

DIVISION OF POLICY DEVELOPMENT AND PLANNING

POUCH AD - JUNEAU 99811
PHONE 465-3577

ALASKA COUNCIL ON SCIENCE AND TECHNOLOGY

March 29, 1979

The Honorable Clem Tillion
President of the Senate
Alaska State Legislature
State Capitol
Pouch Y
Juneau, Alaska 99811

Dear Sir:

The Alaska Council on Science and Technology is aware of the passage of CSHB 12 (Finance) by the Alaska House of Representatives and the consideration of this legislation by the Senate. The purpose of this letter is to apprise the appropriate committees of the Senate of the views of the Council regarding this legislation.

The Council is currently engaged in organizing its resources to accomplish the mandates of its enabling legislation. The Council has neither sought nor rejected the additional responsibility set forth in CSHB 12 (Finance). If it is the wisdom of the legislature to enact CSHB 12, the Council notes that the provisions of CSHB 12 are consonant with the Council's missions and the Council would plan to carry out its duties with regard to the granting and loan provisions of CSHB 12 in the following manner:

1. The Council under the authority of Section 44.19.182 (b)(2) would establish unpaid review committees to evaluate the applications for financial assistance set forth in Section 2 of CSHB 12. These committees would be drawn from appropriate experts and other knowledgeable and interested persons whom the Council believes can effectively devote their time and enthusiasm to this effort. The committees would be convened according to application category, as required (i.e. building design, food production, energy generation, etc.).

2. Committee review chairpersons would give recommendations to the full Council for grant approval. Approved grants would be executed by the Council Chairperson in accordance with the simplified grant form enclosed. This form we feel meets the simple awards procedures anticipated by the legislation. In this context however, it would be well, in the Council's opinion, for some legislative intent to be expressed relative to the potential high-risk of the awards contemplated by Sections 1 and 2 of CSHB 12.

3700

3. With regard to the proposed duties of the Council as set forth in Section 5 of CSHB 12 please be advised that the Council foresees no difficulty in offering consultation and coordination with the Departments of Commerce and Economic Development and Administration in administering loans to carry out the purposes of the legislation. The Council, again however, would utilize the authority of AS 44.19.182 (b)(2) to establish advisory review procedures under the aegis of the Council. The Council members themselves would not perform these duties.

Should the committees assigned this legislation request our testimony we would be pleased to appear.

Sincerely,

Richard Holden

Richard Holden
Interim Chairman
Alaska Council on Science
and Technology

Enclosures

cc: Governor Jay Hammond

DH:ljm

We work closely
Board of Fisheries

DRAFT

Award of Grant
for
Northern Technology

The Alaska Council on Science and Technology hereby awards to _____ a grant of $_____ for the purposes of _____

_____

_____

_____

_____

in accordance with the following provisions:

a) the expediture of the granted funds shall be in accordance with the plan of operation, investigation, development or research submitted by the applicant, approved by the Council, made a part of this Award and attached hereto;

b) that the expenditure of funds pursuant to this grant shall not deviate by more than 15% from the plan proposed in the applicant's plan and budget without the reappproval of the Council; and

c) the grantee agrees to report the results of the expenditure of this grant within one year following the date of this grant and at any subsequent time of the completion of any project undertaken with these funds.

Granted this _____ day of _____ by:

Richard Holden
Interim Chairman
Alaska Council on Science
and Technology

neau, Alaska, Tuesday, February 6, 1979 Empire

Bill To Encourage Local Inventors Filed In House

collection of a special of-
ds will help support
e home missionary and
for leadership develop-

: ACTIVITY
eau Parks and Recreation
nt is inviting interested
join in the outdoor activity
cross-country skiing outing
Gastineau Meadows above
on Wednesday. Participants
l to provide their own ski
t, a lunch and appropriate
Interested adults should
he parking lot at Gastineau
10 a.m. in Douglas and plan
ning by 3 p.m. Anyone
ransportation or further in-
n should contact Juneau
Rec. at 586-3300, ext. 26.

VILLAGE
er Village Mobile
ners Association will hold its
gener meeting at 7:30 p.m.
in the Recreation Hall. All
of the park are urged to at-

By The Associated Press

So you want to build a greenhouse better suited for Alaska's climate?

Or how about a water-pumping windmill that won't freeze up when it's fifty below?

You may be in luck.

The state Legislature is considering a proposal to provide small grants for Alaskans inventing and developing cheap, small-scale technology projects.

The proposed "Office of Northern Technology" would provide up to $5,000 grants for projects including building design, food production, recycling, transportation, energy generation, waste disposal and other small-scale residential and industrial enterprises.

The proposed bill, sponsored by Rep. Brian Rogers, D-Fairbanks, also would provide up to $10,000 loans for such projects.

Rogers is hopeful that the state can gain "more inventions for the buck" from the small grants, as opposed to dumping large sums of money into just a few institutions and ideas.

"Most of the technology we are using is from the Lower 48, and it just doesn't fit" Alaska's arctic and sub-arctic conditions, Rogers said.

The House State Affairs Committee this week is conducting hearings on the bill, and a Monday teleconference brought largely favorable testimony from many areas of the state.

A similar measure passed the House last year, but died in the Senate. Rogers is hoping that this year will be different.

The Democrat wants the House to pass the bill by Saturday, which is National Inventors Day.

The proposed program is aimed mainly at individuals, although it doesn't exclude institutions, Rogers said.

Keeping the grants down to $5,000 should prevent waste and encourage persons who are serious about developing low-cost technology, he said. Larger grants tend to encourage administrative and other overhead costs, he said.

The federal government recently accepted applications for a similar program, and Rogers said the interest from Alaskans was overwhelming compared to other states. About 250 Alaskans submitted a proposal under the federal development program.

ıcauite Seeks To
rm Business Group

By Empire Staff

au man is calling on area
ors and businesses to
association in order to
antage of local develop-
ortunities.

reno said Monday the

Moreno said several building and service contractors have shown interest in his proposal. He plans an organizational meeting for Tuesday at 7:30 p.m. in the Nugget Room of the Baranof Hotel.

Stevens Appointments

By Washington Bureau

WASHINGTON—Sen. Ted Stevens, R-Alaska, has been assigned to three subcommittees of the Energy and Natural Resources Committee.

His subcommittee assignments

over oil and gas leasing, outer continental shelf resources and deep seabed mining; and the energy research and development subcommittee, which deals with nuclear and nonnuclear research and development, mia-

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 lagging productivity growth two of the country's biggest problems, invention will be acclaimed, celebrated and honored this year in scores 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. So 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."

DNM 2/,

Testimony sought at hearing on technology office bill

The House State Affairs Committee will plug into the Legislature's teleconference network for a hearing Monday on a bill by Rep. Brian Rogers, D-Fairbanks, to establish an office of northern technology.

The office would help backyard inventors develop more efficient technology for energy generation, waste disposal, recycling, food production, transportation and building design.

Fairbanksans interested in testifying at the hearing, which will be carried on a two-way broadcast between Fairbanks and Juneau, should contact the Legislative Information Office at 101 College Road.

The hearing is to begin at 11 a.m.

Last September Gov. Jay Hammond created the office of northern technology by administrative order. But he provided only for a part-time staff.

For more information call the Legislative Information Office at 452-4448.

HB

26

COMMITTEE REPORT

SENATE

FURTHER: Finance

3/7/79

Date: 3/7/79

Mr. President:

The Committee on STATE AFFAIRS has had CSHB 26

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)

[✓] replace with CS for _____ [✓] same title [ ] new title

and reco menus do

[ ] 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

S 60 (Rev. 12/78)

Alaska State Legislature

House of Representatives

STATE CAPITOL
POUCH V
JUNEAU, ALASKA 99811
465-3018

HOME ADDRESS
RR 4 BOX 4316
JUNEAU, ALASKA 99803
789 9792

MEMBER
FINANCE COMMITTEE

REPRESENTATIVE JIM DUNCAN
CHAIRMAN
BUDGET & AUDIT COMMITTEE

M E M O R A N D U M

TO: Senator Bob Mulcahy
Chairman
Senate State Affairs Committee

FROM: Representative Jim Duncan

SUBJECT: House Bill No. 26
Medical Benefits Under
TRS & PERS

DATE: March 27, 1979

House Bill No. 26 is presently in your committee and I would greatly appreciate a hearing on the bill in the near future.

I realize similar legislation has already passed your committee. However, in discussion with Rep. Cotten, House Rules Chairman, he indicated it is customary to act on the bill which is passed by one House first. The House passed House Bill 26 several weeks ago.

If I can provide further information, please feel free to contact me.

JD:jp

Bill's Bill SB 24 am

Original Sponsors: Duncan, Miller

CSHB 26 An act relating to insurance coverag for persons receiving benefits under the public employees' and teachers' retirement systems. State Af

SUMMARY

This bill amends the statutes relating to insurance coverage for persons receiving benefits under the public employees' and teachers' retirement systems. Adds a new paragraph which allows them to obtain auditory, visual and dental insurance and pay the cost of it.

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

Original sponsors: Duncan and Miller

Offered: 2/12/79
Referred: Finance

IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

CS FOR HOUSE BILL NO. 26

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

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

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

* Section 1. AS 39.30.090 is amended by adding a new paragraph to read:

(15) A person receiving benefits under AS 14.25 or AS 39.35 may obtain auditory, visual, and dental insurance for himself under this section. The level of coverage for persons over 65 shall be the same as that available before reaching age 65 except that the benefits payable shall be supplemental to those afforded under the federal old age, survivors, and disability insurance program, if any. A person electing to have insurance under this paragraph shall pay the cost of the insurance. The commissioner of administration shall adopt regulations implementing this paragraph.

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-(1)
(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		1,308.5	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 imp. nent 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 affecte , 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)

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	

CS HB 26

HB26 reported back from House State Affairs with a majority of the Committee recommending it be replaced with CS HB26 & it DO PASS.

Reported back 2/19 from Finance with a majority of the Committee recommending adoption of State Affairs substituted and that it DO PASS. NO REC. SMITH & ROGERS.

Substitute was adopted & CSHB26 passed the House 37-0, on 3/6/71.

CSHB26 passed the House with a "O" fiscal note.

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

February 16, 1979

Legislative Board of Retirement Benefits analysis and recommendations on:

CS for House Bill No. 26:

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

The board unanimously recommends that CS HB 26 do pass; one member was absent.

SUMMARY OF CS FOR HOUSE BILL NO. 26

Retirement systems 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 the cost of the insurance.

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 Sub, rogram(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

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)

HB

28

COMMITTEE REPORT

SENATE

FURTHER: None

3/23/79

Date: 4/11/79

Mr. President:

The Committee on STATE AFFAIRS has had CSHB 28

providing for presidential party primary elections

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)

[ ] same title
[✓] replace with CS for HB 28 [ ] new title

and recommends following

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Tim Kelly, Don Rice
Bill Hadley

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bob Mauro - Minority

Bob Mauro
CHAIRMAN

S 60 (Rev. 12/78)

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

HB 28

Joint Hearing

Senate & House special committees on election reform
Teleconference
2/24/79

Senate Committee	House Committee
Sen. Kelly, Chairman	Rep. Parker, Chairman
Sen. Fahrenkamp	Rep. Mike Miller
Sen. Mulcahy (Absent)	Rep. Terry Martin

MIKE MILLER: Voter now has no say in primary choice. This bill will allow Alaskans to have a stong voice in the selection.

ARLENE KLINE: Testifier-Against HB 28. Not in best interests of state. Will be ineffective due to our small population. Candidates wont waste time coming up here. If we want input we should do it through precincts, adequate for Alaska.

MM: Candidates go to other states with small populations and t. many delegates, so they would come here.

AK: They would probably only go to Anchorage

TIM KELLY: Feels candidates or their top lieutenants would come up here, bandwagon effect. Timing is excellent as we will be first western state to hold a primary. Important that Alaska's position become known in lower 48. Media exposure and commitments would be worth the money spent. Look at it as part of D-2 fight.

AK: Disagree. Poor to tie this issue to D-2.

TERESA OBERMEYER: Big problem is educating the Alaska public as to what Pref. Pres. Primaries are. We should have used the $2 million to bring people to Alaska rather that send lobbiests to DC. The lower 48 is uninformed about Alaska. Timing of primary is important. Controversy would create interest in Alaska primary.

TK: Feels that if candidate came to Alaska he would not only go to Anch. but also Fairbanks and SE and would probably make effort to get out to a village or two..

TOM OBERMEYER: Look at economics of it. Must inform lower 48 because they will be making the decisions.

CHANCY CROFT: Supports HB 28.Old state convention system is obstacle to direct US elections. Get rid of it. If we hadnt approp. 2 million we could afford primaries for the next century. Wants to limit PPP to registered votres. Thinks 15% of votes too low. Would prefer candidate receiving 40% or more to get all votes. If no one does, split it up. For the sunset clause. Independents cant vote now anyway. No one does. This would give registered voters at least a chance to choose..

BETTE FAHRENKAMP. Thinks 15% too low. If no one gets majority, go uncommitted.

Committee Subs #1

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~~ 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 the name of a candidate on the ballot when he determines in his discretion that the candidate is 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 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~~ FIRST TUES IN MARCH 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~~ 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~~ except

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).

L-C UNDER PROJECT CUTES

EXCLUDE WRITE-INS BY ~~CLOSE~~ CLOSE LAKE.

POLITICAL PARTY Dependent INSTEAD (WRITE-IN VOTE) "Undervote"

Hons

CR. Make it
Long shoulder
Diff to get weights

N.M. - round & 19% low ~~cost~~

ch - Specific to packing volumes

MANUAL OPTION
PACKING SETTINGS

K 420 - weight, yield, type of product
weight setting
frame speed setting
weight tolerance setting
(Overweight not packed)

ZINC
Whiting - Piece type
Jenkins - volume control
Overweight packages

Miller

Linda Evans — Complete support
Problems appreciated

Address — Parole Office Commission



1. [illegible] "Proposed" [illegible] throughout the bill

Sec. 2. (a) [illegible] page 3

(b) [illegible]

(c) [illegible]

15 U.S.C. 78l (Sec. 17) [illegible]

b [illegible]

[illegible]

15 C.F.R. [illegible] THE PRESIDENT

(a) LINE 1

(b)

[illegible]

to "[illegible]"

"10 [illegible]"

[illegible]

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

ELEVENTH LEGISLATURE

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)						

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TEMPORARY		1				

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IV. DATE 2/23/79 PREPARED BY 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)

file

LA11 2887 17.10 03/28/79 JA01 0004 07.53 03/29/79

TO SENATE STATE AFFAIRS COMMITTEE
FROM KEN CALLEN, P. O. BOX 8517, ANCHORAGE 99508 333-7765

RE HB 28, PRESIDENTIAL PRIMARY - I'M NOT SURE THE BENEFITS OF THIS PROPOSED PRIMARY ARE WORTH THE COSTS. WITH ALASKA'S SMALL POPULATION I DON'T REALLY SEE THE IMPORTANCE OF HAVING A PREFERENTIAL PRIMARY. IT WOULD BE BETTER TO SPEND THE MONEY IN OTHER MORE WORTHWHILE AREAS OR REDUCE SPENDING BY A LIKE AMOUNT.

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 9, 1979

SUBJECT: Amendments to presidential primary bill [HB 28]

TO: Senator Tim Kelly

FROM: Richard A. Bradley, Legislative Counsel

In my preparation of the bill I used the device of sections added to express the goals you seek. It is easier to do it that way than to intrude new language into the body of a section; that method also allows for easier elimination of the language, should that later be your wish.

In my computation of the dates back from the date of the election, I used the 1980 calendar. Under this approach, the election itself will be held April 15. The lieutenant governor's announcement under §230(b) will occur on the last Tuesday in January, January 28; by my calculation, this date is eleven weeks before the April 15 date. The withdrawal by the candidate under §230(c) occurs no later than the last Tuesday in February, February 26. By my calculation, this date is seven weeks before the April election. Sec. 230(d) establishes this requirement.

The procedure for nomination by petition requires the filing of the petition by the last Tuesday in February, February 26, a date seven weeks before the election. [§240(a)] The withdrawal occurs a week later, the first Tuesday in March, March 4, six weeks before the election. [§240(b)] Sec. 240(c) establishes these requirements.

Regarding the other requirements, the bill will prevent the lieutenant governor from scheduling any other state election on the same date. And §290 establishes clearly the inapplicability of AS 15.13. Sec. 4 of the bill requires the advisory vote and §3 eliminates the tax credit for contributions to a presidential campaign.

I also wish to advise that the bill may violate Article II, §13 of the constitution in that, in our view, the addition of the tax credit issue adds a new subject to the bill.

RAB:nem

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AGENCY Division of Elections

PHONE 596-6181

Original: Legislative Finance

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APRIL 8	
APRIL 15	~~Alaska~~ 1st Western State
APRIL 22	PENNSLYVANIA
APRIL 29	
**********	
MAY 3(Sat.)	TEXAS
MAY 6	INDIANA TENNESSEE WASHINGTON D.D.
MAY 13	NEBRASKA WEST VIRGINIA
MAY 20	MARYLAND MICHIGAN
MAY 27	ARKANSAS OREGON IDAHO NEVADA KENTUCKY
**********	
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An additional point that was brought up was, "Who would provide the security for candidates and their parties?" It was felt that the job may fall on local police departments and private security firms at a cost to the state. This is a valid point and at this time it has not been ddetermined who would provide the security, however some candidates may bring their own.

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Anch Times 3/29/79

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And General Manager

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Managing Editor

Page 6 Thursday, February 22, 1979

ANCHORAGE DAILY NEWS

Lawrence Fanning
Editor and Publisher, 1967 to 1971

Katherine Fanning
Editor and Publisher

Stan Abbott
Executive Editor

Alaska's Only Morning Newspaper
Founded in 1946 by Norman C. Brown

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 [illegible] 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.

Our views:

Alaska needs a primary, too

A primary election for President is as good an idea for Alaska as it is for the 30 or so states which currently conduct Presidential primaries every four years.

A Presidential primary would allow all voters, not just party regulars, to participate in the nomination process. And in a state where more than half the state's voters register as neither Republicans nor Democrats, that should be no small consideration.

A Presidential primary would also attract contenders for the nation's highest office to Alaska, a state they have habitually ignored in the past. After all, what candidate in his right mind would waste a trip to Alaska when he can meet the state's nominators at the party convention? Alaska is a long enough way to travel for three electoral votes, without adding to the disincentive by avoiding a primary election.

Several legislators have introduced a bill which would create a Presidential primary to be held in April, 1980. If Alaskans don't like it, there would not need to be another. But let's at least give the thing a try.

Anchorage News

Legislators push for presidential primary in Alaska

JUNEAU (AP) — Alaska would have its own 1980 presidential primary under a bill approved Monday by a state House committee.

Although the proposal still faces a number of legislative hurdles, its backers are optimistic that the measure will continue to draw bipartisan support and become reality.

Both Democrats and Republicans on the House State Affairs Committee approved a proposal to hold the Alaska primary in Aril of 1980.

Backers of the idea say it will not only allow Alaskans to participate more directly in the nomination process, but that the election would also draw presidential candidates — or at least their key lieutenants — for a firsthand look at Alaska's problems.

About 30 states now have presidential primaries. The House proposal is aimed at making the 1980 Alaska primary the first among Western states.

The bill — HB28 — calls for only a 1980 primary, but it could be easily amended to cover later years if the first election proves to be a success, said House State Affair Chairman Mike Miller, D-Juneau and backer of the legislation.

If nobody important shows up for the campaign, or voters fail to show interest, the idea could be dropped, Miller said.

Estimated cost of the 1980 primary is $255,000.

Both Miller and Rep. Bill Parker, D-Anchorage and chairman of the House special elections committee, are optimistic that the primary bill will pass the Legislature

"This one just feels like a winner," Parker said, noting support among both parties.

The measure now goes to other House committees.

Under the bill, the Alaska primary would be open. It would include the names o obvious national candidates, plus any other national candidates or Alaskan "favorite sons" who managed to gather the signatures of five percent of the voters in the last general election, Parker said.

That would boil down to about 6,400 names needed on petitions for the 1980 primary, Parker said.

Alaska has just a few electoral votes to offer presidential candidates, but the early timing should catch the candidates when they are seeking even small-vote victories, Parker said.

The primary would give Alaskans "the same rights that are held by voters in at least 30 other states," Miller said.

But he said the primary would be more important "because it would let candidates know what we think about issues."

The Alaska land fight now before Congress is one example of what voters see as a communications problem with Washington, he said.

Even if the leading candidates don't spend much time campaigning in the state, their key lieutenants should, Miller said, adding that it is the lieutenants who adivse the candidates on their policies.

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

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Section 4 of SSHB 30 may be amended by changing the word "paragraph" on line 6 of page 2 to "paragraphs" and by inserting an additional paragraph at line 14 which reads:

(21) indemnify a director, officer or agent or former director, officer or agent, or a person who may have served at its request as a director or officer of another domestic or foreign cooperative of which it is a member, against expenses necessarily incurred in defense of a proceeding in which he is a party because he served as a director, officer or agent, but this paragraph does not apply to proceedings in which the director, officer or agent is adjudged liable for negligence or misconduct in the performance of duty, and indemnification under this paragraph is not exclusive of other rights to which the director, officer or agent may be entitled.

Sec. 44.54.20. BOARD OF DIRECTORS.

The bank shall be managed by a board of directors consisting of five members. Initial appointments to the board shall be made by the Governor. Thereafter, four of the board members shall be elected by the shareholders and one shall be appointed by the Governor until the repurchase of all the non-voting, preferred shares initially issued by the bank and purchased by agencies of the State. The board members shall annually elect a chairman from among themselves. The purpose of the board is to manage the assets of the bank. At the first annual membership meeting the Governor may appoint two additional board members thereby increasing the board to seven members, five of which shall be elected by the membership of the bank.

Sec. 44.54.090. TERM OF OFFICE.

The members of the board shall serve for three years, and they may serve successive terms. Terms shall be staggered. Initial terms shall be two members serving for one year, two members serving for two years, and one member serving for three years, to be determined by lot. The initial terms shall expire at the first, second and third annual membership meeting of the bank, respectively.

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Anch Times 3/29/79

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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 [illegible] 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.

ANCHORAGE
DAILY NEWS

Lawrence Fanning
Editor and Publisher, 1967 to 1971

Katherine Fanning
Editor and Publisher

Stan Abbott
Executive Editor

Alaska's Only Morning Newspaper
Founded in 1946 by Norman C. Brown

Our views:

Alaska needs a primary, too

A primary election for President is as good a idea for Alaska as it is for the 30 or so state which currently conduct Presidential primarie every four years.

A Presidential primary would allow all voters not just party regulars, to participate in th nomination process. And in a state where mor than half the state's voters register as neithe Republicans nor Democrats, that should be n small consideration.

A Presidential primary would also attrac contenders for the nation's highest office t Alaska, a state they have habitually ignored i the past. After all, what candidate in his righ mind would waste a trip to Alaska when he ca meet the state's nominators at the party conven tion? Alaska is a long enough way to travel fo three electoral votes, without adding to the disin centive by avoiding a primary election.

Several legislators have introduced a bi which would create a Presidential primary to b held in April, 1980. If Alaskans don't like it, ther would not need to be another. But let's at leas give the thing a try.

Anchorage News

Legislators push for presidential primary in Alaska

JUNEAU (AP) — Alaska would have its own 1980 presidential primary under a bill approved Monday by a state House committee.

Although the proposal still faces a number of legislative hurdles, its backers are optimistic that the measure will continue to draw bipartisan support and become reality.

Both Democrats and Republicans on the House State Affairs Committee approved a proposal to hold the Alaska primary in Aril of 1980.

Backers of the idea say it will not only allow Alaskans to participate more directly in the nomination process, but that the election would also draw presidential candidates — or at least their key lieutenants — for a firsthand look at Alaska's problems.

About 30 states now have presidential primaries. The House proposal is aimed at making the 1980 Alaska primary the first among Western states.

The bill — HB28 — calls for only a 1980 primary, but it could be easily amended to cover later years if the first election proves to be a success, said House State Affair Chairman Mike Miller, D-Juneau and backer of the legislation.

If nobody important shows up for the campaign, or voters fail to show interest, the idea could be dropped, Miller said.

Estimated cost of the 1980 primary is $255,000.

Both Miller and Rep. Bill Parker, D-Anchorage and chairman of the House special elections committee, are optimistic that the primary bill will pass the Legislature

"This one just feels like a winner," Parker said, noting support among both parties.

The measure now goes to other House committees.

Under the bill, the Alaska primary would be open. It would include the names o obvious national candidates, plus any other national candidates or Alaskan "favorite sons" who managed to gather the signatures of five percent of the voters in the last general election, Parker said.

That would boil down to about 6,(5) names needed on petitions for the 1980 primary, Parker said.

Alaska has just a few electoral votes to offer presidential candidates, but the early timing should catch the candidates when they are seeking even small-vote victories, Parker said.

The primary would give Alaskans "the same rights that are held by voters in at least 30 other states," Miller said.

But he said the primary would be more important "because it would let candidates know what we think about issues."

The Alaska land fight now before Congress is one example of what voters see as a communications problem with Washington, he said.

Even if the leading candidates don't spend much time campaigning in the state, their key lieutenants should, Miller said, adding that it is the lieutenants who adivse the candidates on their policies.

HB

30

COMMITTEE REPORT

SENATE

FURTHER: Finance

2/15/79

Date: 4/11/79

Mr. President:

The Committee on STATE AFFAIRS has had SSHB 33
relating to the Commercial Fishing and Agriculture Bank

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 _____ [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

S 60 (Rev. 12/78)

16.10.333 = 44.54 ~~240~~ 230

16.10.335 = 44.54.240

16.10.337 = 44.54 250

401 [illegible] 230, 240 & 250

[illegible]

[illegible]

[illegible]

MEMORANDUM

TO: Mr. Richard H. Eakins
Director, Division of
Economic Development
DEPARTMENT OF COMMERCE
& ECONOMIC DEVELOPMENT
Pouch EE
Juneau, Alaska 99811

FROM: Peter Argetsinger
WOHLFORTH & FLINT

DATE: April 6, 1979

RE: Commercial Fishing & Agriculture Bank/Comments On SSHB 30

On April 4, you requested our assistance in preparing a position paper as to SSHB 30 for submission to the Legislature next week. The comments on the subject bill which follow are submitted for your consideration. They are structured in such a way that you need only add introductory and concluding paragraphs and insert a discussion of policy matters as appropriate, particularly in the areas of composition of the Board of Directors (where I sensed a strong feeling at the April 4 meeting in favor of independence) and in the area of the business judgments to be made when considering loans for entry permits which are to be secured by those permits. (Although, perhaps nothing additional need be said on the latter subject.)

Section 1. Addition of the word "Alaska" to the name of the Bank is desirable and, in fact, reflected in the draft Articles of Incorporation and By-Laws of the Bank now under consideration by the Board of Directors.

Section 2. The Board of Directors of the Bank under the present law is composed of five members, initially appointed by the Governor, who serve staggered terms. Following expiration of the initial term, directors are then elected by the member/shareholders of the Bank which under AS 44.54 is organized as a cooperative corporation. AS 10.15.140, to which the Bank is subject, requires that the elected directors be members of the cooperative. Counsel to the Bank have examined the present method of constituting the Board of Directors of the Bank and have advised that,

IN ORDER TO ISSUE TAX EXEMPT BONDS (OR Behalf of) the STATE the Bank must be considered a "constituted authority"

in their opinion, under Section 103 of the Internal Revenue Code and the regulations thereunder the Bank may not issue tax exempt revenue bonds. In general, this is because in order to issue tax exempt bonds "on behalf of" the State, the Bank must be considered by the Internal Revenue Service to be a "constituted authority". To satisfy this requirement it is necessary that all members of the Bank Board of Directors be public officials of the State, be elected by the voters of the State or be appointed directly by the State. And, the requirement continues for the life of any bonds issued by the Bank.

We have also been advised by counsel that the proposed revision to AS 44.54.020 which would expand the Board of Directors to seven members, three of whom would be appointed by the Governor until such time as the Bank has repurchased all non-voting preferred shares held by the State does not satisfy the IRS criteria either. In order to issue tax exempt revenue bonds it would be necessary that the Board of Directors be composed in its entirety of gubernatorial appointees for the life of any outstanding bonds.

The present formulation of the Board, of course, is quite satisfactory to accomplish the primary purpose envisioned by the Legislature when it established the Bank, i.e., to leverage the bank's capital with the federal farm credit system banks in order to make loans to those engaged in commercial fishing and agriculture. In that regard, the federal banks require as a condition of eligibility for loans that associations such as the Commercial Fishing and Agriculture Bank be organized in such a way that not less than 80% of the voting control of the bank is held by fishermen or farmers. See, e.g., 12 USCA 2129 which sets out these requirements as they apply to the federal banks for cooperatives. At first blush, this would seem to preclude a Board of Directors where 3/7ths of the members are gubernatorial appointees rather than representatives of the membership. However, we have informally discussed the matter with representatives of the federal farm credit system in Spokane who have advised us that they do not believe that reconstituting the Bank's Board of Directors as envisioned by SSHB 30 would preclude them from working with the Commercial Fishing and Agriculture Bank. Rather, they interpret the Federal requirement to mean that the control of at least 80% of the votes which would elect the other four members of a reconstituted Board of Directors must be in fishermen and farmers.

It would appear that a change in the composition of the Board of Directors as proposed in SSHB 30 would accomplish one, or both, of two objectives. One, it would establish a mechanism through which Board members who otherwise would not be eligible for election by the members (e.g., bankers, economists, business consultants) could remain on or be appointed to the Board of Directors even though they are not actively engaged in commercial fishing or agriculture. Two, it would vest some modicum of control in the State through the power of the Governor to continue to appoint a minority of the Board during the early life of the Bank. While the first of these reasons is certainly desirable, perhaps some additional discussion of the need for State representation on the Board of Directors through gubernatorial appointees is necessary. At the outset, it should be noted that the Legislature will always retain its ability to influence the Bank through the appropriation process, particularly during the capital formation phase of the Bank, and through its ability to modify to a great extent the Bank's enabling legislation should that ever become necessary. However, a basic tenet of the federal farm credit system is that organizations such as the Bank should operate on a cooperative basis for the mutual benefit of the members.

Such organization should operate on a coop basis.

(insert additional policy considerations re independence of the bank as desired)

One final comment on Section 2 of SSHB 30. The draft bill, as well as the present statute, states that Board member election shall be by the "shareholders". Generally speaking the privilege of the vote in a cooperative corporation belongs to the member or holder of membership stock. Most members will also hold shares of capital stock, but it is entirely possible for one to be a capital stockholder (thus, a shareholder) at the time of a membership meeting, yet for several reasons not currently eligible to vote as a member. Therefore, it is our recommendation that the word "shareholders" on line 22 of page 1 of SSHB 30 be replaced by the term "members" or the term "membership". "Member" is a defined term in AS 10.15.595(9) and would be the preferred term.

actual proposed change

Section 3. The proposed amendments to AS 44.54.090 found in Section 3 of SSHB 30 are satisfactory and appear to solve the drafting problem in the present statute.

However, during the organization of the Board of Directors of the Bank two other concerns have surfaced which may be solved by adding language to AS 44.54.090. The first of these is the method to be used when determining

terms of Legislature
Lot

which members of the Board of Directors shall serve for the one, two and three year term. One way to resolve this problem is to provide that the terms be determined by lot, as the Legislature has provided in other instances. (See AS 18.26.030 where such a system is applied to the Board of Directors to the Alaska Medical Facility Authority.)

date of Bd members expiration of term

The second problem is insuring that the initial terms of the Board of Director members expire on the date of the cooperative annual meeting rather than on the anniversary date of the appointment by the Governor. As the Bank's draft By-Laws provide that the annual meeting be held in November of each year, we strongly urge that AS 44.54 provide that the initial one year Board of Governor terms extend until November 1980, and that the two and three year terms expire at the time of the following two annual meetings. Since the initial appointments to the Board of Directors were made on February 19, 1979, to provide that the one year terms expire in November 1979, would not be a prudent business decision as it would mean that the expertise and experience of the one year directors would be lost to the Bank even before it is in full operation.

These recommendations may be implemented by striking the period following the word "years" on line 5 of page 2 of SSHB 30, and inserting a comma and the following language;

, to be determined by lot. The initial terms shall expire at the annual meeting of the bank held in November 1980, 1981 and 1982 respectively.

Section 4. We are aware that the language of Sections 4 and 5 of SSHB 30 tracks in most respects the language of AS 16.10.300 et seq, the Commercial Fishing Loan Act, and agree that it is desirable that the Bank as well have the power to make loans to individual commercial fishermen to purchase entry permits. The Board of Directors of the Bank will, of course, at the appropriate time be faced with the necessity of determining its policies, from a business standpoint, when considering loans to be secured by entry permits. We are aware that there are presently on appeal to the Alaska Supreme Court two Superior Court decisions in cases which challenge the limited entry permit system and/or the method by which permits have been issued. The Supreme Court decision in those cases, or future cases, may result in the issuance of a sufficient number of additional entry permits so that the value of an entry permit held by the Bank as security is substantially lessened.

Value of permit greatly lessen- depending outcome of Supreme Court case *

Future action by the Legislature could work to the same end and must also be taken into consideration by the Bank when making loans of this type.

As to the specific language of Section 4 of SSHB 30, we note that eligibility for a loan to purchase an entry permit is conditioned upon a five year durational residency requirement which, if challenged at some future time, could be held unconstitutional. We also note that the requirement for active participation in the fishery at some time during the past five years is vague enough so that it may cause problems in determining loan eligibility. E.g., would thirty days some time during the five year period be sufficient? would seven days?

5 yr resident req + active part in fishing bus

Section 5. AS 44.54.230 would require that the executive director of the Bank be listed as the legal owner of a pledged permit and Section 5 at several places requires that the executive director of the Bank take certain actions in regard to a permit. While under AS 16.43 entry permits are held only by natural persons and while the Commercial Fishing Loan Act assigns the same duties to the Commissioner of Commerce and Economic Development, it is desirable in this situation that the legal ownership of an entry permit or directions for taking certain actions rest with the Bank itself, rather than with a specific individual so as to give the Bank maximum flexibility in managing its business. For that reason we recommend that the language "executive director of the" be eliminated where it appears in Section 5 of SSHB 30. But if it is determined that AS 16.43 requires that an individual be named, it nonetheless is desirable that the language "as trustee for the bank" be inserted directly following the designation of the executive director so that it is clear the capacity in which the director acts.

Bank itself be lien holder rather than the executive dirctor.

AS 44.54.250(b) would allow a debtor to nominate a person to assume his note under certain conditions and require that the person so nominated qualify under the requirements of AS 44.54.230(a) i.e., that the person nominated qualify as a transfee for an entry permit under AS 16.43. There appears, however, to be no requirement that the nominee to assume the note meet the requirements set up by proposed AS 44.54.210(20), specifically that he meet the five year durational residency requirement as did the original debtor. If this is considered desirable, the language "and AS 44.54.210(20)" should be inserted immediately following the end of the partial sentence on line 1, page 5 of SSHB 30.

that person who might assume note be of same qualifications as original.

Recommended Additions

AS 16.43 provides that entry permits may not be pledged as security or transferred except under certain conditions, one of which is as provided in the Commercial Fishing Loan Act. Similarly, it would appear that additional amendments are necessary to at least sections AS 16.43.150(g) and AS 16.43.170, which language should refer specifically to the program proposed in SSHB 30.

As a matter of convenience and style in drafting it may be desirable to consider addition of a new section .260, Definitions, to AS 44.54. Such a section initially would define the word "bank" as the Alaska Commercial Fishing and Agriculture Bank which definition was not included in Chapter 159, SLA 1978, even though extensive use is made therein of the term "bank". In addition it would appear desirable to define the word "commission" as the Alaska Commercial Fisheries Entry Commission in order to avoid the problem now found throughout Section 5 of SSHB 30 where reference is sometimes made to the Alaska Commercial Fisheries Entry Commission, but more often is made simply to the "commission".

Bank + commission

Finally we strongly recommend that the amendments to AS 44.54 include a specific provision insuring that the Bank has the necessary power to indemnify directors, officers and employees when negligence and misconduct is not involved. Such a provision is routinely included in the by-laws of private sector organization and is specifically included among the general powers given to a cooperative corporation organized in Alaska by AS 10.15.010(13). Counsel has advised us that in its opinion the Bank does have the power to indemnify its directors, officers and employees by virtue of the fact that AS 44.54.010 subjects the Bank to the provisions of AS 10.15, except as otherwise provided in AS 44.54. Nonetheless, the fact that the specific powers of the Bank enumerated in AS 44.54.210 do not include a provision on indemnification means that it is not impossible that a court might hold that the Legislature intended the Bank not be allowed to indemnify directors, officers and employees under appropriate conditions. For that reason we recommend the addition of the same language now found in AS 10.15.010(13) as an additional paragraph numbered (21) to AS 44.54.210. Section 4 of SSHB 30 may be amended by changing the word "paragraph" on line 6 of page 2 to "paragraphs" and by inserting an additional paragraph at line 14 which reads:

> (21) indemnify a director, officer or agent or former director, officer or agent, or a person who may have served at its request

as a director or officer of another domestic or foreign cooperative of which it is a member, against expenses necessarily incurred in defense of a proceeding in which he is a party because he served as a director, officer or agent, but this paragraph does not apply to proceedings in which the director, officer or agent is adjudged liable for negligence or misconduct in the performance of duty, and indemnification under this paragraph is not exclusive of other rights to which the director, officer or agent may be entitled.

cc: Mr. Frank M. Homan, Chairman,
Commercial Fishing and Agriculture Bank

Mr. Frank Orth, Financial Consultant
to Commercial Fishing and Agriculture Bank

Mr. Larry Butterfield, Spokane Bank For
Cooperatives

Mr. R. M. Gorder, Federal Intermediate
Credit Bank of Spokane

The banks for cooperatives are authorized to make loans and advances to eligible cooperative associations and to extend to them other technical and financial assistance, including but not limited to discounting notes and other obligations, guarantees, collateral custody, or participation with other banks for cooperatives and commercial banks or other financial institutions in loans to eligible cooperatives, under such terms and conditions as may be determined to be feasible by the board of directors of each bank for cooperatives under regulations of the Farm Credit Administration. Such regulations may include provisions for avoiding duplication between the Central Bank and district banks for cooperatives. Each bank may own and lease, or lease with option to purchase, to stockholders eligible to borrow from the bank equipment needed in the operations of the stockholder.

Pub.L. 92-181, Title III, § 3.7, Dec. 10, 1971, 85 Stat. 605.

§ 2129. Eligibility

Any association of farmers, producers,[1] or harvesters of aquatic products, or any federation of such associations, which is operated on a cooperative basis, and has the powers for processing, preparing for market, handling, or marketing farm or aquatic products; or for purchasing, testing, grading, processing, distributing, or furnishing farm or aquatic supplies or furnishing farm business services or services to eligible cooperatives and conforms to either of the two following requirements:

(a) no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein; or

(b) does not pay dividends on stock or membership capital in excess of such per centum per annum as may be approved under regulations of the Farm Credit Administration; and in any case

(c) does not deal in farm products or aquatic products, or products processed therefrom, farm or aquatic supplies, or farm business services with or for nonmembers in an amount greater in value than the total amount of such business transacted by it with or for members, excluding from the total of member and nonmember business transactions with the United States or any agency or instrumentality thereof or services or supplies furnished as a public utility; and

(d) a percentage of the voting control of the association not less than 80 per centum (70 per centum in the case of rural electric, telephone, and public utility cooperatives), or such higher percentage as established by the district board is held by farmers, producers or harvesters of aquatic products, or eligible cooperative associations as defined herein;

shall be eligible to borrow from a bank for cooperatives.

Pub.L. 92-181, Title III, § 3.8, Dec. 10, 1971, 85 Stat. 605, amended Pub. L. 94-184, § 1(a), Dec. 31, 1975, 89 Stat. 1060.

[1] So in original. A comma after "producers" was probably not intended.

1975 Amendment. Subsec. (d). Pub.L. 94-184 added provision relating to 70 per centum of voting control in the case of rural electric, telephone, and public utility cooperatives.

Legislative History. For legislative history and purpose of Pub.L. 94-184, see 1975 U.S.Code Cong. and Adm.News, p. 2148.

§ 2130. Ownership of stock by borrowers

(a) Each borrower at the time a loan is made by a bank for cooperatives shall own at least one share of voting stock and shall be required by the bank with the approval of the Farm Credit Administration to invest in additional voting stock or nonvoting investment stock at that time, or from time to time, as the lending bank may determine, but the requirement for investment in stock at the time the loan is closed shall not exceed an amount equal to 10 per centum of the face amount of the loan. Such additional ownership requirements may be based on

ing any quarter thereof, or upon such other basis as the bank, with the approval of the Farm Credit Administration, determines will provide adequate capital for the operation of the bank and equitable ownership thereof among borrowers. In the case of a direct loan by the Central Bank, the borrower shall be required to own or invest in the necessary stock in a district bank or banks as may be approved by the Farm Credit Administration and such district bank shall be required to own a corresponding amount of stock in the Central Bank, but voting stock shall be in the one district bank designated by the Farm Credit Administration.

(b) Notwithstanding the provisions of subsection (a) of this section, the purchase of stock need not be required with respect to that part of any loan made by a bank for cooperatives which it sells to or makes in participation with financial institutions other than any of the banks for cooperatives. In such cases the distribution of earnings of the bank for cooperatives shall be on the basis of the interest in the loan retained by such bank.

Pub.L. 92-181, Title III, § 3.9, Dec. 10, 1971, 85 Stat. 605.

§ 2131. Loans—Interest rates and charges

(a) Loans made by a bank for cooperatives shall bear interest at a rate or rates determined by the board of directors of the bank from time to time, with the approval of the Farm Credit Administration. In setting rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers at the lowest reasonable cost on a sound business basis, taking into account the net cost of money to the bank, necessary reserves and expenses of the bank, and services provided. The loan documents may provide for the interest rate or rates to vary from time to time during the repayment period of the loan, in accordance with the rate or rates currently being charged by the bank.

Security

(b) Loans shall be made upon such terms, conditions, and security, if any, as may be determined by the bank in accordance with regulations of the Farm Credit Administration.

Lien

(c) Each bank for cooperatives shall have a first lien on all stock or other equities in the bank as collateral for the payment of any indebtedness of the owner thereof to the bank. In the case of a direct loan to an eligible cooperative by the Central Bank, the Central Bank shall have a first lien on the stock and equities of the borrower in the district bank and the district bank shall have a lien thereon junior only to the lien of the Central Bank.

Cancellation; application on indebtedness

(d) In any case where the debt of a borrower is in default, or in any case of liquidation or dissolution of a present or former borrower from a bank for cooperatives, the bank may, but shall not be required to, retire and cancel all or a part of the stock, allocated surplus or contingency reserves, or any other equity in the bank owned by or allocated to such borrower, at the fair book value thereof not exceeding par, and, to the extent required in such cases, corresponding shares and allocations and other equity interests held by a district bank in another district bank on account of such indebtedness, shall be retired or equitably adjusted.

Pub.L. 92-181, Title III, § 3.10, Dec. 10, 1971, 85 Stat. 606.

§ 2132. Earnings and reserves; application of savings—Application of savings when bank has outstanding stock held by Governor

(a) Each bank for cooperatives, at the end of each fiscal year when said bank shall have stock outstanding held by the Governor of the Farm

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BILL #	ABBREVIATED TITLE	SPONSOR	DATE	REFERRAL
HB 3	RELATING TO THE RESTORATION OF THE RIGHT	MILLER	1/20/79	
HB 18	INCREASE IN TERRITORIAL EMPLOYEES RETIREM	MILLER	3/01/79	FINANCE
HB 75	RE/PRIVACY & PUBLIC INFO/CHANGE CIVIL RUL	FARR	3/09/79	JUDICIAR
HB 155	COMPETITIVE BIDDING/FISCAL PROCEDURES ACT	MEEKINS	3/29/79	FINANCE
HB 248	MERGER OF ELECTRIC & TELEPHONE UTILITIES;	STATE AFF	3/08/79	JUDICIAR
HB 376	EXEMPTION FROM ST INCOME TAXES OF FEDERAL	BROWN	3/20/79	FINANCE
HCR 12	CONTRACT NEGOTIATIONS/STATE/MATANUSKA BOR	CARNEY	4/19/79	----
HJR 36	RE/CANADIAN PORTION OF THE SKAGWAY-CARCRO	DUNCAN	4/ 9/79	----
SB 19	AUTH ST LAND TO BE MADE AVAILABLE FOR HOM	KERTTULA	1/16/79	RESOURCE
SB 27	RELATING TO ELECTION BALLOTS	RAY	1/ 6/79	----
SB 30	RELATING TO SURPLUS PROPERTY E.D.	RULES	2/08/79	----
SB 39	RELATING TO LONGEVITY BONUS	BRADLEY	1/16/79	FINANCE
SB 46	RELATING TO THE ALASKA LONGEVITY BONUS	BRADLEY	1/16/79	FINANCE
SB 74	RE/AK NATL GUARD/AK NAVAL MILITIA; E.D.	HOHMAN	1/25/79	JUDICIAR
SB 95	CREDIT AK INCOME TAX FOR VOTING IN PRIMAR	BRADLEY	1/31/79	FINANCE
SB 105	REGISTRATION FEES FOR PERSONALIZED VEHIC	STEVENS	2/05/79	FINANCE
SB 107	RE/ [illegible] AGING [illegible]	RODEY	2/0[illegible]	[illegible]
SB 120	RE/ESTAB ST BUDGET SURCMTE UNDER LEGIS B&	SACKETT	2/06/79	----
SB 126	REQUIREMENTS/RUNOFFS IN MUNICIPAL ELECTIO	C&RA	2/09/79	----
SB 127	RE/PURPOSE OF STATE VOTER REGISTER	C&RA	2/09/79	----
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BILL #	ABBREVIATED TITLE	SPONSOR	DATE	REFERRAL
SB 149	RELATING TO ELECTIONS	KELLY	2/13/79	----
SB 150	ALLOWING AN INCOME TAX CHECKOFF	FAHRENKAMP	2/13/79	FINANCE
SB 156	RELATING TO ELECTION CAMPAIGNS	BRADLEY	2/13/79	----
SB 160	PREFERENTIAL PRESIDENTIAL PARTY PRIMARY E	KELLY	2/13/79	----
SB 174	RELATING TO CREDITED SERVICE/PERS	RODEY	2/13/79	FINANCE
SB 226	RE/MANAGEMENT OF AK PERMANENT FUND; E.D.	RULES	2/13/79	FINANCE
SB 254	SPEC APPROP/DOT/AIRPORT RECONSTRUCTION/BU	FERGUSON	3/21/79	FINANCE
SB 255	GEN. OBLIGATION BONDS/NOME BARGE PORT FAC	FERGUSON	3/21/79	FINANCE
SB 256	CREATE/DEPT.EMPLOYEE RELATIONS; AMEND ST	RULES	3/22/79	FINANCE
SB 268	RE/EXPENDITURE OF STATE MONEY, E.D.	KERTTULA	4/17/79	FINANCE
SCR 1	TRANSFERRAL OF STATE EMPLOYMENT/URBAN TO	SUMNER	1/16/79	----
SCR 27	PREDICTABLE/ATTRACTIVE INVESTMENT CLIMATE	BRADLEY	4/03/79	----
SCR 29	URGING ADMIN TO KEEP SALARIES & BENEFITS	L&M	4/12/79	----
SJR 1	AM US CONSTITUTION RE/VOTING RIGHTS FOR D	STIMSON	1/15/79	JUDICIAR
SJR 4	AM AK CONSTITUTION/SESSION OF LEGISLATURE	BRADLEY	1/22/79	FINANCE
SJR 9	AM AK CONSTITUTION/SESSIONS OF LEGISLATUR	DANKWORTH	1/24/79	FINANCE
SJR 10	AM AK CONSTITUTION RE/TERMS OF LEGISLATOR	BRADLEY	1/24/79	JUDICIAR
SJR 11	AM US CONSTITUTION/BUDGET OF USA	BRADLEY	1/25/79	----
SJR 15	VOTING RIGHTS & REPRESENTATION FOR DISTRI	KELLY	2/01/79	C&RA
SJR 19	AM AK CONSTITUTION/RE GOVERNOR & LIEUTENA	BARNEY	2/13/79	----
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BILL #	ABBREVIATED TITLE	SPONSOR	DATE	REFERRAL
SJR 23	REQUESTING/US DOT/REVISE TIME ZONES IN AK	COLLETTA	2/13/79	----
SJR 26	PROPOSING AN AK CONSTITUTION/RE TO FINANC	RULES	2/13/79	FINANCE
SJR 29	REQUEST CONGRESS INITIATE ARCTIC EXCHANGE	KERTTULA	3/21/79	L&M
SJR 35	AMEND AK CONSTITUTION/TAX LEVIES/AK & POL	BRADLEY	4/[illegible]	[illegible]
SJR [illegible]	[illegible]	[illegible]	[illegible]	[illegible]

SUPPORTING INFORMATION

Bob Simon, Limited Entry Commissioner, stated that they personally drafted the language related to fishing loans last year and this language has been incorporated into HB 30. They feel that with the prices of permits as high as they are today, they want to give residents all the breaks they can. They strongly endorse HB 30.

I requested a position paper from Commerce and Economic Development, ~~wherein which the Commercial Fishing and Agriculture Bank is located~~ FROM COMM. FISH. BANK, and they will get it to us as soon as possible.

HB 30 was introduced February 20 and referred to Resources and Judiciary. Resources reported it back March 10 with a DO PASS recommendation, all members concurring. To Judiciary.

Judiciary reported it back to the House on March 13 with individual recommendations. Parr and Anderson signed DO PASS. Phillips Martin and O'Connell signed NO REC. It passed the House on March 14, with a vote of 35-4. Nays: Barnes, Bettisworth, Martin, Randolph. Judiciary told me that HB 30 passed their committee quickly and without opposition. They are missing the minutes from that meeting but said it was straightforward and they had nothing in their files.

FISCAL NOTE: None

RELATED LEGISLATION: None

INTERESTED PARTIES: Gardiner
Commerce-Dick Eakins, Dir. Econ. Ent.
Commercial Fisheries Entry Commission.



#B. 1. Adds word "Alaska" to Com. Fed. Ag. Bank making it the Alaska CF & AB.

2. Changes number of members on board of directors from 5 to 7. Amends to ~~add~~ that 4 of the board members shall be ~~selected~~ elected by the shareholders & 3 shall be appointed by the gov, until the repurchase of all the nonvoting, preferred shares initially issued by the Bank and purchased by agencies of the state.

Amends concerning terms of office. Members shall serve for terms of 3 years & they may serve successive terms.

(clarifying & conforming)

Terms shall be staggered

Amends to read that initial terms shall be 3 members serving for one year, 2 members serving for 2 years & 2 members serving for 3 years.

Adds new ¶ to provide for making loans to commercial fishermen & specifies requirements of qualification

Adds new section entitled LOANS FOR PURCHASE OF ALASKA LIMITED ENTRY PERMITS. States requirement of qualification & use of permit to be purchased as security for a loan; Provides for note certification & amending of permit card fields to list debtor as legal owner.

Adds new section - Default & Foreclosure of Loans for Limited Entry Permits. Cancels Defaulty & REQUIREMENTS OF PROOF & deletes WITH notice of default DEBTOR'S INT. IN PERMIT IS EQUITABLE & its and required enclosures. Provides for cancellation of entry permit cards upon debtors failure to reinstate or satisfy note w/in specified time

Adds new section entitled - DEFICIENCIES AND TRANSFER OF ENTRY PERMITS AFTER FORECLOSURE. Provides AK C.F.E.C a right of 1st refusal of permit is subject to a buy back program & state is given right to may sell at any time If comm does not exercise right, deletes the 30 days for debtor of note to nominate a person qualified to assume the rights of debtor does not name a qualified person.

SSHB 30 An act relating to the Commercial Fishing and Agriculture Bank. Gardiner

SUMMARY

This bill adds the word "Alaska" to the title making it the Alaska Commercial Fishing and Agricluture Bank. Changes the number of members on the board of directors from five to seven. Amends to add that four of the board members shall be elected by the shareholders and three shall be appointed by the governor, until the repurchase of all the non-voting, preferred shares initially issued by the bank and purchased by agencies of the state. Amends concerning terms of office. Provides for staggered terms. Adds new paragraph to provide for making loans to commercial fishermen and specifies requirements for qualification. Adds new section entitled: LOANS FOR PURCHASE OF ALASKA LIMITED ENTRY PERMITS. States requirements for qualification and use of permit to be purchased as security for a loan. Provides for note certification and amending of permit certificate to list debtor as the legal owner. Adds new section: DEFAULT AND FORECLOSURE OF LOANS FOR LIMITED ENTRY PERMITS, concerning defaulting and requirements of providing debtor with notice of default and inclusions required with that notice. Provides for termination of debtor's equitable interest and cancellation of entry permit cards upon debtor's failure to reinstate or satisfy note within a specified time period. Adds new section entitled: DEFICIENCIES AND TRANSFER OF ENTRY PERMITS AFTER FORECLOSURE. Provides Commercial Fishing Entry Commission the right of first refusal if permit is subject to a buy-back program and states price requirements. If the Entry Commission does not exercise this right or the permit is not subject to a buy-back program, the debtor has 30 days from date of notice (postmark date) to nominate a person qualified to assume note. If debtor does not do this the permit must be made available to a qualified person chosen by lottery by the Entry Commission.



SS

HB 30 - (PG. 47)

(pg. 516) Resources reported out w/ majority recommending DO PASS

OSTERBACK	ELIASON
HALFORD	CHENEY
CUTTER	FULLER
CHATTERTON	ZHARKOFF

(545) Judiciary passed out with individual recommendations

DO PASS: PARR, ANDERSON

DO NOT PASS: MARTIN

NO REC: PHILLIPS, O'CONNELL

Judge
CARLSON — Sup Ct. Limited entry
permits are not Legal.

Rept of Fish + Game

CALL ADF&G
Limited Entry Comm.

SENATE JOURNAL

ALASKA STATE LEGISLATURE

ELEVENTH LEGISLATURE - FIRST SESSION

JUNEAU, ALASKA Monday April 23, 1979

Ninety-ninth Day

Pursuant to adjournment, the Senate was called to order by President Tillion at 10:08 a.m.

The roll call showed thirteen members present. Senators Bennett, Dankworth, Hackney, Hohman, Rodey, Sackett and Sumner were absent.

The prayer was offered by the Chaplain, Lay Rabbi Danny Plotnick of the Juneau Jewish Community.

Senator Colletta moved and asked unanimous consent that the journals for the ninety-sixth, ninety-seventh and ninety-eighth legislative days be approved as certified. Without objection, it was so ordered.

MESSAGES FROM THE GOVERNOR

Message of April 20 was read, stating the Governor has read the following resolution and transmitted the engrossed and enrolled copies to the Lieutenant Governor's Office for permanent filing:

SENATE RESOLUTION NO. 7 amended SR
(relating to ownership of earth stations) 7

Senate Resolve No. 5

MESSAGES FROM THE HOUSE

CS 2d SS HB 31 am S — Message of April 20 was read, stating the House has concurred in the Senate amendment to COMMITTEE SUBSTITUTE FOR 2d SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 31 (creating the Delta Junction Bison Range Area), thus adopting:

COMMITTEE SUBSTITUTE FOR 2d SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 31 amended Senate

SCS CS HB 32 — Message of April 20 was read, stating the House has concurred in the Senate amendment to COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 32 (special appropriations to the power project revolving fund of the Alaska Power Authority), thus adopting:

SENATE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 32

HB 195 am S — Message of April 20 was read, stating the House has concurred in the Senate amendment to HOUSE BILL NO. 195 amended (providing for an advisory committee on judicial sentencing practices), thus adopting:

HOUSE BILL NO. 195 amended Senate (providing for an advisory committee on minority judicial sentencing practices)

SCS HB 196 (Rls) — Message of April 20 was read, stating the House has concurred in the Senate amendment to HOUSE BILL NO. 196 (special appropriation to the Judicial Council), thus adopting:

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 196 (Rules)

HCS CS SB 53 — Message of April 20 was read, stating the House has failed to recede from its amendment to COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 53 (Finance) namely, HOUSE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 53 (budget).

The Speaker has appointed the following members to a Free Conference Committee to meet with a like committee from the Senate to consider the above bills: HCS CS SB 53

Representative Meekins, Chairman
Representative Duncan
Representative Haugen

The President appointed the following members to a Free Conference Committee to meet with the like committee from the House:

Senator Sackett, Chairman
Senator Hohman
Senator Sumner

The Secretary was requested to notify the House.

Message of April 20 was read, stating the House has passed the following and transmitting for consideration:

FIRST READING AND REFERENCE OF HOUSE RESOLUTIONS

CS
COMMITTEE SUBSTITUTE FOR HOUSE JOINT RESOLUTION NO. 30 HJR 30
by the Rules Committee,

Relating to the sale of revenue bonds of the Alaska Power Authority for the Terror Lake hydroelectric generating project at Kodiak, Alaska, and for the Solomon Gulch hydroelectric generating project near Valdez, Alaska,

was read the first time and referred to the Finance Committee.

INTRODUCTION AND REFERENCE OF SENATE RESOLUTIONS

SENATE CONCURRENT RESOLUTION NO. 35 by Senators Ferguson, Fahrenkamp, Sackett, Stimson, Sturgulewski, Bennett and Kerttula, SCR 35

Directing the Legislative Council to conduct a feasibility study relating to educational television,

was read the first time and referred to the Health, Education and Social Services Committee.

INTRODUCTION AND REFERENCE OF SENATE BILLS

SB 273 SENATE BILL NO. 273 by Senator Bradley, entitled:

"An Act relating to the transporter law; and providing for an effective date "

was read the first time and referred to the Commerce Committee and the Resources Committee.

SB 274 SENATE BILL NO. 274 by the Commerce Committee by request, entitled:

"An Act relating to the Motor Safety Responsibility Act; and providing for an effective date."

was read the first time and referred to the Commerce Committee.

SB 275 SENATE BILL NO. 275 by the Commerce Committee by request, entitled:

"An Act relating to the payment of judgments or claims by insurance companies."

was read the first time and referred to the Commerce Committee and the Finance Committee.

SB 276 SENATE BILL NO. 276 by the Health, Education and Social Services Committee by request, entitled:

"An Act providing for the award of visitation rights to grandparents."

was read the first time and referred to the Health, Education and Social Services Committee and the Judiciary Committee.

Senator Colletta moved and asked unanimous consent that the Senate recess to a call of the Chair. Without objection, the Senate recessed at 10:16 a.m.

AFTER RECESS

The Senate reconvened at 10:32 a.m.

CONSIDERATION OF THE CALENDAR

SECOND READING OF HOUSE BILLS

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 19 amended (relating to agricultural and industrial fairs) was read the second time. CS HB 19 am

Senator Ray moved and asked unanimous consent for the adoption of the Finance Committee amendment offered on pages 803-804. Without objection, amendment No. 1 was adopted. CS HB 19 am S

Senator Colletta moved and asked unanimous consent that the Rules be suspended and COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 19 amended Senate be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 19 amended Senate was read the third time.

The question being: "Shall COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 19 amended Senate (relating to agricultural and industrial fairs) pass the Senate?" The roll was taken with the following result:

Yeas:	18	Bennett, Bradley, Colletta, Dankworth, Fahrenkamp, Ferguson, Hackney, Kelly, Kerttula, Meland, Mulcahy, Ray, Rodey, Stimson, Sturgulewski, Sumner, Tillion, Ziegler
Nays:	0	
Absent:	2	Hohman, Sackett

and so, COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 19 amended Senate passed the Senate.

Senator Colletta moved and asked unanimous consent that the roll call on the passage of the above bill be considered the roll call on the effective date clause. Without objection, it was so ordered.

CSHB 19 am S — COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 19 amended Senate was referred to the Secretary for engrossment.

CS HB 66 — Senator Colletta moved and asked unanimous consent that the next item of business on today's calendar, namely COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 66 (providing an exemption for senior citizens from payment for land leased from the state) be held on the Secretary's desk. Senator Ra objected. Senator Colletta move and asked unanimous consent to withdraw his motion. Without objection, it was so ordered.

Senator Colletta moved and asked unanimous consent that COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 66 be placed at the bottom of today's calendar. Without objection, it was so ordered.

HB 90 — HOUSE BILL NO. 90 (supplemental appropriation to the Department of Community and Regional Affairs, Division of Local Government Assistance) was read the second time.

Senator Colletta moved and asked unanimous consent that the Rules be suspended and HOUSE BILL NO. 90 be advanced to third reading and placed on final passage. Without objection, it was so ordered.

HOUSE BILL NO. 90 was read the third time.

The question being: "Shall HOUSE BILL NO. 90 (supplemental appropriation to the Department of Community and Regional Affairs, Division of Local Government Assistance) pass the Senate?" The roll was taken with the following result:

Yeas:	17	Bennett, Bradley, Collette, Dankworth, Fahrenkamp, Ferguson, Hackney, Hohman, Kelly, Meland, Mulcahy, Ray, Rodey, Stimson, Sturgulewski, Tillion, Ziegler
Nays:	0	Hackney, Hohman, Kelly, Mulcahy, Ray, Rodey, Sti
Absent:	3	Kerttula, Seckett, Sumner

and so, HOUSE BILL NO. 90 passed the Senate.

Senator Colletta moved and asked unanimous consent that the roll call on the passage of HOUSE BILL NO. 90 be considered the roll call on the effective date clause. Without objection, it was so ordered. HB 90

HOUSE BILL NO. 90 was signed by the President and Secretary and returned to the House.

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 307 (making transfers between appropriations made for the fiscal year ending June 30, 1979 to the Department of Natural Resources) was read the second time. CS HB 307

Senator Ray moved and asked unanimous consent for the adoption of the Finance Committee Senate Committee Substitute offered on page 848. Without objection, SENATE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 307 was adopted. SCS CSHB 307

SENATE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 307 (making transfers between appropriations made for the fiscal year ending June 30, 1979 to the Department of Natural Resources and extending an appropriation made to the Department of Natural Resources in ch. 146, SLA 1978) was read the second time.

Senator Colletta moved and asked unanimous consent that the Rules be suspended and SENATE COMMITEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 307 be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

SENATE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 307 was read the third time.

The question being: "Shall SENATE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 307 (making transfers between appropriations made for the fiscal year ending June 30, 1979 to the Department of Natural Resources and extending an appropriation made to the Department of Natural Resources in ch. 146, SLA 1978) pass the Senate?" The roll was taken with the following result:

CS SHB 307

Yeas: 19 Bennett, Bradley, Colletta, Dankworth, Fahrenkamp, Ferguson, Hackney, Hohman, Kelly, Kerttula, Meland, Mulcahy, Ray, Rodey, Stimson, Sturgulewski, Sumner, Tillion, Ziegler

Nays: 0

Absent: 1 Sackett

and so, SENATE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 307 passed the Senate.

Senator Colletta moved and asked unanimous consent that the roll call on the passage of the above bill be considered the roll call on the effective date clause. Without objection, it was so ordered.

SENATE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 307 was referred to the Secretary for engrossment.

HB 308 HOUSE BILL NO. 308 (supplemental appropriation to the Department of Health and Social Services, Division of Public Health) was read the second time.

SCS HB 308 Senator Ray moved and asked unanimous consent for the adoption of the Finance Senate Committee Substitute offered on page 822. Without objection, SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 308 was adopted.

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 308 (making appropriations to the Department of Health and Social Services, and an amending condition on an appropriation made to the Department of Education in ch. 6, SLA 1979) was read the second time.

Senator Colletta moved and asked unanimous consent that the Rules be suspended and SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 308 be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO 308 was read the third time.

The question being: "Shall SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 308 (making appropriations to the Department of Health and Social Services, and an amending condition on an appropriation made to the Department of Education in ch. 6, SLA 1979) pass the Senate?" The roll was taken with the following result SCS HB 308

Yeas:	15	Bennett, Bradley, Colletta, Fahrenkamp, Ferguson, Hackney, Kelly, Kerttula, Meland, Mulcahy, Ray, Rodey, Stimson, Tillion, Ziegler
Nays:	2	Dankworth, Sturgulewski
Absent:	3	Hohman, Sackett, Sumner

and so, SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 308 passed the Senate.

Senator Colletta moved and asked unanimous consent that the roll call on the passage of the above bill be considered the roll call on the effective date clause. Without objection, it was so ordered.

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 308 was referred to the Secretary for engrossment.

SECOND READING OF SENATE RESOLUTIONS

SENATE CONCURRENT RESOLUTION NO. 16 (requesting the Governor to direct the Department of Transportation and Public Facilities to conduct a feasibility study for the construction of a runway at Barrow) was read the second time. SCR 16

Senator Sackett moved and asked unanimous consent for the adoption of the Finance Committee amendment offered on page 863. Without objection, amendment No. 1 was adopted. SCR 16 am

Senator Ray moved and asked unanimous consent that the Finance Committee letter of intent be adopted as the Senate letter of intent. Senator Kelly objected, then withdrew his objection. There being no further objection, the letter of intent was adopted.

SCR 16 am The Senate letter of intent on SENATE CONCURRENT RESOLUTION NO. 16 amended follows:

The feasibility study called for in SCR 16 will be conducted by the Department of Transportation and Public Facilities within the limit of funds budgeted to them for FY 79. Now that the fourth quarter supplemental for the Department of Transportation has passed there should be sufficient funds within the current year budget to cover this project.

Senator Colletta moved that the Senate adopt SENATE CONCURRENT RESOLUTION NO. 16 amended.

The question being: "Shall SENATE CONCURRENT RESOLUTION NO. 16 amended (requesting the Governor to direct the Department of Transportation and Public Facilities to conduct a feasibility study for the construction of a runway at Barrow) pass the Senate?" The roll was taken with the following result:

Yeas:	19	Bennett, Bradley, Colletta, Dankworth, Fahrenkamp, Ferguson, Hackney, Kelly, Kerttula, Meland, Mulcahy, Ray, Rodey, Sackett, Stimson, Sturgulewski, Susmer Tillion, Ziegler
Nays:	0	
Absent:	1	Hohman

and so, SENATE CONCURRENT RESOLUTION NO. 16 amended with a Senate letter of intent passed the Senate and was referred to the Secretary for engrossment.

SPECIAL ORDER OF BUSINESS

MJR 32 am Senator Colletta moved and asked unanimous consent that the Rules be suspended and HOUSE JOINT RESOLUTION NO. 32 amended (requesting the establishment of an Arctic Circumpolar Cultural and Technical Interchange Center) be taken up as a Special Order of Business at this time. Without objection, it was so ordered.

SECOND READING OF HOUSE RESOLUTIONS

HOUSE JOINT RESOLUTION NO. 32 amended (requesting the establishment of an Arctic Circumpolar Cultural and Technical Interchange Center) was read the second time. HJR 32 am

Senator Mulcahy moved and asked unanimous consent for the adoption of the State Affairs Committee amendment offered on page 709. Without objection, amendment No. 1 was adopted. HJR 32 am S

Senator Kelly offered the following amendment No. 2:

> Page 2, line 25: add the following: "FURTHER RESOLVED that Congress is urged to enter into a joint agreement with all other Arctic coastal nations to mutually share the expenses for establishing and operating the Arctic Circumpolar Cultural Technical Interchange Center."

Senator Kelly moved and asked unanimous consent to withdraw amendment No. 2. Without objection, amendment No. 2 was withdrawn.

Senator Kelly offered the following amendment No. 3:

> Page 2, line 25: add the following: "FURTHER RESOLVED that Congress is urged to enter into a joint agreement with all other participating Arctic coastal nations to mutually share the expenses for establishing and operating the Arctic Circumpolar Cultural Technical Interchange Center."

Senator Kelly moved and asked unanimous consent for the adoption of amendment No. 3. Without objection, amendment No. 3 was adopted.

Senator Collette moved and asked unanimous consent that the Rules be suspended and HOUSE JOINT RESOLUTION NO. 32 as amended Senate be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

HJR 32 am S HOUSE JOINT RESOLUTION NO. 32 amended Senate was read the third time.

The question being: "Shall HOUSE JOINT RESOLUTION NO. 32 amended Senate (requesting the establishment of an Arctic Circumpolar Cultural and Technical Interchange Center) pass the Senate?" The roll was taken with the following result:

Yeas:	15	Bradley, Colletta, Dankworth, Fahrenkamp, Ferguson, Hackney, Kelly, Kerttula, Meland, Mulcahy, Ray, Rodey, Stimson, Sturgulewski, Ziegler
Nays:	2	Bennett, Tillion
Absent:	3	Hohman, Sackett, Sumner

and so, HOUSE JOINT RESOLUTION NO. 32 amended Senate passed the Senate and was referred to the Secretary for engrossment.

CS HB 66 Senator Colletta moved and asked unanimous consent that COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 66 (providing an exemption for senior citizens from payment for land leased from the state) which had been placed at the bottom of today's calendar (page 884) be held on the Secretary's desk. Without objection, it was so ordered.

SPECIAL ORDER OF BUSINESS

Senator Colletta moved and asked unanimous consent that the publication and notice requirement on the Citation Congratulating Greenland Home Rule Inauguration be waived. Without objection, it was so ordered.

Senator Colletta moved and asked unanimous consent that the Rules be suspended and the Citation Congratulating Greenland Home Rule Inauguration be taken up as a Special Order of Business at this time. Without objection, it was so ordered.

CITATIONS

Senator Colletta moved and asked unanimous consent that the Citation Congratulating Greenland Home Rule Inauguration by Representatives Buchholdt, Guy, Schaeffer, Rogers and Anderson, be approved. The Senate approved the Citation unanimously and it was returned to the House.

ENGROSSMENT

The following were engrossed, signed by the President and Secretary and transmitted to the House for consideration:

SENATE CONCURRENT RESOLUTION NO. 16 amended

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 19
amended Senate

SENATE COMMITTEE SUBSTITUTE FOR COMMITTEE
SUBSTITUTE FOR HOUSE BILL NO. 307

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 308

HOUSE JOINT RESOLUTION NO. 32
amended Senate

ANNOUNCEMENTS

FCC on the Budget	Gov. Conf. Rm 3rd Floor, Capitol	1:30 p.m., 4/23
State Affairs HB 75, HB 18 HCR 12	Beltz Room 209, Capitol	3:30 p.m., 4/23

ADJOURNMENT

Senator Colletta moved and asked unanimous consent that the Senate adjourn until 10:00 a.m., April 24. Without objection, the Senate adjourned at 11:09 a.m.

Peggy Mulligan
Senate Secretary

April 1979

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

SECTIONAL ANALYSIS - SSHB 30

"An Act relating to the
Commercial Fishing and Agriculture Bank."

* Section 1. AS 44.54.010 (a).

Section 1 is simply a technical amendment, adding the word Alaska to the Commercial Fishing and Agriculture Bank to be consistent with the rest of the statute.

* Section 2. AS 44.54.020.

This section expands the board of directors from five members to seven members. It also requires that three of the members continue to be appointed by the governor until the bank has repurchased all of the non-voting preferred shares that were purchased by the state with start-up capitol.

This change is necessary because the statute now provides that the board of directors be elected from amongst the borrowing members of the bank in the future. This could cause problems in the future as during the start-up phases the state will be the major shareholder. To provide continuity, it would be desirable to maintain some input by the state until the bank has bought out the state's share.

* Section 3. AS 44.54.090.

These changes are necessitated by the expansion of the board from five to seven members.

* Section 4. AS 44.54.210.

Section 4 adds an additional power to the bank to allow them to make loans for the purchase of limited entry permits.

* Section 5. AS 44.54.230.

This section of the bill outlines how the loan making ability and default and foreclosure provisions will operate when the bank makes loans for limited entry permits. This language parallels the existing law that allows the state division of loans to make limited entry permit loans. This law was introduced last year by the governor and passed overwhelmingly by the last legislature. The purpose of this section is to expand the banks power to provide for limited entry permit loans to Alaskans. Since the bank provides for loans only to resident Alaskans this additional capital source will be an advantage to Alaskans who want to get into the fishery in the future. At least one-third of Alaska's salmon fishermen are still non-residents. Great benefits from taxes and other items can accrue to Alaska if these permits which are now held by non-residents become held by resident Alaskans in the future. This expansion of loan authority to the Commercial Fishing and Agriculture Bank will provide another source of capital to Alaskans who want to move into the salmon fisheries in the state.

MEMORANDUM

TO: Mr. Richard H. Eakins
Director, Division of
Economic Development
DEPARTMENT OF COMMERCE
& ECONOMIC DEVELOPMENT
Pouch EE
Juneau, Alaska 99811

FROM: Peter Argetsinger
WOHLFORTH & FLINT

DATE: April 6, 1979

RE: Commercial Fishing & Agriculture Bank/Comments On SSHB 30

On April 4, you requested our assistance in preparing a position paper as to SSHB 30 for submission to the Legislature next week. The comments on the subject bill which follow are submitted for your consideration. They are structured in such a way that you need only add introductory and concluding paragraphs and insert a discussion of policy matters as appropriate, particularly in the areas of composition of the Board of Directors (where I sensed a strong feeling at the April 4 meeting in favor of independence) and in the area of the business judgments to be made when considering loans for entry permits which are to be secured by those permits. (Although, perhaps nothing additional need be said on the latter subject.)

Section 1. Addition of the word "Alaska" to the name of the Bank is desirable and, in fact, reflected in the draft Articles of Incorporation and By-Laws of the Bank now under consideration by the Board of Directors.

Section 2. The Board of Directors of the Bank under the present law is composed of five members, initially appointed by the Governor, who serve staggered terms. Following expiration of the initial term, directors are then elected by the member/shareholders of the Bank which under AS 44.54 is organized as a cooperative corporation. AS 10.15.140, to which the Bank is subject, requires that the elected directors be members of the cooperative. Counsel to the Bank have examined the present method of constituting the Board of Directors of the Bank and have advised that,

in their opinion, under Section 103 of the Internal Revenue Code and the regulations thereunder the Bank may not issue tax exempt revenue bonds. In general, this is because in order to issue tax exempt bonds "on behalf of" the State, the Bank must be considered by the Internal Revenue Service to be a "constituted authority". To satisfy this requirement it is necessary that all members of the Bank Board of Directors be public officials of the State, be elected by the voters of the State or be appointed directly by the State. And, the requirement continues for the life of any bonds issued by the Bank.

We have also been advised by counsel that the proposed revision to AS 44.54.020 which would expand the Board of Directors to seven members, three of whom would be appointed by the Governor until such time as the Bank has repurchased all non-voting preferred shares held by the State does not satisfy the IRS criteria either. In order to issue tax exempt revenue bonds it would be necessary that the Board of Directors be composed in its entirety of gubernatorial appointees for the life of any outstanding bonds.

The present formulation of the Board, of course, is quite satisfactory to accomplish the primary purpose envisioned by the Legislature when it established the Bank, i.e., to leverage the bank's capital with the federal farm credit system banks in order to make loans to those engaged in commercial fishing and agriculture. In that regard, the federal banks require as a condition of eligibility for loans that associations such as the Commercial Fishing and Agriculture Bank be organized in such a way that not less than 80% of the voting control of the bank is held by fishermen or farmers. See, e.g., 12 USCA 2129 which sets out these requirements as they apply to the federal banks for cooperatives. At first blush, this would seem to preclude a Board of Directors where 3/7ths of the members are gubernatorial appointees rather than representatives of the membership. However, we have informally discussed the matter with representatives of the federal farm credit system in Spokane who have advised us that they do not believe that reconstituting the Bank's Board of Directors as envisioned by SSHB 30 would preclude them from working with the Commercial Fishing and Agriculture Bank. Rather, they interpret the Federal requirement to mean that the control of at least 80% of the votes which would elect the other four members of a reconstituted Board of Directors must be in fishermen and farmers.

It would appear that a change in the composition of the Board of Directors as proposed in SSHB 30 would accomplish one, or both, of two objectives. One, it would establish a mechanism through which Board members who otherwise would not be eligible for election by the members (e.g., bankers, economists, business consultants) could remain on or be appointed to the Board of Directors even though they are not actively engaged in commercial fishing or agriculture. Two, it would vest some modicum of control in the State through the power of the Governor to continue to appoint a minority of the Board during the early life of the Bank. While the first of these reasons is certainly desirable, perhaps some additional discussion of the need for State representation on the Board of Directors through gubernatorial appointees is necessary. At the outset, it should be noted that the Legislature will always retain its ability to influence the Bank through the appropriation process, particularly during the capital formation phase of the Bank, and through its ability to modify to a great extent the Bank's enabling legislation should that ever become necessary. However, a basic tenet of the federal farm credit system is that organizations such as the Bank should operate on a cooperative basis for the mutual benefit of the members.

(insert additional policy considerations re independence of the bank as desired)

One final comment on Section 2 of SSHB 30. The draft bill, as well as the present statute, states that Board member election shall be by the "shareholders". Generally speaking the privilege of the vote in a cooperative corporation belongs to the member or holder of membership stock. Most members will also hold shares of capital stock, but it is entirely possible for one to be a capital stockholder (thus, a shareholder) at the time of a membership meeting, yet for several reasons not currently eligible to vote as a member. Therefore, it is our recommendation that the word "shareholders" on line 22 of page 1 of SSHB 30 be replaced by the term "members" or the term "membership". "Member" is a defined term in AS 10.15.595(9) and would be the preferred term.

Section 3. The proposed amendments to AS 44.54.090 found in Section 3 of SSHB 30 are satisfactory and appear to solve the drafting problem in the present statute.

However, during the organization of the Board of Directors of the Bank two other concerns have surfaced which may be solved by adding language to AS 44.54.090. The first of these is the method to be used when determining

which members of the Board of Directors shall serve for the one, two and three year term. One way to resolve this problem is to provide that the terms be determined by lot, as the Legislature has provided in other instances. (See AS 18.26.030 where such a system is applied to the Board of Directors to the Alaska Medical Facility Authority.)

The second problem is insuring that the initial terms of the Board of Director members expire on the date of the cooperative annual meeting rather than on the anniversary date of the appointment by the Governor. As the Bank's draft By-Laws provide that the annual meeting be held in November of each year, we strongly urge that AS 44.54 provide that the initial one year Board of Governor terms extend until November 1980, and that the two and three year terms expire at the time of the following two annual meetings. Since the initial appointments to the Board of Directors were made on February 19, 1979, to provide that the one year terms expire in November 1979, would not be a prudent business decision as it would mean that the expertise and experience of the one year directors would be lost to the Bank even before it is in full operation.

These recommendations may be implemented by striking the period following the word "years" on line 5 of page 2 of SSHB 30, and inserting a comma and the following language;

> , to be determined by lot. The initial terms shall expire at the annual meeting of the bank held in November 1980, 1981 and 1982 respectively.

Section 4. We are aware that the language of Sections 4 and 5 of SSHB 30 tracks in most respects the language of AS 16.10.300 et seq, the Commercial Fishing Loan Act, and agree that it is desirable that the Bank as well have the power to make loans to individual commercial fishermen to purchase entry permits. The Board of Directors of the Bank will, of course, at the appropriate time be faced with the necessity of determining its policies, from a business standpoint, when considering loans to be secured by entry permits. We are aware that there are presently on appeal to the Alaska Supreme Court two Superior Court decisions in cases which challenge the limited entry permit system and/or the method by which permits have been issued. The Supreme Court decision in those cases, or future cases, may result in the issuance of a sufficient number of additional entry permits so that the value of an entry permit held by the Bank as security is substantially lessened.

Future action by the Legislature could work to the same end and must also be taken into consideration by the Bank when making loans of this type.

As to the specific language of Section 4 of SSHB 30, we note that eligibility for a loan to purchase an entry permit is conditioned upon a five year durational residency requirement which, if challenged at some future time, could be held unconstitutional. We also note that the requirement for active participation in the fishery at some time during the past five years is vague enough so that it may cause problems in determining loan eligibility. E.g., would thirty days some time during the five year period be sufficient? would seven days?

Section 5. AS 44.54.230 would require that the executive director of the Bank be listed as the legal owner of a pledged permit and Section 5 at several places requires that the executive director of the Bank take certain actions in regard to a permit. While under AS 16.43 entry permits are held only by natural persons and while the Commercial Fishing Loan Act assigns the same duties to the Commissioner of Commerce and Economic Development, it is desirable in this situation that the legal ownership of an entry permit or directions for taking certain actions rest with the Bank itself, rather than with a specific individual so as to give the Bank maximum flexibility in managing its business. For that reason we recommend that the language "executive director of the" be eliminated where it appears in Section 5 of SSHB 30. But if it is determined that AS 16.43 requires that an individual be named, it nonetheless is desirable that the language "as trustee for the bank" be inserted directly following the designation of the executive director so that it is clear the capacity in which the director acts.

AS 44.54.250(b) would allow a debtor to nominate a person to assume his note under certain conditions and require that the person so nominated qualify under the requirements of AS 44.54.230(a) i.e., that the person nominated qualify as a transfee for an entry permit under AS 16.43. There appears, however, to be no requirement that the nominee to assume the note meet the requirements set up by proposed AS 44.54.210(20), specifically that he meet the five year durational residency requirement as did the original debtor. If this is considered desirable, the language "and AS 44.54.210(20)" should be inserted immediately following the end of the partial sentence on line 1, page 5 of SSHB 30.

Recommended Additions

AS 16.43 provides that entry permits may not be pledged as security or transferred except under certain conditions, one of which is as provided in the Commercial Fishing Loan Act. Similarly, it would appear that additional amendments are necessary to at least sections AS 16.43.150(g) and AS 16.43.170, which language should refer specifically to the program proposed in SSHB 30.

As a matter of convenience and style in drafting it may be desirable to consider addition of a new section .260, Definitions, to AS 44.54. Such a section initially would define the word "bank" as the Alaska Commercial Fishing and Agriculture Bank which definition was not included in Chapter 159, SLA 1978, even though extensive use is made therein of the term "bank". In addition it would appear desirable to define the word "commission" as the Alaska Commercial Fisheries Entry Commission in order to avoid the problem now found throughout Section 5 of SSHB 30 where reference is sometimes made to the Alaska Commercial Fisheries Entry Commission, but more often is made simply to the "commission".

Finally we strongly recommend that the amendments to AS 44.54 include a specific provision insuring that the Bank has the necessary power to indemnify directors, officers and employees when negligence and misconduct is not involved. Such a provision is routinely included in the bylaws of private sector organization and is specifically included among the general powers given to a cooperative corporation organized in Alaska by AS 10.15.010(13). Counsel has advised us that in its opinion the Bank does have the power to indemnify its directors, officers and employees by virtue of the fact that AS 44.54.010 subjects the Bank to the provisions of AS 10.15, except as otherwise provided in AS 44.54. Nonetheless, the fact that the specific powers of the Bank enumerated in AS 44.54.210 do not include a provision on indemnification means that it is not impossible that a court might hold that the Legislature intended the Bank not be allowed to indemnify directors, officers and employees under appropriate conditions. For that reason we recommend the addition of the same language now found in AS 10.15.010(13) as an additional paragraph numbered (21) to AS 44.54.210. Section 4 of SSHB 30 may be amended by changing the word "paragraph" on line 6 of page 2 to "paragraphs" and by inserting an additional paragraph at line 14 which reads:

> (21) indemnify a director, officer or agent or former director, officer or agent, or a person who may have served at its request

as a director or officer of another domestic or foreign cooperative of which it is a member, against expenses necessarily incurred in defense of a proceeding in which he is a party because he served as a director, officer or agent, but this paragraph does not apply to proceedings in which the director, officer or agent is adjudged liable for negligence or misconduct in the performance of duty, and indemnification under this paragraph is not exclusive of other rights to which the director, officer or agent may be entitled.

cc: Mr. Frank M. Homan, Chairman,
Commercial Fishing and Agriculture Bank

Mr. Frank Orth, Financial Consultant
to Commercial Fishing and Agriculture Bank

Mr. Larry Butterfield, Spokane Bank For
Cooperatives

Mr. R. M. Gorder, Federal Intermediate
Credit Bank of Spokane

ments to eligible cooperative associations and to extend to them other technical and financial assistance, including but not limited to discounting notes and other obligations, guarantees, collateral custody, or participation with other banks for cooperatives and commercial banks or other financial institutions in loans to eligible cooperatives, under such terms and conditions as may be determined to be feasible by the board of directors of each bank for cooperatives under regulations of the Farm Credit Administration. Such regulations may include provisions for avoiding duplication between the Central Bank and district banks for cooperatives. Each bank may own and lease, or lease with option to purchase, to stockholders eligible to borrow from the bank equipment needed in the operations of the stockholder.

Pub.L. 92–181, Title III, § 3.7, Dec. 10, 1971, 85 Stat. 605.

§ 2129. Eligibility

Any association of farmers, producers,[1] or harvesters of aquatic products, or any federation of such associations, which is operated on a cooperative basis, and has the powers for processing, preparing for market, handling, or marketing farm or aquatic products; or for purchasing, testing, grading, processing, distributing, or furnishing farm or aquatic supplies or furnishing farm business services or services to eligible cooperatives and conforms to either of the two following requirements:

(a) no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein; or

(b) does not pay dividends on stock or membership capital in excess of such per centum per annum as may be approved under regulations of the Farm Credit Administration; and in any case

(c) does not deal in farm products or aquatic products, or products processed therefrom, farm or aquatic supplies, or farm business services with or for nonmembers in an amount greater in value than the total amount of such business transacted by it with or for members, excluding from the total of member and nonmember business transactions with the United States or any agency or instrumentality thereof or services or supplies furnished as a public utility; and

(d) a percentage of the voting control of the association not less than 50 per centum (70 per centum in the case of rural electric, telephone, and public utility cooperatives), or such higher percentage as established by the district board is held by farmers, producers or harvesters of aquatic products, or eligible cooperative associations as defined herein;

shall be eligible to borrow from a bank for cooperatives.

Pub.L. 92–181, Title III, § 3.8, Dec. 10, 1971, 85 Stat. 605, amended Pub. L. 94–184, § 1(a), Dec. 31, 1975, 89 Stat. 1060.

[1] So in original. A comma after "producers" was probably not intended.

1975 Amendment. Subsec. (d): Pub.L. 94-184 added provision relating to 70 per centum of voting control in the case of rural electric, telephone, and public utility cooperatives.

Legislative History. For legislative history and purpose of Pub.L. 94-184, see 1975 U.S.Code Cong. and Adm.News, p. 2148.

§ 2130. Ownership of stock by borrowers

(a) Each borrower at the time a loan is made by a bank for cooperatives shall own at least one share of voting stock and shall be required by the bank with the approval of the Farm Credit Administration to invest in additional voting stock or nonvoting investment stock at that time, or from time to time, as the lending bank may determine, but the requirement for investment in stock at the time the loan is closed shall not exceed an amount equal to 10 per centum of the face amount of the loan. Such additional ownership requirements may be based on

ing any quarter thereof, or upon such other basis as the bank, with the approval of the Farm Credit Administration, determines will provide adequate capital for the operation of the bank and equitable ownership thereof among borrowers. In the case of a direct loan by the Central Bank, the borrower shall be required to own or invest in the necessary stock in a district bank or banks as may be approved by the Farm Credit Administration and such district bank shall be required to own a corresponding amount of stock in the Central Bank, but voting stock shall be in the one district bank designated by the Farm Credit Administration.

(b) Notwithstanding the provisions of subsection (a) of this section, the purchase of stock need not be required with respect to that part of any loan made by a bank for cooperatives which it sells to or makes in participation with financial institutions other than any of the banks for cooperatives. In such cases the distribution of earnings of the bank for cooperatives shall be on the basis of the interest in the loan retained by such bank.

Pub.L. 92–181, Title III, § 3.9, Dec. 10, 1971, 85 Stat. 605.

§ 2131. Loans—Interest rates and charges

(a) Loans made by a bank for cooperatives shall bear interest at a rate or rates determined by the board of directors of the bank from time to time, with the approval of the Farm Credit Administration. In setting rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers at the lowest reasonable cost on a sound business basis, taking into account the net cost of money to the bank, necessary reserves and expenses of the bank, and services provided. The loan documents may provide for the interest rate or rates to vary from time to time during the repayment period of the loan, in accordance with the rate or rates currently being charged by the bank.

Security

(b) Loans shall be made upon such terms, conditions, and security, if any, as may be determined by the bank in accordance with regulations of the Farm Credit Administration.

Lien

(c) Each bank for cooperatives shall have a first lien on all stock or other equities in the bank as collateral for the payment of any indebtedness of the owner thereof to the bank. In the case of a direct loan to an eligible cooperative by the Central Bank, the Central Bank shall have a first lien on the stock and equities of the borrower in the district bank and the district bank shall have a lien thereon junior only to the lien of the Central Bank.

Cancellation; application on indebtedness

(d) In any case where the debt of a borrower is in default, or in any case of liquidation or dissolution of a present or former borrower from a bank for cooperatives, the bank may, but shall not be required to, retire and cancel all or a part of the stock, allocated surplus or contingency reserves, or any other equity in the bank owned by or allocated to such borrower, at the fair book value thereof not exceeding par, and, to the extent required in such cases, corresponding shares and allocations and other equity interests held by a district bank in another district bank on account of such indebtedness, shall be retired or equitably adjusted.

Pub.L. 92–181, Title III, § 3.10, Dec. 10, 1971, 85 Stat. 606.

§ 2132. Earnings and reserves; application of savings—Application of savings when bank has outstanding stock held by Governor

(a) Each bank for cooperatives, at the end of each fiscal year when said bank shall have stock outstanding held by the Governor of the Farm

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

MEMORANDUM

TO: Mr. Richard H. Eakins
Director, Division of
Economic Development
DEPARTMENT OF COMMERCE
& ECONOMIC DEVELOPMENT
Pouch EE
Juneau, Alaska 99811

FROM: Peter Argetsinger
WOHLFORTH & FLINT

DATE: April 6, 1979

RE: Commercial Fishing & Agriculture Bank/Comments On SSHB 30

On April 4, you requested our assistance in preparing a position paper as to SSHB 30 for submission to the Legislature next week. The comments on the subject bill which follow are submitted for your consideration. They are structured in such a way that you need only add introductory and concluding paragraphs and insert a discussion of policy matters as appropriate, particularly in the areas of composition of the Board of Directors (where I sensed a strong feeling at the April 4 meeting in favor of independence) and in the area of the business judgments to be made when considering loans for entry permits which are to be secured by those permits. (Although, perhaps nothing additional need be said on the latter subject.)

Section 1. Addition of the word "Alaska" to the name of the Bank is desirable and, in fact, reflected in the draft Articles of Incorporation and By-Laws of the Bank now under consideration by the Board of Directors.

Section 2. The Board of Directors of the Bank under the present law is composed of five members, initially appointed by the Governor, who serve staggered terms. Following expiration of the initial term, directors are then elected by the member/shareholders of the Bank which under AS 44.54 is organized as a cooperative corporation. AS 10.15.140, to which the Bank is subject, requires that the elected directors be members of the cooperative. Counsel to the Bank have examined the present method of constituting the Board of Directors of the Bank and have advised that,

in their opinion, under Section 103 of the Internal Revenue Code and the regulations thereunder the Bank may not issue tax exempt revenue bonds. In general, this is because in order to issue tax exempt bonds "on behalf of" the State, the Bank must be considered by the Internal Revenue Service to be a "constituted authority". To satisfy this requirement it is necessary that all members of the Bank Board of Directors be public officials of the State, be elected by the voters of the State or be appointed directly by the State. And, the requirement continues for the life of any bonds issued by the Bank.

We have also been advised by counsel that the proposed revision to AS 44.54.020 which would expand the Board of Directors to seven members, three of whom would be appointed by the Governor until such time as the Bank has repurchased all non-voting preferred shares held by the State does not satisfy the IRS criteria either. In order to issue tax exempt revenue bonds it would be necessary that the Board of Directors be composed in its entirety of gubernatorial appointees for the life of any outstanding bonds.

The present formulation of the Board, of course, is quite satisfactory to accomplish the primary purpose envisioned by the Legislature when it established the Bank, i e., to leverage the bank's capital with the federal farm credit system banks in order to make loans to those engaged in commercial fishing and agriculture. In that regard, the federal banks require as a condition of eligibility for loans that associations such as the Commercial Fishing and Agriculture Bank be organized in such a way that not less than 80% of the voting control of the bank is held by fishermen or farmers. See, e.g., 12 USCA 2129 which sets out these requirements as they apply to the federal banks for cooperatives. At first blush, this would seem to preclude a Board of Directors where 3/7ths of the members are gubernatorial appointees rather than representatives of the membership. However, we have informally discussed the matter with representatives of the federal farm credit system in Spokane who have advised us that they do not believe that reconstituting the Bank's Board of Directors as envisioned by SSHB 30 would preclude them from working with the Commercial Fishing and Agriculture Bank. Rather, they interpret the Federal requirement to mean that the control of at least 80% of the votes which would elect the other four members of a reconstituted Board of Directors must be in fishermen and farmers.

It would appear that a change in the composition of the Board of Directors as proposed in SSHB 30 would accomplish one, or both, of two objectives. One, it would establish a mechanism through which Board members who otherwise would not be eligible for election by the members (e.g., bankers, economists, business consultants) could remain on or be appointed to the Board of Directors even though they are not actively engaged in commercial fishing or agriculture. Two, it would vest some modicum of control in the State through the power of the Governor to continue to appoint a minority of the Board during the early life of the Bank. While the first of these reasons is certainly desirable, perhaps some additional discussion of the need for State representation on the Board of Directors through gubernatorial appointees is necessary. At the outset, it should be noted that the Legislature will always retain its ability to influence the Bank through the appropriation process, particularly during the capital formation phase of the Bank, and through its ability to modify to a great extent the Bank's enabling legislation should that ever become necessary. However, a basic tenet of the federal farm credit system is that organizations such as the Bank should operate on a cooperative basis for the mutual benefit of the members.

(insert additional policy considerations re independence of the bank as desired)

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which members of the Board of Directors shall serve for the one, two and three year term. One way to resolve this problem is to provide that the terms be determined by lot, as the Legislature has provided in other instances. (See AS 18.26.030 where such a system is applied to the Board of Directors to the Alaska Medical Facility Authority.)

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These recommendations may be implemented by striking the period following the word "years" on line 5 of page 2 of SSHB 30, and inserting a comma and the following language;

> , to be determined by lot. The initial terms shall expire at the annual meeting of the bank held in November 1980, 1981 and 1982 respectively.

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Recommended Additions

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Finally we strongly recommend that the amendments to AS 44.54 include a specific provision insuring that the Bank has the necessary power to indemnify directors, officers and employees when negligence and misconduct is not involved. Such a provision is routinely included in the bylaws of private sector organization and is specifically included among the general powers given to a cooperative corporation organized in Alaska by AS 10.15.010(13). Counsel has advised us that in its opinion the Bank does have the power to indemnify its directors, officers and employees by virtue of the fact that AS 44.54.010 subjects the Bank to the provisions of AS 10.15, except as otherwise provided in AS 44.54. Nonetheless, the fact that the specific powers of the Bank enumerated in AS 44.54.210 do not include a provision on indemnification means that it is not impossible that a court might hold that the Legislature intended the Bank not be allowed to indemnify directors, officers and employees under appropriate conditions. For that reason we recommend the addition of the same language now found in AS 10.15.010(13) as an additional paragraph numbered (21) to AS 44.54.210. Section 4 of SSHB 30 may be amended by changing the word "paragraph" on line 6 of page 2 to "paragraphs" and by inserting an additional paragraph at line 14 which reads:

> (21) indemnify a director, officer or agent or former director, officer or agent, or a person who may have served at its request

as a director or officer of another domestic or foreign cooperative of which it is a member, against expenses necessarily incurred in defense of a proceeding in which he is a party because he served as a director, officer or agent, but this paragraph does not apply to proceedings in which the director, officer or agent is adjudged liable for negligence or misconduct in the performance of duty, and indemnification under this paragraph is not exclusive of other rights to which the director, officer or agent may be entitled.

cc: Mr. Frank M. Homan, Chairman,
Commercial Fishing and Agriculture Bank

Mr. Frank Orth, Financial Consultant
to Commercial Fishing and Agriculture Bank

Mr. Larry Butterfield, Spokane Bank For
Cooperatives

Mr. R. M. Gorder, Federal Intermediate
Credit Bank of Spokane

The banks for cooperatives are authorized to make loans and commitments to eligible cooperative associations and to extend to them other technical and financial assistance, including but not limited to discounting notes and other obligations, guarantees, collateral custody, or participation with other banks for cooperatives and commercial banks or other financial institutions in loans to eligible cooperatives, under such terms and conditions as may be determined to be feasible by the board of directors of each bank for cooperatives under regulations of the Farm Credit Administration. Such regulations may include provisions for avoiding duplication between the Central Bank and district banks for cooperatives. Each bank may own and lease, or lease with option to purchase, to stockholders eligible to borrow from the bank equipment needed in the operations of the stockholder.

Pub.L. 92-181, Title III, § 3.7, Dec. 10, 1971, 85 Stat. 605.

§ 2129. Eligibility

Any association of farmers, producers,[1] or harvesters of aquatic products, or any federation of such associations, which is operated on a cooperative basis, and has the powers for processing, preparing for market, handling, or marketing farm or aquatic products; or for purchasing, testing, grading, processing, distributing, or furnishing farm or aquatic supplies or furnishing farm business services or services to eligible cooperatives and conforms to either of the two following requirements:

(a) no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein; or

(b) does not pay dividends on stock or membership capital in excess of such per centum per annum as may be approved under regulations of the Farm Credit Administration; and in any case

(c) does not deal in farm products or aquatic products, or products processed therefrom, farm or aquatic supplies, or farm business services with or for nonmembers in an amount greater in value than the total amount of such business transacted by it with or for members, excluding from the total of member and nonmember business transactions with the United States or any agency or instrumentality thereof or services or supplies furnished as a public utility; and

(d) a percentage of the voting control of the association not less than 80 per centum (70 per centum in the case of rural electric, telephone, and public utility cooperatives), or such higher percentage as established by the district board is held by farmers, producers or harvesters of aquatic products, or eligible cooperative associations as defined herein;

shall be eligible to borrow from a bank for cooperatives.

Pub.L. 92-181, Title III, § 3.8, Dec. 10, 1971, 85 Stat. 605, amended Pub.L. 94-184, § 1(a), Dec. 31, 1975, 89 Stat. 1060.

[1] So in original. A comma after "producers" was probably not intended.

1975 Amendment. Subsec. (d). Pub.L. 94-184 added provision relating to 70 per centum of voting control in the case of rural electric, telephone, and public utility cooperatives.

Legislative History. For legislative history and purpose of Pub.L. 94-184, see 1975 U.S.Code Cong. and Adm.News, p. 2248.

§ 2130. Ownership of stock by borrowers

(a) Each borrower at the time a loan is made by a bank for cooperatives shall own at least one share of voting stock and shall be required by the bank with the approval of the Farm Credit Administration to invest in additional voting stock or nonvoting investment stock at that time, or from time to time, as the lending bank may determine, but the requirement for investment in stock at the time the loan is closed shall not exceed an amount equal to 10 per centum of the face amount of the loan. Such additional ownership requirements may be based on

centage of the interest payable by the borrower during any year or during any quarter thereof, or upon such other basis as the bank, with the approval of the Farm Credit Administration, determines will provide adequate capital for the operation of the bank and equitable ownership thereof among borrowers. In the case of a direct loan by the Central Bank, the borrower shall be required to own or invest in the necessary stock in a district bank or banks as may be approved by the Farm Credit Administration and such district bank shall be required to own a corresponding amount of stock in the Central Bank, all voting stock shall be in the one district bank designated by the Farm Credit Administration.

(b) Notwithstanding the provisions of subsection (a) of this section, the purchase of stock need not be required with respect to that part of any loan made by a bank for cooperatives which it sells to or makes in participation with financial institutions other than any of the banks for cooperatives. In such cases the distribution of earnings of the bank for cooperatives shall be on the basis of the interest in the loan retained by such bank.

Pub.L. 92-181, Title III, § 3.9, Dec. 10, 1971, 85 Stat. 605.

§ 2131. Loans—Interest rates and charges

(a) Loans made by a bank for cooperatives shall bear interest at a rate or rates determined by the board of directors of the bank from time to time, with the approval of the Farm Credit Administration. In setting rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers at the lowest reasonable cost on a sound business basis, taking into account the net cost of money to the bank, necessary reserves and expenses of the bank, and services provided. The loan documents may provide for the interest rate or rates to vary from time to time during the repayment period of the loan, in accordance with the rate or rates currently being charged by the bank.

Security

(b) Loans shall be made upon such terms, conditions, and security, if any, as may be determined by the bank in accordance with regulations of the Farm Credit Administration.

Lien

(c) Each bank for cooperatives shall have a first lien on all stock or other equities in the bank as collateral for the payment of any indebtedness of the owner thereof to the bank. In the case of a direct loan to an eligible cooperative by the Central Bank, the Central Bank shall have a first lien on the stock and equities of the borrower in the district bank and the district bank shall have a lien thereon junior only to the lien of the Central Bank.

Cancellation; application on indebtedness

(d) In any case where the debt of a borrower is in default, or in any case of liquidation or dissolution of a present or former borrower from a bank for cooperatives, the bank may, but shall not be required to, retire and cancel all or a part of the stock, allocated surplus or contingency reserves, or any other equity in the bank owned by or allocated to such borrower, at the fair book value thereof not exceeding par, and, to the extent required in such cases, corresponding shares and allocations and other equity interests held by a district bank in another district bank on account of such indebtedness, shall be retired or equitably adjusted.

Pub.L. 92-181, Title III, § 3.10, Dec. 10, 1971, 85 Stat. 606.

§ 2132. Earnings and reserves; application of savings—Application of savings when bank has outstanding stock held by Governor

(a) Each bank for cooperatives, at the end of each fiscal year when said bank shall have stock outstanding held by the Governor of the Farm

GEOPHYSICAL INSTITUTE
C. T. ELVEY BUILDING
UNIVERSITY OF ALASKA
FAIRBANKS, ALASKA 99701

March 8, 1979

Representative Brian Rogers
Pouch V
Juneau, AK 99811

Dear Brian:

Following a conversation with Vice Chancellor Keith B. Mather who asked my opinion on HB 12, I am submitting the following comments. This letter also amplifies statements I made in response to your telephone call of yesterday. I appreciate your having called on the matter.

I think the general idea of HB 12 is excellent; there is no doubt that Alaskans are highly interested in it. Furthermore, a successful program of this type creates the image of a helpful and responsive State government. But I think it crucial to make sure the program is handled well. Several specific comments follow:

1. I see no reason to establish a new staff anywhere to distribute this money and monitor its use. I suggest that no more than 20-30 percent of the appropriated funds need be spent on administrative costs. To do that requires use of an existing office such as that of the Alaska Council on Science and Technology or the Renewable Resources Corporation and some effective procedures of idea solicitation, proposal review and monitoring of projects funded.

2. The program will fail if there is too much paperwork involved in proposal preparation or reporting. Many of the people who are likely to contribute innovative approaches through this program are not comfortable with writing. Proposers should be allowed to propose verbally on a cassette recorder or in writing on a very few sheets of paper.

3. The Alaska Council on Science and Technology is already working on steps oriented to establishing review procedures, as it is required to do by statute. Why not take advantage of this ongoing effort? With the advice of the Council members, the Council's existing staff can handle at least the proposal review process at comparatively low cost.

4. Reviewers in the University of Alaska system, in private industry and in State agencies can be relied upon to help. These people also could be asked to act as project advisors to the individuals actually receiving the funds and thereby assist the innovators. This can also be a mechanism to help the shy innovator deal with the bureaucracy, and a mechanism whereby the innovator gets additional moral and perhaps even facilities support from his "advisor-sponsor." The educational benefit, both to the innovator and the "advisor-sponsor" could be of significant value.

5. A real problem is how to inexpensively monitor and obtain responsible reporting on the results of funded work. There may be interesting legalistic problems such as can a recipient of State funds buy equipment, etc., without going to the lowest bidder? Who owns any resulting patents? What is to stop a grant recipient from using the money to vacation in Hawaii? In essence, if the backyard inventor is going to have to comply with the same rules that Alaska enforces upon its organized activities of similar nature, the poor inventor is unlikely to have much time or energy left for inventing. But if we don't put some constraints on the grantee, how can we prevent gross misuse of funds? I think this can be worked out, but it will take a little doing to achieve a proper balance. One idea I had was to require either a written report at the end of the project or the option of attending the annual Alaska Science Conference to give a report on the work to a specially organized section; part of the grant would pay for the grantee's attendance. Use of the "sponsor-advisor" concept also should help limit the need for extensive reporting.

I want to emphasize that in no way should this letter be construed as an official pronouncement of the Alaska Council on Science and Technology. Because of the possibility that the Council may become involved in this matter, I am sending copies of this letter to the Executive Director and to the members of the Council.

Sincerely,

T. Neil Davis
Professor of Geophysics

TND/fp

cc: Keith B. Mather, Vice Chancellor
Al Belon, Associate Director
Chris Noah, Executive Director
Council members:
Mim Dixon
Gregg K. Erickson
David M. Hickok
Richard Holden
Ronald O. Skoog
Richard R. Straty

Sec. 44.54.20. BOARD OF DIRECTORS.

The bank shall be managed by a board of directors consisting of seven members. Initial appointments to the board shall be made by the Governor. Thereafter five of the board members shall be elected by the shareholders and two shall be appointed by the Governor until the repurchase of all non-voting, preferred shares initially issued by the bank and purchased by agencies of the State. The board members shall annually elect a chairman from among themselves. The purpose of the board is to manage the assets of the bank. The initial board shall be composed of five members and the remaining two members shall be appointed by the Governor at the time of the first annual membership meeting.

Sec. 44.54.090. TERM OF OFFICE.

The members of the board shall serve for three years, and they may serve successive terms. Terms shall be staggered. Initial terms shall be two members serving for one year, two members serving for two years, and one member serving for three years, to be determined by lot. The initial terms shall expire at the first, second and third annual membership meeting of the bank, respectively.

HJR 12 Relating to the tax exemption granted to federal employees in Alaska and in other locations outside the contiguous 48 states. Randolph, etc.

SUMMARY

This resolution directs the Alaska delegation in congress to introduce and urge passage of legislation that would exempt from federal income tax a percentage of the wages and salaries paid to residents in Alaska and other locations that is equal to the tax free cost-of-living allowance paid to federal workers in Alaska and other locations. This constitutes discrimination as non-federal employees in Alaska are subject to the same high cost-of-living but do not receive a tax relief to offset its effects.

SUPPORTING INFORMATION

Nothing from Randolph (prime sponsor) or House State Affairs. Randolph did testify at the House Committee Meeting but I would have to listen to the tapes to find out what he said. The committee passed it out with all members signing DO PASS. This bill is sponsored by 37 of the 40 house members.

See attached salary comparison

FISCAL NOTE: None

RELATED LEGISLATION: None

INTERESTED PARTIES: Department of Administration

BY RANDOLPH, ANDERSON, BARNES, BEIRNE, BETTISWORTH, BRANSON, BROWN, CARNEY, COTTEN, DUNCAN, ELIASON, FREEMAN, FULLER, GARDINER, GUY, HALFORD, HAUGEN, HAYES, HURLBERT, MCKINNON, MALONE, MARTIN, MEEKINS, METCALFE, MILES, MILLER, MONTGOMERY, MOSS, MUNSON, O'CONNELL OSTERBACK, PARKER, PARR, PHILLIPS, ROGERS, SMITH AND ZHAROFF

VOTING: House vote 32-yes, 1-no.

FLOOR REPORT

CSSB 182 By the State Affairs Committee

Committee simply does two things. It abolishes the salary commission and maintains the salaries at their current level.

The original sponsors and the majority of the committee feel that the salary commission has not solved the problem they set out to do. The Commission was created to stay void from politics and public pressure while making ~~slary~~ salary judgements. It seems when the public applies pressure the Commission backs down from its recommendations. Regardless of who makes the salary recommendations it is the Legislative Body that takes the final heat from the public, so the sponsor and majority of the committee feels that the legislature should be involved in the salary setting process from beginning to end.

The committee also ~~felt~~ adjusting the salaries could will be adressed in HB 220 rather than in this legislation.

Alaska State Legislature

Senate

Committee on State Affairs

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

April 26, 1979

The Honorable Clem Tillion
President of the Senate
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. President:

While it is doubtful that this legislation will have excessive fiscal impact, the committee is unable to determine its extent.

Bob Mulcahy

Senator Bob Mulcahy, Chairman
Senate State Affairs

In the Division of Insurance numerous records are kept, many of which are currenty public documents and many of which, though the degree to which public access is authorized may be in doubt, ought to be available to the pubic and this measure will clarify those rules.

By the same token there are numerous records maintained by the Division of Insurance public access to which serves no purpose and in fact could jeopardize the rights of individuals and seriously impair the availability of important regulatory information.

We have several areas where we are concered with confidentiality. These areas are as follows:

A. The current Alaska Insurance Code requires that the Alaska Insurance Guarantee Association and the Director of Insurance exchange information concerning the potential insolvency of insurance carriers. Because this information is often based on rumor or speculation and sometimes inaccurate and often incomplete data, to permit public access and potential publication of these records could prove seriously detrimental to the subject insurance carrier yet it is important that the Director and the Board of Directors of the Alaska Insurance Guarantee Association engage in this exchange.

   We believe that the public should have information concerning a carrier which is not financially suited to provide insurance in this State but that information should be made available only after there has been a proper determination that the carrier is in fact not financially able to meet its obligations.

   We would propose an amendment that would exempt from public access the exchange of information between the Director and the Board of Directors of the Guarantee Association concerning these potential and unsubstantiated financially impaired carriers.

B. The Division of Insurance is required by law to perform an extremely extensive examination of insurance carriers no less often than every three years and has in its discretion authority to examine more often. These examinations probe intensively into the underwriting, claim handling, marketing, investment and management policies of the carriers. It explores their reinsurance and all of their accounting and bookkeeping records. It is extremely important that the regulator have access to this information and that it accumulate this information in appropriate records in the Division of Insurance. By the same token it would be very unfair to the insurance carrier to have this kind of information available for public view. Reinsurance information and the information about advertising, marketing, underwriting and its other contractual obligations is and ought to remain proprietary information to the carrier. It would be seriously destructive to competition if other carriers could have access to that kind of data.

We would propose an amendment that would exempt from public access, the reports of examination and related records. This would not exempt and thus would allow public continual access to the financial statement of all insurance companies filed annually by the carriers, their applications for license, holding company reports, and all other information which the Division maintains as part of the Certificate of Authority file. In our opinion this information is appropriately a publicly accessible record.

C. All applicants for a license to act as an agent, broker, or adjustor must submit an application which probes into personal history, potential criminal record and other data, all of which is and ought to remain, personal and confidential to the applicant. There is no purpose served in giving the public access to the record of the personal lives of Alaska citizens simply because that citizen seeks to apply for a licnese to do a special business in this State. Our general records concerning who has a license is currently and ought to remain a public record. That is, the public may know who has a license and what that license authorizes that individual to do. It does not seem appropriate, however, that all personal information which we must have in order to make a judgement about the person's qualifications for a license should be available to anyone else.

We would propose an amendment which makes the license application files confidential and not available for public access except that the individual applicant or licensee may review his own file. This, of course, does not give the applicant access to his examination, examination answers, or test score.

The committee should be aware that there are already certain other matters which are currently exempted from public view and I believe ought to remain confidential.

The Directo as authority to keep confidential any investigation of an agent, broker, adjustor, or other licensee. This is important because an investigation may reveal information of an incriminating nature which ought not to be made public until there has been a hearing and an official determination of the validity of charges brought against such a person. An investigation which has not been culminated in a hearing, an official determination ought not be made public record.

Rate filings remain confidential until the filing is approved. Once the filing is approved, the filing may be reviewed by any member of the public and it is appropriate that the public and competitors see the justification for a change of rates or for a new policy form. Until it is approved, however, it creates a competitive disadvantage for one carrier to have advanced notice of what another carrier may have filed for approval before that first carrier has had an opportunity to have its rate approved and marketed.

EXHIBIT

Add Sec. 21.80.175 Confidentiality of Information

A.

a) All reports; recommendations, requests for information and records, made, transmitted or retained pursuant to Sec. 110 of this chapter except the report on causes of insolvency required by Section 110(i) shall be a confidential record not available for public access.

b) All files of the association concerning claims against the association shall be a confidential record not available for public access.

Amend Sec. 21.80.110(b) by deleting: (LAST SENTENCE)

"The request for an examination shall be kept on file by the Commissioner but it shall not be open to public inspection before the release of the examination report to the public."

and deleting (d) (LAST SENTENCE)

"These reports and recommendations shall not be considered public documents."

B.

Add to 21.06.120

(d) All interim and final reports of examinations and all records made, transmitted or retained in connection with an examination shall be confidential records and not available to public access.

Add to 21.66.120

(c) All interim and final reports of examinations and all records made, transmitted or retained in connection with an examination shall be confidential records and not available to public access.

Add to 21.34.370

(e) All interim and final reports of examinations and all records made, transmitted or retained in connection with an examination shall be confidential records and not available to public access.

C.

Add to 21.27.040

(d) An application and all records furnished to, or made or retained by the Director in connection with an application for a license is a confidential record and not available to public access except that an applicant for a license or licensee shall have the right to review his own file and all records a part thereof except examinations, examination answers or scores.

Add to 21.33.150

(c) An application and all records furnished to, or made or retained by the Director in connection with an application for a license is a confidential record and not available to public access except than an applicant for a license or licensee shall have the right to review his own file and all records a part thereof except examinations, examination answers or scores.

Chapter 43. Regulation of Entry into Alaska Commercial Fisheries.

Article
1. Creation of the Alaska Commercial Fisheries Entry Commission (§§ 16.43.010 — 16.43.080)
2. Powers and Duties of the Commission (§§ 16.43.100 — 16.43.120)
3. Requirements for Entry Permits (§§ 16.43.140 — 16.43.182)
4. Initial Issuance of Entry Permits (§§ 16.43.200 — 16.43.270)
5. Reduction to Optimum Number of Entry Permits (§§ 16.43.290 — 16.43.330)
6. General Provisions (§§ 16.43.350 — 16.43.380)

Legislative committee report. — For report on ch. 79, SLA 1973 (SCS CSHB 126 am S), see 1973 House Journal, p. 503; 1973 Senate Journal Supplement No. 15.

Article 1. Creation of the Alaska Commercial Fisheries Entry Commission.

Section
10. Purpose and findings of fact
20. Alaska Commercial Fisheries Entry Commission
30. Term of office; vacancy
40. Quorum
50. Qualifications
60. Compensation of members of the Alaska Commercial Fisheries Entry Commission
70. Legal counsel
80. Employment of personnel

Sec. 16.43.010. Purpose and findings of fact. (a) It is the purpose of this chapter to promote the conservation and the sustained yield management of Alaska's fishery resource and the economic health and stability of commercial fishing in Alaska by regulating and controlling entry into the commercial fisheries in the public interest and without unjust discrimination.

(b) The legislature finds that commercial fishing for fishery resources has reached levels of participation, on both a statewide and an area basis, that have impaired or threaten to impair the economic welfare of the fisheries of the state, the overall efficiency of the harvest, and the sustained yield management of the fishery resource. (§ 1 ch 79 SLA 1973)

Applied in Isakson v. Rickey, Sup. Ct. Op. No. 1267 (File No. 2550), 550 P 2d 359 (1976).

Sec. 16.43.020. Alaska Commercial Fisheries Entry Commission. (a) There is established the Alaska Commercial Fisheries Entry Commission as a regulatory and quasi-judicial agency of the state. The commission consists of three members appointed by the governor and confirmed by the legislature in joint session.

(b) The governor shall designate one member of the commission as chairman of the commission. The member designated shall serve as chairman for a term of two years, and may be designated chairman for successive two-year terms. (§ 1 ch 79 SLA 1973)

Sec. 16.43.030. Term of office; vacancy. (a) The members of the commission shall be appointed for terms of four years. Initial appointments shall be as follows: one member for two years, one member for three years, and one member for four years. The governor may remove a commissioner from office for cause including but not limited to incompetence, neglect of duty, or misconduct in office. A commissioner, to be removed for cause, shall be given a copy of the charges against him and afforded an opportunity to be publicly heard in person or by counsel in his own defense upon not less than 10 days notice. If a commissioner is removed for cause, the governor shall file with the lieutenant governor a complete statement of all charges made against the commissioner and his findings based on the charges, together with a complete record of the proceedings.

(b) A vacancy on the commission shall be filled by appointment by the governor and the appointment shall be confirmed by the legislature in joint session. A member selected to fill a vacancy shall hold office for the balance of the full term for which his predecessor on the commission was appointed.

(c) A vacancy on the commission does not impair the authority of a quorum of commissioners to exercise all the powers and perform all the duties of the commission. (§ 1 ch 79 SLA 1973)

Sec. 16.43.040. Quorum. Two members of the commission constitute a quorum for the transaction of business, for the performance of a duty or for the exercise of a power of the commission. (§ 1 ch 79 SLA 1973)

Sec. 16.43.050. Qualifications. The commission shall consist of three members with a broad range of professional experience, none of whom has a vested economic interest in an interim-use permit, entry permit, commercial fishing vessel or gear, or in any fishery resource processing or marketing business. (§ 1 ch 79 SLA 1973)

Sec. 16.43.060. Compensation of members of the Alaska Commercial Fisheries Entry Commission. Members of the commission are in the exempt service and shall receive an annual salary as established under AS 39.23. (§ 1 ch 79 SLA 1973; am § 5 ch 47 SLA 1974; am § 1 ch 148 SLA 1976; am § 2 ch 263 SLA 1976)

Effect of amendments. — The 1974 amendment rewrote this section.

The first 1976 amendment deleted "payable in equal monthly installments" from the end of the section.

The second 1976 amendment substituted "as established under AS 39.23" for "equal to that of a district court judge payable in equal monthly installments."

Sec. 16.43.070. Legal counsel. The attorney general is the legal counsel for the commission. He shall advise the commission in legal matters arising in the discharge of its duties and represent the commission in suits to which it is a party. However, the commission may retain additional legal counsel as appropriate. (§ 1 ch 79 SLA 1973)

Sec. 16.43.080. Employment of personnel. (a) The commission may employ those persons necessary to carry out the purposes of this chapter. Employees of the commission are in the exempt service under AS 39.25.110.

(b) In addition to its staff of regular employees, the commission may contract for and engage the services of consultants, experts and hearing officers as necessary. (§ 1 ch 79 SLA 1973)

Article 2. Powers and Duties of the Commission.

Section	Section
100. General powers	120. Application of Administrative Procedure Act
110. Regulations and hearing procedures	

Sec. 16.43.100. General powers. (a) To accomplish the purposes set out in § 10 of this chapter the commission shall:

(1) regulate entry into the commercial fisheries for all fishery resources in the state;

(2) establish priorities for the application of the provisions of this chapter to the various commercial fisheries of the state;

(3) establish administrative areas suitable for regulating and controlling entry into the commercial fisheries;

(4) establish, for all types of gear, the maximum number of entry permits for each administrative area;

(5) designate, when necessary to accomplish the purposes of this chapter, particular species for which separate interim-use permits or entry permits will be issued;

(6) establish qualifications for the issuance of entry permits;

(7) issue entry permits to qualified applicants;

(8) issue interim-use permits as provided in §§ 210 — 220 of this chapter;

(9) establish, for all types of gear, the optimum number of entry permits for each administrative area;

(10) administer the buy-back program provided for in §§ 310 — 320 of this chapter to reduce the number of outstanding entry permits to the optimum number of entry permits;

(11) provide for the transfer and reissuance of entry permits to qualified transferees;

(12) provide for the transfer and reissuance of entry permits for alternative types of legal gear, in a manner consistent with the purposes of this chapter;

(13) administer the collection of the annual fees provided for in § 160 of this chapter.

(b) The commission may do all things necessary to the exercise of its powers under this chapter, whether or not specifically designated in this chapter. (§ 1 ch 79 SLA 1973)

Editor's note. — Section 14, ch. 105, SLA 1977, effective January 1, 1978, added paragraph (14) to subsection (a). Paragraph (14) reads "(14) administer the issuance of commercial fishing vessel licenses under AS 16.05.490."

Sec. 16.43.110. Regulations and hearing procedures. (a) The commission may adopt regulations, consistent with law, necessary or proper in the exercise of its powers or for the performance of its duties under this chapter.

(b) The commission shall adopt regulations, consistent with due process of law, which govern practice and procedure and the conduct of all investigations, hearings and proceedings which it holds.

(c) Common-law rules of evidence apply to investigations, hearings and proceedings before the commission, except when the commission determines that their application is not required in order to assure fair treatment of all parties and that the evidence is relevant and of the sort on which responsible persons are accustomed to rely in the conduct of serious matters.

(d) The commission, each commissioner or an employee authorized by the commission may administer oaths, certify to all official acts, and issue subpoenas and other process to compel the attendance of witnesses and the production of testimony, records, papers, accounts and documents in an inquiry, investigation, hearing, or proceeding before the commission in any part of the state. The commission may petition a court to enforce its subpoenas or other process. (§ 1 ch 79 SLA 1973)

Sec. 16.43.120. Application of Administrative Procedure Act. (a) The administrative adjudication procedures of the Administrative Procedure Act (AS 44.62) do not apply to adjudicatory proceedings of the commission except that final administrative determinations by the commission are subject to judicial review as provided in AS 44.62.560 — 44.62.570.

(b) AS 44.62.010 — 44.62.320 and 44.62.640 apply to regulations adopted by the commission. (§ 1 ch 79 SLA 1973)

Article 3. Requirements for Entry Permits.

Section
140. Permit required
150. Terms and conditions of entry permit; annual renewal
160. Fees
170. Transfer of entry permits
180. Emergency transfers
182. Entry permit deductible as business expense

Sec. 16.43.140. Permit required. (a) After January 1, 1974, no person may operate gear in the commercial taking of fishery resources without a valid entry permit or a valid interim-use permit issued by the commission.

(b) A permit is not required of a crewman or other person assisting in the operation of a unit of gear engaged in the commercial taking of fishery resources as long as the nolder of the entry permit or the interim-use permit for that particular unit of gear is at all times present and actively engaged in the operation of the gear.

(c) A person may hold more than one interim-use or entry permit issued or transferred under this chapter only for the following purposes:

(1) fishing more than one type of gear;

(2) fishing in more than one administrative area;

(3) harvesting particular species for which separate interim-use or entry permits are issued. (§ 1 ch 79 SLA 1973)

Applied in Isakson v. Rickey, Sup. Ct. Op. No. 1267 (File No. 2550), 550 P.2d 359 (1976).

Sec. 16.43.150. Terms and conditions of entry permit; annual renewal. (a) Each entry permit authorizes the permittee to operate a unit of gear within a specified administrative area.

(b) The holder of an entry permit shall have the permit in his possession at all times when engaged in the operation of gear for which it was issued.

(c) Each entry permit is issued for a term of one year and is renewable annually.

(d) Failure to renew an entry permit for a period of two years from the date of last renewal results in a forfeiture of the entry permit to the commission, except as waived by the commission for good cause

(e) An entry permit constitutes a use privilege which may be modified or revoked by the legislature without compensation.

(f) An entry permit survives the death of the holder.

(g) An entry permit may not be:

(1) pledged, mortgaged, leased, or encumbered in any way;

(2) transferred with any retained right of repossession or foreclosure, or

(3) attached, distrained, or sold on execution of judgment or under any other process or order of any court.

(h) Upon the death of an entry permit holder, the permanent permit shall be transferred by the commission directly to the surviving spouse by right of survivorship unless a contrary intent is manifested. When no spouse survives, the rights of the decedent pass as part of his estate. (§ 1 ch 79 SLA 1973; am §§ 1, 2 ch 73 SLA 1977)

Effect of amendment. — The 1977 amendment inserted "leased" in paragraph (1) of subsection (g) and added subsection (h).

Sec. 16.43.160. Fees. (a) The commission shall establish annual fees for the issuance and annual renewal of entry permits or interim-use permits to reflect the cost of administering this chapter. Fees collected under this section shall be paid into the general fund.

(b) Annual fees established under this section shall be no less than $10 and no more than $100 and shall reasonably reflect the different rates of economic return for different fisheries.

(c) The holder of an entry permit or interim-use permit who has a net family income falling within the Federal Social Security Administration poverty guidelines, adjusted by the commission to reflect appropriate cost-of-living differentials, is subject to a maximum annual fee of $5. (§ 1 ch 79 SLA 1973)

Editor's note. — Section 15, ch. 105, SLA 1977, effective January 1, 1978, amended this section to read as follows: (a) The commission shall establish annual fees for the issuance and annual renewal of entry permits or interim-use permits. Fees collected under this section shall be paid into the general fund, except for an amount equal to 60 per cent of the fee each permit holder would otherwise be obligated to pay for a crewmember license under § 480 of this chapter which shall be paid into the fishermen's fund under AS 23.35.060.

(b) Annual fees established under this section shall be no less than $10 and no more than $750 and shall reasonably reflect the different rates of economic return for different fisheries.

(c) The resident holder of an entry permit or interim-use permit who has a net family income falling within the Federal Community Services Administration poverty guidelines, adjusted by the commission to reflect appropriate cost-of-living differentials, is subject to a maximum annual fee of $15.

Sec. 16.43.170. Transfer of entry permits. (a) Entry permits and interim-use permits are transferable only through the commission as provided in this section and § 330 of this chapter and under regulations adopted by the commission.

(b) Except as provided in (c) of this section, the holder of an entry permit may transfer his permit to another person or to the commission upon 60 days notice of intent to transfer under regulations adopted by the commission. No sooner than 60 days nor later than 12 months from the date of notice to the commission, the holder of an entry permit may transfer his permit, if the proposed transferee, other than the commission, can establish present ability to participate actively in the fishery, the commission shall approve the transfer and reissue the entry permit to the transferee.

(c) If the number of outstanding entry permits for a fishery is greater than the optimum number of entry permits established under §§ 290 — 300 of this chapter, the holder of an entry permit who qualified for that entry permit in a priority classification designated under § 250(c) of this chapter may transfer his permit only to the commission. The transfer to the commission shall be made under the buy-back provisions of §§ 310 — 320 of this chapter.

(d) Repealed by § 9 ch 73 SLA 1977. (§ 1 ch 79 SLA 1973; am § 1 ch 126 SLA 1974; am §§ 3, 4, 9 ch 73 SLA 1977)

Effect of amendments. — The 1974 amendment, in subsection (b), substituted "60 days" for "six months" in the first and second sentences and "12 months" for "eighteen months" in the second sentence.

The 1977 amendment substituted "Entry permits and interim-use permits are" for "an entry permit is" at the beginning of subsection (a), deleted and (d)" following "Except as provided in (c)" near the beginning of the first sentence of subsection (b), and repealed subsection (d), which provided for a five-year prohibition on transfer of entry permit if an applicant eligible for such permit under AS 16.43.260 so elected.

Cited in Isakson v. Rickey, Sup. Ct. Op. No. 1267 (File No. 2550), 550 P.2d 359 (1976).

Sec. 16.43.180. Emergency transfers. (a) The commission shall adopt regulations providing for the temporary transfer of entry permits and interim-use permits to alleviate hardship caused by illness, disability, or death of a permit holder so that another person may operate the transferor's vessel and gear, or another vessel and other gear if the transferor's has been destroyed or seriously damaged, for the remainder of the season, or in the case of illness or disability, for the duration of the illness or disability if that is shorter than the remainder of the season. Interim-use permits are otherwise nontransferable.

(b) The commission shall adopt regulations providing for the temporary transfer of an entry permit upon the death of the permittee pending final disposition of the permit as a part of the permittee's estate. (§ 1 ch 79 SLA 1973; am § 5 ch 73 SLA 1977)

Effect of amendment. — The 1977 amendment substituted the language beginning "entry permits and interim-use permits" for "an entry permit when sickness, injury, or other unavoidable hardship prevents the permittee from participating in the fishery" in the first sentence of subsection (a) and added the second sentence of that subsection.

Sec. 16.43.182. Entry permit deductible as business expense. An entry permit purchased under this chapter is deductible as a business expense as provided in AS 43.20.031(h). (§ 6 ch 73 SLA 1977)

Article 4. Initial Issuance of Entry Permits.

Section
200 Administrative areas
210 Interim-use permit; qualifications
220 Terms and conditions of interim-use permits
230 Designation of distressed fisheries
240 Determination of the maximum number of entry permits for initial issue
250 Standards for initial issue of entry permits
260 Application for initial issue of entry permits
270 Initial issuance of entry permits

Sec. 16.43.200. Administrative areas. (a) The commission shall establish administrative areas suitable for regulating and controlling

entry into the commercial fisheries. The commission shall make the administrative areas reasonably compatible with the geographic areas for which specific commercial fishing regulations are adopted by the Board of Fisheries.

(b) The commission may modify or change the boundaries of administrative areas when necessary and consistent with the purposes of this chapter. (§ 1 ch 79 SLA 1973; am § 30 ch 206 SLA 1975)

Effect of amendment. — The 1975 amendment substituted "Board of Fisheries" for "Board of Fish and Game" at the end of the second sentence of subsection (a).

Sec. 16.43.210. Interim-use permit; qualifications. (a) Pending the establishment of the maximum number of entry permits under § 240 of this chapter and the issuance of entry permits under § 270 of this chapter, the commission shall issue interim-use permits under regulations promulgated by the commission for each fishery, to all applicants who can establish their present ability to participate actively in the fishery for which they are making application, except as provided under (e) of this section.

(b) Before the issuance of the maximum number of entry permits for a given fishery, the commission may issue an interim-use permit to an applicant who may later become eligible for an entry permit under § 270 of this chapter.

(c) To the extent that the commissioner of fish and game authorizes it under AS 16.05.050(11), the commission may grant an interim-use permit to a person to engage in the commercial taking from a fishery on an experimental basis.

(d) The sustained yield management and economic health of the following fisheries is severly impaired as a result, among other factors, of too many units of gear participating in the commercial harvest:

(1) Bristol Bay registration area — drift gillnet fishery;

(2) Cook Inlet registration area — drift gillnet fishery;

(3) Prince William Sound registration area — drift gillnet fishery.

(e) For a fishery specified under (d) of this section, an interim-use permit may be issued for 1974 only to an applicant who has harvested the fishery resource commercially while holding a gear license issued under AS 16.05.536 — 16.05.670, before January 1, 1973. (§ 1 ch 79 SLA 1973)

Editor's note. — Alaska Statutes 16.05.536 and 16.05.620, referred to in subsection (e), were repealed by § 12, ch. 71, SLA 1972, and § 2, ch. 159, SLA 1968, respectively. Alaska Statutes 16.05.540 — 16.05.650 and 16.05.670, referred to in subsection (e), were repealed by § 19, ch. 105, SLA 1977, effective January 1, 1978.

Sec. 16.43.220. Terms and conditions of interim-use permits. (a) The commission shall adopt regulations specifying the dates and places of application, the procedures to be followed in renewal of the

interim-use permit including the time, place of its renewal, and for any other purpose incident to the administration of interim-use permits for that fishery. An interim-use permit shall expire upon the final determination of the holder's eligibility for an entry permit.

(b) Repealed by § 9 ch 73 SLA 1977.

(c) The holder of an interim-use permit must have the permit in his possession at all times when engaged in the operation of the gear for which it was issued. (§ 1 ch 79 SLA 1973; am § 2 ch 126 SLA 1974; am § 9 ch 73 SLA 1977)

Effect of amendments. — The 1974 amendment, in subsection (b), deleted from the end of the first sentence provisions relating to causes of hardship and to the duration of a temporary transfer of an interim-use permit.

The 1977 amendment repealed subsection (b), which read "The commission shall adopt regulations for the temporary transfer of interim-use permits to alleviate hardship. Interim-use permits are otherwise nontransferable."

Sec. 16.43.230. Designation of distressed fisheries. Pending the determination of maximum numbers of entry permits under § 240 of this chapter and before the initial issue of entry permits under § 270 of this chapter, the commission shall designate as distressed fisheries those for which it estimates that the optimum number of entry permits will be less than the highest number of units of gear fished in that fishery during any one of the four years immediately preceding January 1, 1973. (§ 1 ch 79 SLA 1973)

Sec. 16.43.240. Determination of the maximum number of entry permits for initial issue. (a) Except as provided in § 270(a) of this chapter, the maximum number of entry permits for a distressed fishery designated under § 230 of this chapter shall be the highest number of units of gear fished in that fishery during any one of the four years immediately preceding January 1, 1973.

(b) When the commission finds that a fishery not designated as a distressed fishery under § 230 of this chapter has reached levels of participation which require the limitation of entry in order to achieve the purposes of this chapter, the commission shall establish the maximum number of entry permits for that fishery. (§ 1 ch 79 SLA 1973)

Sec. 16.43.250. Standards for initial issue of entry permits. (a) Following the establishment of the maximum number of units of gear for a particular fishery under § 240 of this chapter, the commission shall adopt regulations establishing qualifications for ranking applicants for entry permits according to the degree of hardship which they would suffer by exclusion from the fishery. The regulations shall define priority classifications of similarly situated applicants based upon a reasonable balance of the following hardship standards:

(1) degree of economic dependence upon the fishery, including but not limited to percentage of income derived from the fishery, reliance on

alternative occupations, availability of alternative occupations, investment in vessels and gear;

(2) extent of past participation in the fishery, including but not limited to the number of years participation in the fishery, and the consistency of participation during each year.

(b) The commission shall designate in the regulations those priority classifications of applicants who would suffer significant economic hardship by exclusion from the fishery.

(c) The commission shall designate in the regulations those priority classifications of applicants who would suffer only minor economic hardship by exclusion from the fishery. (§ 1 ch 79 SLA 1973)

Determinative factor in allocation of initial permits. — The legislative history rather clearly demonstrates that from the outset the framers of this legislation intended "hardship" to be the determinative factor in the allocation of the initial free limited entry permits. Isakson v. Rickey, Sup. Ct. Op. No. 1267 (File No. 2550), 550 P.2d 359 (1976).

Sec. 16.43.260. Application for initial issue of entry permits. (a) The commission shall accept applications for entry permits only from applicants who have harvested fishery resources commercially while participating in the fishery as holders of gear licenses issued under AS 16.05.536 — 16.05.670 before the qualification date established in (d) or (e) of this section.

(b) The commission shall establish the opening and closing dates, places and form of application for entry permits for each fishery. The commission may require the submission of specific verified evidence establishing the applicant's qualifications under the regulations adopted under § 250 of this chapter.

(c) When an applicant is unable to establish his qualifications for an entry permit by submitting the specific verified evidence required in the application by the commission, he may request and obtain an administrative adjudication of his application according to the procedures established in § 110(b) of this chapter. At the hearing he may present alternative evidence of his qualifications for an entry permit.

(d) Except as provided in (e) of this section, an applicant shall be assigned to a priority classification based solely upon his qualifications as of January 1, 1973.

(e) When the commission establishes the maximum number of entry permits for a particular fishery under § 240 of this chapter after January 1, 1975, an applicant shall be assigned to a priority classification based solely upon his qualifications as of January 1 of the year during which the commission establishes the maximum number of entry permits for the fishery for which application is made. (§ 1 ch 79 SLA 1973; am § 3 ch 126 SLA 1974)

Editor's note. — Alaska Statutes 16.05.536 and 16.05.620, referred to above, were repealed by § 12, ch. 7 SLA 1972, and § 2, ch. 169, SLA 1968, respectively.

Alaska Statutes 16.05.540 through 16.05.650 and 16.05.670, referred to above, were repealed by § 19, ch. 105, SLA 1977, effective January 1, 1978.

Effect of amendment. — The 1974 amendment substituted "the qualification date established in (d) or (e) of this section" for "January 1, 1973" at the end of subsection (a).

Subsection (a) is unconstitutional. — Subsection (a), which limits applications for entry permits to persons holding gear licenses prior to January 1, 1973, violates the equal protection rights, guaranteed by the state and federal constitutions, of commercial fishermen who obtained gear licenses after January 1, 1973. Isakson v. Rickey, Sup. Ct. Op. No. 1267 (File No. 2550), 550 P.2d 359 (1976).

Holding a gear license before January 1, 1973, does not bear a fair and substantial relation to the purpose of the legislation, which is the segregation of hardship and nonhardship cases. Isakson v. Rickey, Sup. Ct. Op. No. 1267 (File No. 2550), 550 P.2d 359 (1976).

Because persons are automatically excluded from the class eligible to apply for permits, in spite of active participation and economic dependence upon the fishery, the January 1, 1973 classification is under-inclusive with respect to persons allowed to apply for permits. Because persons who have long since retired and have no economic dependence upon the fishery as of the cutoff date are allowed to apply for entry permits, the classification is overbroad with respect to those allowed to apply. Isakson v. Rickey, Sup. Ct. Op. No. 1267 (File No. 2550), 550 P.2d 359 (1976).

Purpose of provision in subsection (a) limiting applications. — In essence, the purpose of the provision in subsection (a) limiting applications for entry permits to those holding gear licenses prior to January 1, 1973, was to segregate hardship and nonhardship cases at the application phase of the permit issuance process. Isakson v. Rickey, Sup. Ct. Op. No. 1267 (File No. 2550), 550 P.2d 359 (1976).

Subsection (a) was not intended to modify the allocation policy of the legislation, but rather was adopted to further that policy by simplifying the ranking process. Isakson v. Rickey, Sup. Ct. Op. No. 1267 (File No. 2550), 550 P.2d 359 (1976).

When the act is viewed as a whole, it becomes apparent that the contested provision in subsection (a) was inserted because it was assumed that those persons who obtained gear licenses after January 1, 1973, would be unable to demonstrate the requisite hardship for an entry permit. Hence, for the sake of administrative convenience, it was decided that they need not even submit applications to the commission. Isakson v. Rickey, Sup. Ct. Op. No. 1267 (File No. 2550), 550 P.2d 359 (1976).

Sec. 16.43.270. Initial issuance of entry permits. (a) The commission shall issue entry permits, for each fishery, first to all qualified applicants in the priority classifications designated under § 250(b) of this chapter and then to qualified applicants in order of descending priority classification, until the number of entry permits issued equals the maximum number of entry permits established under §§ 230 — 240 of this chapter for each fishery, except that no person within a priority classification specified under § 250(b) of this chapter may be denied an entry permit.

(b) If, within the lowest priority classification of qualified applicants to which some entry permits may be issued, there are more applicants than there are entry permits to be issued, then the allocation of entry permits within that priority classification shall be by lottery.

(c) If, at the time entry permits are issued, some applicants are still appealing the findings of an administrative adjudication under § 260 of this chapter, a sufficient number of permits shall be reserved out of the permits to be issued to protect the rights of those applicants, assuming all the appeals will be resolved in favor of the applicants. In the event that all appeals are not resolved in favor of the applicants, the remaining

entry permits shall be allocated to the next most qualified applicants as provided in (a) and (b) of this section. (§ 1 ch 79 SLA 1973)

Article 5. Reduction to Optimum Number of Entry Permits.

Section
290. Optimum number of entry permits
300. Revisions of optimum number of entry permits
310. Establishment of buy-back funds
320. Administration of the buy-back program
330. Issuance of new entry permits

Sec. 16.43.290. Optimum number of entry permits. Following the issuance of entry permits under § 270 of this chapter, the commission shall establish the optimum number of entry permits for each fishery based upon a reasonable balance of the following general standards:

(1) the number of entry permits sufficient to maintain an economically healthy fishery that will result in a reasonable average rate of economic return to the fishermen participating in that fishery, considering time fished and necessary investments in vessels and gear;

(2) the number of entry permits necessary to harvest the allowable commercial take of the fishery resource during all years in an orderly, efficient manner, and consistent with sound fishery management techniques;

(3) the number of entry permits sufficient to avoid serious economic hardship to those currently engaged in the fishery, considering other economic opportunities reasonably available to them. (§ 1 ch 79 SLA 1973)

Sec. 16.43.300. Revisions of optimum number of entry permits. (a) The commission may increase or decrease the optimum number of entry permits for a fishery when one or more of the following conditions makes a change desirable considering the purposes of this chapter:

(1) an established long-term change in the biological condition of the fishery has occurred which substantially alters the optimum number of entry permits permissible applying the standards set out in § 290 of this chapter;

(2) an established long-term change in market conditions has occurred, directly affecting the fishery, which substantially alters the optimum number of entry permits permissible under the standards set out in § 290 of this chapter.

(b) If the commission decreases the optimum number of entry permits for a fishery, the number of entry permits may be reduced only under the voluntary buy-back provisions set out in §§ 310 — 320 of this chapter. (§ 1 ch 79 SLA 1973)

Sec. 16.43.310. Establishment of buy-back funds. (a) When the optimum number of entry permits is less than the number of entry

permits outstanding in a fishery, the commission shall establish and administer a buy-back fund for that fishery for the purpose of reducing the number of entry permits to the optimum number within no more than 10 years, at a rate to be established by the commission.

(b) For each buy-back fund, the commission shall adopt regulations establishing annual assessments on holders of entry permits of not more than seven per cent of the gross value of the total annual catch attributable to a holder's entry permit, except that the holder of a permit who has made no commercial landings in a given year will be assessed the average assessed all other holders of the same type of permit in that year. Assessments will be paid into the specific buy-back fund for which they are collected.

(c) Assessments need not equal annual buy-back fund expenditures within a particular fishery but shall be continued until the buy-back fund for that fishery has been reimbursed. (§ 1 ch 79 SLA 1973)

Sec. 16.43.320. Administration of the buy-back program. (a) The commission shall adopt regulations providing for the purchase of entry permits, vessels, and gear at fair market value with money accumulated in the buy-back fund for each fishery. The buy-back program for a fishery shall terminate when the number of entry permits is reduced to the optimum and the buy-back fund has been reimbursed.

(b) When entry permits subject to the restrictions in § 250(c) of this chapter and the vessels and gear related to those permits are offered for sale to the commission, the commission shall purchase the permits and related vessels and gear at fair market value, if sufficient funds are available in the appropriate buy-back fund. (§ 1 ch 79 SLA 1973)

Sec. 16.43.330. Issuance of new entry permits. (a) When the number of outstanding entry permits for a fishery is less than the optimum number established under § 290 of this chapter, the commission shall issue new entry permits to applicants who are presently able to engage actively in the fishery until the optimum number is reached.

(b) The commission shall determine equitable methods of issuance, as appropriate, under (a) of this section that assure the receipt of fair market value for the permits issued. (§ 1 ch 79 SLA 1973)

Article 6. General Provisions.

Section
350. Applications of regulations of Board of Fisheries
360. Penalties
370. Recommendations to the legislature
380. Definitions

Sec. 16.43.350. Applications of regulations of Board of Fisheries. Nothing in this chapter limits the powers of the Board of Fisheries, including the power to determine legal types of gear and the power to establish size limitations or other uniform restrictions applying to a

certain type of gear. Holders of interim-use permits or entry permits issued under this chapter are subject to all regulations adopted by the Board of Fisheries. (§ 1 ch 79 SLA 1973; am § 31 ch 206 SLA 1975)

Effect of amendment. — The 1975 amendment substituted "Board of Fisheries" for "Board of Fish and Game" in the first and second sentences.

Sec. 16.43.360. Penalties. (a) A person who violates a provision of this chapter or a regulation promulgated under this chapter, upon conviction, is guilty of a misdemeanor and is punishable by a fine of not more than $5,000 for a first conviction; a fine of not more than $10,000 for a second conviction; and, for a third conviction, a fine of not more than $10,000 as well as forfeiture of all interim-use permits and entry permits held by him and permanent loss of eligibility for interim-use permits or for entry permits.

(b) A person who makes a false statement of a material fact in the application for an interim-use permit or an entry permit or in the application for a transfer under §§ 170 — 180 of this chapter, or a person who assists another by making a false statement of a material fact in support of the other person's application for issuance of an interim-use permit or an entry permit or transfer of an entry permit, upon conviction, is guilty of a misdemeanor and shall forfeit all interim-use permits and entry permits held by him and shall lose eligibility for interim-use permits and for entry permits for a period of five years.

(c) If a permit holder is convicted of a violation of AS 43.20.335 and the violation relates to income derived from commercial fishing under this title, he shall forfeit all interim-use permits and entry permits held by him and shall lose eligibility for interim-use permits and for entry permits for a period of five years.

(d) If a permit holder is charged by the state with violating a provision of this chapter or a regulation adopted under this chapter, he may not transfer, under § 170 of this chapter, any interim-use or entry permit he may hold, until after the final adjudication or dismissal of the charges. (§ 1 ch 79 SLA 1973; am § 7 ch 73 SLA 1977)

Effect of amendment. — The 1977 amendment added subsection (d).

Sec. 16.43.370. Recommendations to the legislature. (a) The commission shall submit an annual report to the legislature. The report shall include but not be limited to the following:

(1) a progress report on the reduction of entry permits to optimum levels;

(2) recommendations for additional legislation relating to the regulation of entry into Alaska commercial fisheries.

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(b) The commission shall study alternative methods of permit transferability and report its findings and recommendations to the legislature before Janaury 15, 1975. (§ 1 ch 79 SLA 1973)

Sec. 16.43.380. Definitions. In this chapter

(1) "commission" means the Alaska Commercial Fisheries Entry Commission;

(2) "economically healthy fishery" means a fishery that yields a sufficient rate of economic return to the fishermen participating in it to provide for, among other things, the following:

(A) maintenance of vessels and gear in satisfactory and safe operating condition; and

(B) ability and opportunity to improve vessels, gear and fishing techniques, including, when permissible, experimentation with new vessels, new gear, and new techniques;

(3) "fishery" means the commercial taking of a specific fishery resource in a specific administrative area with a specific type of gear;

(4) "gear" means the specific apparatus used in the commercial harvest of a species, including but not limited to purse seines, drift gill nets, set gill nets, and troll gear;

(5) "person" means a natural person and does not include a corporation, company, partnership, firm, association, organization, business trust, or society;

(6) "present ability to actively participate" means the person applying for a permit is physically able to harvest fish in the fishery and has reasonable access to commercial fishing gear of the type utilized in that fishery;

(7) "priority classification" means the allocation of potential permit applicants into reasonable groupings of similarly situated applicants and the priority ranking of those groupings according to the extent to which they satisfy the standards of preference;

(8) "type of gear" means a customary and identifiable classification of gear and shall include:

(A) those classifications for which separate regulations are adopted by the Board of Fisheries and for which separate gear licenses are required by AS 16.05.550 — 16.05.630; and

(B) distinct subclassifications of gear such as "power" troll gear and "hand" troll gear;

(9) "unit of gear" means the maximum amount of a specific type of gear which can be fished under a single gear license subject to regulations established by the Board of Fisheries defining the legal requirements for that type of gear. (§ 1 ch 79 SLA 1973; am §§ 32, 33 ch 206 SLA 1975)

Effect of amendment. — The 1975 amendment substituted "Board of Fisheries" for "Board of Fish and Game" in paragraphs (8)(A) and (9).

Editor's note. — Alaska Statutes 16.05.550 — 16.05.630, referred to in paragraph (8)(A), were repealed by § 19, ch. 105, SLA 1977, effective Janaury 1,

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

CODE OF BY-LAWS

OF

ALASKA COMMERCIAL FISHING AND AGRICULTURE BANK

ARTICLE I

Offices and Registered Agent

Section 1. Business Offices. The principal business office of the Alaska Commercial Fishing and Agriculture Bank (hereinafter referred to as the "Cooperative") shall be at the Alaska Department of Commerce & Economic Development, 9th Floor, New State Office Building, 333 Willoughby Avenue, Juneau, Alaska or at such other location in the State of Alaska as the Board of Directors may designate by resolution. The Cooperative may have such other business offices, either within or without the State of Alaska, as the Board of Directors may designate or as the business of the Cooperative may require from time to time.

Section 2. Registered Office And Agent. The registered office of the Cooperative required by the Alaska Cooperative Corporation Act (the "Act") to be maintained in the State of Alaska may be, but need not be, identical with the principal business office. The address of the registered office and the designation of the Cooperative's registered agent may be changed from time to time by the Board of Directors by resolution and upon filing a notice of such change with the Department of Commerce and Economic Development as required by law.

ARTICLE II

Members and Shareholders

Section 1. Annual Meeting. The annual meeting of the members shall be held on the second Tuesday after the first Monday in the month of November in each year, beginning with the year 1979, at the hour of 10:00 o'clock A.M., for the purpose of electing directors and for the transaction of such other business as may come before the meeting. If the day fixed for the annual meeting shall be a legal holiday in the State of Alaska, such meeting shall be held on the next succeeding business day. If the election of directors shall not be held on the day designated herein or any annual meeting of the members, or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the members as soon thereafter as it conveniently may be held.

Section 2. Special Meetings. Special meetings of the members, for any stated purpose or purposes, unless otherwise prescribed by statute, may be called by the President or by the Board of Directors, and shall be called by the Secretary upon the filing of a petition by not less than 10 percent (10%) of the members of the Cooperative entitled to vote at the meeting, which petition shall state the business to be brought before the meeting.

Section 3. Place of Meeting. The Board of Directors may designate any place, either within or without the State of Alaska, as the place of meeting for any annual meeting or for any special meeting called by the Board of Directors. A waiver of notice signed by all members entitled to vote at a meeting may designate any place, either within or without the State of Alaska, as the place for the holding of such meeting. If no designation is made, or if a special meeting be otherwise called, the place of meeting shall be the principal business office of the Cooperative in the State of Alaska.

Section 4. Notice of Meetings To Members. Written notice stating the place, day and hour of the meeting, and in case of a special meeting, the purpose or purposes for which the meeting is called, shall, unless otherwise prescribed by statute, be delivered not less than seven, nor more than thirty days before the date of the meeting, either personally or by mail, by or at the direction of the President, or the Secretary, or the persons calling the meeting, to each member or to each shareholder entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member or shareholder at his address as it appears on the records of the Cooperative, with postage thereon prepaid.

Section 5. Public Notice of Meetings. Not more than two weeks and not less than five days before each meeting, the Cooperative will give public notice of the time, place, and subject of the meeting. Notice will be given by advertisement in a newspaper of general circulation.

Section 6. Closing of Transfer Books or Fixing of Record Date. For the purpose of determining members or shareholders entitled to notice of or to vote at any meeting or any adjournment thereof, or shareholders entitled to receive payment of any dividend, or in order to make a determination of members or shareholders for any other proper purpose, the record date for any such determination of members or stockholders shall be thirty (30) days prior to the date on which the particular action requiring such determination

of members or shareholders is to be taken. When a determination of members or shareholders entitled to vote at any meeting has been made as provided in this section, such determination shall apply to any adjournment thereof.

Section 7. Voting Lists. The officer or agent having charge of the stock transfer books for shares of the Cooperative shall make a complete list of the members or shareholders entitled to vote at each meeting or any adjournment thereof, arranged in alphabetical order, with the address of and the number of shares of each class held by each. Such list shall be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any member or shareholder during the whole time of the meeting for the purposes thereof.

Section 8. Quorum. Ten (10) percent of the members of the Cooperative entitled to vote, represented in person, shall constitute a quorum at an annual or special meeting. If less than a quorum is present at a meeting, a majority of the members present may adjourn the meeting from time to time without further notice. At such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally noticed. The members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

Section 9. Proxies. Members may not vote by proxy. However, a member that is a corporation, partnership or joint venture may designate a representative to cast its vote. In the absence of written notice that a person has been designated to represent a member which is other than a natural person, the member may be represented by any of its principal officers.

Section 10. Voting Restrictions. No member shall be entitled to more than one vote upon each matter submitted to a vote at an annual or special meeting, regardless of the number of shares of stock in this Cooperative which such member may own, except as specifically provided in the Act and the Cooperative's Articles of Incorporation. At each election for directors, every member entitled to vote at such election shall have the right to one vote for each director position then being voted upon, but he shall not be entitled to cumulate his votes.

Section 11. Voter Qualifications. In order to vote, a member must at the time of such vote be engaged in

the commercial fishing or farming industry and be a current bonafide producer, harvester, processor, or marketer of agricultural or acquatic products within the State of Alaska, and in addition thereto, must be a current patron of this Cooperative and a borrower from the Cooperative during the calendar year. In the event that a member shall fail to qualify as a current producer, harvester, processor, or marketer and patron as herein required, such member shall, during such non-qualifying period, have no rights in the management of affairs of the Cooperative other than the right to participate, in accordance with the law, in case of an amendment of the Articles of Incorporation affecting Preferred Shareholders (Class B), or dissolution, or sale or other disposition of entire assets and to receive the par value of his stock in the event of a sale or transfer of such stock as provided in the Articles of Incorporation.

Section 12. Shareholder Warranty. By subscribing or applying for, or becoming a holder and owner of record of Membership Stock (Class A) of this Cooperative, each subscriber, applicant or owner or holder of record or acceptor expressly warrants that he is, or will at once become and continue to be eligible to be a member of this Cooperative, and expressly agrees that if and when the Board of Directors finds him to be ineligible as a member, that during the period of such ineligibility he shall have no voice or right in the management of the affairs of this Cooperative and all such management shall be determined and conducted as though such subscription or application for, or issuance of, such stock has never been made.

Section 13. Voting By Mail. The Board of Directors may submit by mail ballot any question to be voted on at a member meeting, including the election of directors. In this event the Secretary shall mail to each member, along with the notice of the meeting, the ballot on each question and a voting envelope. The ballot shall be cast in a sealed envelope authenticated by the member's signature. A vote cast by mail shall be counted as if the member were present and voting in person.

Section 14. Copies of Articles and By-Laws. Every member shall be provided a copy of the Cooperative's Articles and By-Laws upon first becoming a member. Copies of all amendments to the Articles of Incorporation and By-Laws shall be distributed to all members upon the adoption of such amendments.

ARTICLE III

Board of Directors

Section 1. General Powers. The assets, including the business and affairs of the Cooperative shall be managed by its Board of Directors.

Section 2. Number and Tenure. The management of this Cooperative shall be vested in a board of five (5) directors, who shall initially be appointed by the Governor of Alaska pursuant to AS 44.55.010 and AS 44.55.090.

Initial terms shall be two members serving for one (1) year, two members serving for two (2) years, and one member serving for three (3) years. Thereafter directors shall be elected by the members at the annual meeting and shall hold office for three (3) years and until a successor shall have been elected and qualified.

Section 3. Director Qualifications. Each director, except those directors initially appointed pursuant to AS 44.55.010, shall be a member of this Cooperative or the authorized representative of a corporation, partnership or joint venture which is a member of this Cooperative. All directors at the time of their election and at all times during the term of their office shall, either individually or through the entity which they represent, meet the voting restrictions and voting qualifications and stock ownership requirements imposed upon the members of this Cooperative pursuant to its Articles of Incorporation and By-Laws.

Section 4. Regular Meetings. A regular meeting of the Board of Directors shall be held without other notice than this By-Law immediately after, and at the same place as, the annual meeting of members. The Board of Directors may provide, by resolution, the time and place, either within or without the State of Alaska, for the holding of additional regular meetings without other notice than such resolution.

Section 5. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or any two directors. The person or persons authorized to call special meetings of the Board of Directors may fix any place, either within or without the State of Alaska, as the place for holding any special meeting of the Board of Directors called by them.

Section 6. Notice To Directors. Notice of any special meeting or of any regular meeting except as provided in Article III, Section 4, of these By-Laws shall be given at least five days previously thereto by written notice delivered personally or mailed to each Director at his business address, or by telegram. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any director may waive notice of any meeting. The attendance of a director shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

Section 7. Public Notice of Meetings. Notwithstanding any other provisions of these By-Laws, not more than two weeks and not less than five days before each meeting, the Cooperative will give public notice of the time, place, and subject of the meeting. Notice will be given by advertisement in a newspaper of general circulation.

Section 8. Quorum. A majority of the number of Directors fixed by Section 2, of this Article III, shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, but if less than such majority is present at a meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

Section 9. Manner of Acting. The act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 10. Vacancies. Any vacancy occuring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining directors, except that in the case of directors appointed by the Governor of Alaska pursuant to AS 44.55.010 and AS 44.55.090, any unexpired term shall be filled by a new director appointed by the Governor.

Section 11. Executive Director And Employees. The Board of Directors shall have the power to hire and determine the salary of an Executive Director. The Executive Director

shall be responsible for the ordinary business of the Cooperative. The Executive Director, with the approval of the Board of Directors, may hire and determine the salary of employees reasonably necessary for the efficient performance of the duties of the Cooperative.

Section 12. Compensation of Board Members. Members of th Board of Directors shall receive compensation at a rate determined by the Board for each day the Board meets if they attend the meeting. Directors are also entitled to per diem and travel allowances as provided by law for members of State of Alaska boards and commissions.

Section 13. Indemnification. The Cooperative shall indemnify each director, officer and employee (and his heirs, executors and administrator) against all liabilities and related expenses incurred by him in connection with or arising out of any action, suit, or proceeding brought against him by reason of any act or omission in the performance of his official duties as such director, officer of employee of the Cooperative (whether or not he continues to be a director, officer or employee at the time of incurring such expenses or liabilities). Such expenses and liabilities shall include, but not be limited to, court costs and attorney's fees, judgments and the cost of reasonable settlements. The Cooperative shall not, however, indemnify such director, officer or employee against either expenses or liabilities with respect to matters as to which he shall be determined by the Board of Directors or at final adjudication to be liable for negligence or misconduct in the performance of his official duties. Indemnification in the event of a settlement or compromise shall, as to directors, be subject to the prior approval of the members at a duly called annual or special meeting and, as to officers and employees, be subject to prior approval by the Board of Directors. The foregoing right of indemnification shall not be exclusive of other rights to which any director, officer or employee may be entitled as a matter of law.

ARTICLE V

Officers

Section 1. Number. The officers of the Cooperative shall be a President (who is also the Chairman of the Board of Directors), a Vice-President, a Secretary, and a Treasurer, each of whom shall be elected by the Board of Directors. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the Board of Directors. The Secretary

and the Treasurer need not be directors of the Cooperative and the offices may be combined in one person.

Section 2. Election and Term of Office. The officers of the Cooperative to be elected by the Board of Directors shall be elected annually by the Board of Directors at the first meeting of the Board of Directors held after each annual meeting of the members. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as it conveniently may be held. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he shall resign or shall have been removed in the manner hereinafter provided.

Section 3. Removal. Any officer, employee or agent may be removed by the Board of Directors whenever in its judgment, the best interests of the Cooperative will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer, employee or agent shall not of itself create contract rights.

Section 4. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for a term of office continuing only until the next election of directors by members.

Section 5. Bond. The directors may, at their discretion, require any or all officers and employees of the Cooperative to furnish such fidelity bond or bonds as the directors may determine; the Cooperative to pay all premium charges on such bonds furnished.

Section 6. The President. The President shall be the principal executive officer of the Cooperative. He shall, when present, preside at all meetings of the members and of the Board of Directors. He may sign, with the Secretary or any other proper officer of the Cooperative thereunto authorized by the Board of Directors, certificates for shares of the Cooperative, any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these By-Laws to some other officer or agent of the Cooperative, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

Section 7. The Vice President. In the absence of the President or in the event of his death, inability or refusal to act, the Vice President shall perform the duties of the President and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice President may sign, with the Secretary or an Assistant Secretary, certificates for shares of the Cooperative; and shall perform such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 8. The Secretary. The Secretary shall: (a) keep the minutes of the proceedings of the members and of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law; (c) be custodian of the Cooperative records and of the seal of the Cooperative and see that the seal of the Cooperative is affixed to all documents the execution of which on behalf of the Cooperative under its seal is duly authorized; (d) keep a register of the post office address of each member and shareholder; (e) sign with the President or Vice President certificates for shares of the Cooperative, the issuance of which shall have been authorized by resolution of the Board of Directors; (f) have general charge of the stock transfer books of the Cooperative; and (g) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 9. The Treasurer. The Treasurer shall: (a) have charge of and be responsible for all funds and securities of the Cooperative; (b) receive and give receipts for monies due and payable to the Cooperative from any source whatsoever, and deposit all such monies in the name of the Cooperative in such banks, trust companies or other depositaries as shall be selected in accordance with the provisions of Article X of these By-Laws; and (c) in general perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 10. Assistant Secretaries and Assistant Treasurers. The Assistant Secretaries, when authorized by the Board of Directors, may sign with the President or Vice President certificates for shares of the Cooperative the issuance of which shall have been authorized by a resolution of the Board of Directors. The Assistant Treasurers

shall, if required by the Board of Directors, give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine. The Assistant Secretaries and Assistant Treasurers, in general, shall perform such duties as shall be assigned to them by the Secretary or the Treasurer, respectively, or by the President or the Board of Directors.

Section 11. The Executive Director. The Executive Director shall be the chief administrative officer of the Cooperative in control of all administrative functions and in general charge of all of the ordinary business of the Cooperative. His powers shall include the right and authority to make and deliver receipts for the payment of any indebtedness owing and paid to the Cooperative and to execute valid releases of any and all security instruments or mortgage liens given to the Cooperative as security for such indebtedness.

ARTICLE VI

Loans To Members

Each borrower at the time a loan is advanced shall own one share of Membership Stock (Class A) and shall be required to invest in Preferred Stock (Class B) at the time the loan is closed or from time to time, but the amount of Class B Stock required to be purchased when the loan is closed shall not exceed 10 percent of the face amount of the loan. The additional stock requirements may be based on the face amount of the loan, the outstanding loan balance, or on a percentage of interest payable by the borrower during any year or any quarter thereof, not in excess of 25 percent of such interest, or on such other basis as may be determined by the Board of Directors but shall, in any event, be in accordance with the schedule of maximum amounts adopted by the Board of Directors based upon proportional ownership of shares. Stock requirements shall provide adequate capital for the operation of the Cooperative and equitable ownership among borrowers. All stock purchased under this paragraph, whatever formula is employed to determine the required amount, is conclusively presumed for the purposes of the Cooperative to be an investment in the capital of the Cooperative and not earnings. Each borrower may also be required from time to time by the Board of Directors to make payments into the Reserve Fund established by Article VIII of these By-Laws.

ARTICLE VII

Savings

Section 1. Allocation of Savings. The Cooperative is hereby obligated to allocate to the members who patronize

it the net patronage savings as defined in Section 4 of this Article for each fiscal year on a patronage basis, which allocation shall be paid in whole or in part in cash, or in whole or in part in credits, as hereinafter stated. The amount allocated to each patron member of the Cooperative and not paid in cash shall be credited to Retained Patronage Earnings in the name of such patron member on the books of the Cooperative. All amounts so credited to any patron member of the Cooperative shall have the same status as though the amount so credited had been paid in cash to the patron member and the patron member had then furnished a corresponding amount of capital to the Cooperative. As soon as practicable after the close of each fiscal year, a statement shall be issued to each patron member showing the amount of Retained Patronage Earnings that said patron member has been credited with by the Cooperative in that fiscal year.

Section 2. Refunding of Excess Retained Patronage Earnings. In order to further the cooperative character of this corporation, it shall refund its Retained Patronage Earnings at such time as the Board of Directors finds that the financial condition of the Cooperative will so permit. The Board of Directors of the Cooperative shall annually determine the capital requirements of the Cooperative and after so doing shall review the capital made available by each patron to the Cooperative. If the Board of Directors determines that a patron has contributed capital in excess of his proportionate share of the total capital requirement of the Cooperative, said excess may be refunded to the patron as funds are available. In so doing, the Board of Directors may establish priorities, based upon the percentage of excess capital, for payments to patrons who the Board determine have contributed capital in excess of their proportionate share.

Section 3. Allocation Of Losses. Whenever a net patronage loss occurs, said loss shall be borne, insofar as possible, by patrons in the year of said loss in accordance with their respective patronage with the Cooperative during the year of said loss and shall be charged to said patron member's capital accounts in the following manner and order:

(1) Against the Retained Patronage Earnings standing to the credit of said patron member or to which he may be entitled, until such loss is satisfied in full or the Retained Patronage Earnings or other amounts to which he may be entitled, have been fully depleted.

(2) After fully depleting the Retained Patronage Earnings, the balance of the loss shall next be applied against the Reserve Fund standing to the credit of said patron member or to which he may be entitled, as provided in Article VIII, Section 1 of these By-Laws.

(3) If the applications set out in subsections (1) and (2) above are not sufficient to fully satisfy the loss so allocated to any patron member, the balance of the loss remaining shall be borne by the patron member to whom said loss has been allocated and/or all patron members of the Cooperative on as equitable a basis as the Board of Directors in its sole discretion finds practicable.

The principle on which this section is based is that the Cooperative is operating at cost and that any charge made against the Retained Patronage Earnings or any other capital funds constitutes an additional assessment to the patron members to cover said deficiencies. Whenever a net non-patronage loss occurs, the Cooperative shall first apply said loss, to the extent allowable, in accordance with the carry back and carry forward provisions of the applicable income tax codes and regulations. Any balance remaining may be charged to the members Retained Patronage Earnings or Reserve Fund as determined by the Board of Directors.

Section 4. Definitions. As used in these By-Laws the term:

(a) "Net Patronage Savings" means the excess of income directly related to loans made to borrowers, less applicable expenses as provided by the income tax codes and regulations, less any amount which the Board of Directors, in its sole discretion, may determine should be applied to the repurchase of Class C stock from the State of Alaska pursuant to AS 44.55.010, less any dividends paid upon Class B stock.

(b) "Net Patronage Losses" means the excess of expenses over income directly related to loans made to borrowers as provided by the income tax codes and regulations.

(c) "Net Non-Patronage Income" means the excess of income from sources not related to loans made to borrowers less applicable expenses as provided by the income tax codes and regulations.

(d) "Net Non-Patronage Losses" means the excess of expenses over income not related to loans made to borrowers as provided by the income tax codes and regulations.

Section 5. Tax Reporting. Each person, corporation, partnership or joint venture who becomes a member in this Cooperative, shall by such act alone, consent that the amount of any distributions with respect to any patronage which are made in written notices of allocation with respect to such distributions (as defined in 26 U.S.C. 1388) and which are received by said member from the Cooperative, will be taken into account by said member at their stated dollar amounts in the manner provided in 26 U.S.C. 1385 (a) in the taxable year in which such written notices of allocation with respect to such distributions is received by said member.

Section 6. Lien. The Retained Patronage Earnings standing to the credit of the borrower are the property of the borrower, subject to a first lien to this Cooperative for any indebtedness owed by the holder thereof to the Cooperative and to the dissolution provisions all as provided herein.

Section 7. Consent And Authorization. By becoming a member of the Cooperative a member agrees to be bound by the Savings provisions set forth in this article.

ARTICLE VIII

Reserve Fund

Section 1. Reserve Fund. The Board of Directors may establish and maintain a "Reserve Fund" to be used for bad debts and for losses as set forth herein in Article VII, Section 3. The funds collected may be used as collateral for borrowing or may be loaned by the Cooperative to its members, all at the discretion of the Board of Directors. Each patron member may be required to pay into said fund an amount equal to a percentage, as established from time to time by the Board of Directors, of interest charges on loans made to him by the Cooperative. The funds collected shall be credited in full to a separate capital account known as the Reserve Fund maintained in the name of each patron.

Section 2. Revolving Of Reserve Fund. The Reserve Funds remaining after reduction for losses as provided in Article VII, Section 3 hereof, may be revolved to patron members at the discretion of the Board of Directors. Upon

revolving said fund, the oldest outstanding Reserve Funds by years shall be revolved first.

Section 3. Lien On Reserve Fund. The Reserve Fund standing to the credit of the borrower is the property of said borrower, subject to a first lien to this Cooperative for any indebtedness owed by the holder thereof to the Cooperative, dissolution provisions, bad debts and net patronage losses, all as provided herein.

Section 4. Accounting. The Cooperative shall account to its patrons for the funds collected for the Reserve Fund during the Cooperative's fiscal year. Such accounting shall be made within six months from the close of the fiscal year.

Section 5. Consent And Authorization. By becoming a member of the Cooperative a member agrees to be bound by the Reserve Fund provisions set forth herein.

ARTICLE IX

Dissolution

Section 1. Upon dissolution the assets of this Cooperative shall be distributed as follows:

(1) To pay the cost of dissolution.
(2) To pay any liabilities.
(3) To pay the par value of the outstanding Special Preferred Stock (Class C).
(4) To pay the par value of Preferred Stock (Class B) and any other form of equity certificate outstanding.
(5) To pay the par value of the outstanding Membership Stock (Class A).
(6) To pay the Reserve Fund book entry holders, if and to the extent a Reserve Fund is established pursuant to the By-Laws, in full or pro-rata without priority the face amount of their book entry as shown on the books of the Cooperative.
(7) The balance of all Cooperative assets shall then be distributed, without priority, to the holders of Retained Patronage Earnings, as this term may be defined in the By-Laws, in proportion to their respective credits thereof as shown on the books of the Cooperative.

Section 2. In the case of a vote on a resolution which would dissolve the Cooperative, holder of Class B

Stock may cast one vote, in addition to any vote to which he may be entitled as a member, regardless of the dollar amount of Class B Stock held by him. Passage of such a resolution for dissolution requires a majority of the authorized Class B shareholder votes cast, as well as the affirmative vote of two-thirds of the member votes cast. Dissolution may also occur in any event pursuant to the provisions of AS 44.55.010.

ARTICLE X

Contracts, Loans, Checks And Deposits

Section 1. Contracts. The Board of Directors may authorize any officer or officers, agent or agents, employee or employees, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Cooperative, and such authority may be general or confined to specific instances.

Section 2. Loans. No loans shall be contracted on behalf of the Cooperative and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

Section 3. Checks, Drafts, Etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Cooperative, shall be signed by such officer or officers, agent or agents, employee or employees, of the Cooperative and in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 4. Deposits. All funds of the Cooperative not otherwise employed shall be deposited from time to time to the credit of the Cooperative in such banks, trust companies or other depositaries as the Board of Directors may select.

ARTICLE XI

Certificates For Shares And Their Transfer

Section 1. Certificates For Shares. Certificates representing shares of the Cooperative shall be in such form as shall be determined by the Board of Directors. Such certificates shall be signed by the President or Vice President and by the Secretary or an Assistant Secretary and sealed with the corporate seal or a facsimile thereof. All certificates for shares shall be consecutively numbered or otherwise identified.

The name and address of the person to whom the shares represented thereby are issued, with the number of shares and date of issue, shall be entered on the stock transfer books of the Cooperative. All certificates surrendered to the Cooperative for transfer shall be cancelled and no new certificate shall be issued until the former certificate for a like number of shares shall have been surrendered and cancelled; except that in case of a lost, destroyed or mutilated certificate a new one may be issued therefor upon such terms and indemnity to the Cooperative as the Board of Directors may prescribe.

Section 2. Transfer of Shares. No shares shall be transferred without the prior approval of the Board of Directors. Transfer of shares of the Cooperative shall be made only on the stock transfer books of the Cooperative by the holder of record thereof or by his legal representative, who shall furnish proper evidence of authority to transfer, or by his attorney thereunto authorized by power of attorney duly executed and filed with the Secretary of the Cooperative, and on surrender for cancellation of the certificate for such shares. The person in whose name shares stand on the books of the Cooperative shall be deemed by the Cooperative to be the owner thereof for all purposes.

ARTICLE XII

Miscellaneous Provisions

Section 1. Fiscal Year. The fiscal year of the Cooperative shall begin on the first day of July and end on the thirtieth day of June in each year.

Section 2. Corporate Seal. The Board of Directors shall provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the Cooperative, the year of incorporation, the words "State of Alaska" and the words, "Corporate Seal".

Section 3. Waiver Of Notice. Whenever any notice is required to be given to any member or director of the Cooperative under the provisions of these By-Laws or under the provisions of the Articles of Incorporation or under the provisions of the Act, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE XIII

Amendments

These By-Laws may be altered, amended or repealed and new By-Laws may be adopted by the Board of Directors at any

regular or special meeting of the Board.

Certification

STATE OF ALASKA)
) ss.
_____DISTRICT)

_____ and _____,
being first duly sworn, upon oath, deposes and say: We are the President and Secretary respectively of THE ALASKA COMMERCIAL FISHINC AND AGRICULTURE BANK, an Alaska Cooperative. In our capacity as such officers of the Cooperative, we have reviewed the foregoing By-Laws of the Alaska Commercial Fishing And Agriculture Bank and hereby certify that they correctly set forth the text of the By-Laws of said Cooperative as adopted by the Board of Directors on _____, 1978.

_____
President

_____
Secretary

SUBSCRIBED AND SWORN to before me this ____ day of _____, 1978.

_____
Notary Public in and for Alaska
My Commission Expires:_____

Sec. 4 - AS 44.54.210 POWERS OF THE BANK

This section adds a new paragraph (20) to allow the bank to make loans to qualified commercial fishermen for purchase of limited entry permits.

Sec. 5 - AS 44-54 COMMERCIAL FISHING AND AGRICULTURE BANK

The bill amends this chapter by addition of three new sections:

AS 44.54.230 LOANS FOR PURCHASE OF ALASKA LIMITED ENTRY PERMITS

(a) Provides that loans may be made only to those persons certified by the Limited Entry Commission as qualified.

(b) Provides permits to be used as security for loan under certain conditions and sets out conditions.

(c) Provides for the executive director of bank to certify to Limited Entry Commission when note has been satisfied by debtor.

(d) Provides than Commission list debtor as legal owner of permit upon certification as porvided in (c).

AS 44.54.240 DEFAULT AND FORECLOSURE OF LOANS FOR LIMITED ENTRY PERMITS

(a) Provides for notice of default to be sent to debtor by executive director of bank if debtor defaults on a note for which a permit has been pledged as security and outlines what must be included in the notice of default.

(b) Provides for termination of debtor's equitable interest if he fails to reinstate or satisfy note within time specified in (a). Provides for immediate cancellation of any permit cards issued to debtor under the permit when the Commission receives a certificate of termination containing a copy of the notice of default.

AS 44.54.250 DEFICIENCIES AND TRANSFER OF ENTRY PERMITS AFTER FORECLOSURE

(a) Provides that upon foreclosure of an entry permit the executive director of the bank shall offer the Limited Entry Commission a right of first refusal if the permit is subject to a buy-back program (AS 16.43.[illegible]0 -.330) at a price equal to the amount outstanding on the note plus any costs incurred by the bank in administering the loan.

(b) Provides that bank promptly notify debtor if the Commission does not exercise the right of first refusal within 30 days, or if the permit is not subject to a buy-back program. The debtor then has 30 days to name a qualified person to assume the note. The qualified person may assume all rights and liabilities of the original debtor.

(c) Provides that if debtor cannot name a qualified person to assume the note, the permit must be made available to a qualified person chosen by lottery from a list of qualified persons provided to the bank from the Entry Commission. The executive director of bank shall allow the first applicant meeting all qualifications to assume the note.

(d) Provides that nothing in this section affects the right of the executive director to institute legal action for a deficiency resulting from a default on a note. In addition to any deficiency, the debtor is liable for the costs of administering the note and for costs and attorney fees.

MEMORANDUM

TO: Mr. Richard H. Eakins
Director, Division of
Economic Development
DEPARTMENT OF COMMERCE
& ECONOMIC DEVELOPMENT
Pouch EE
Juneau, Alaska 99811

FROM: Peter Argetsinger
WOHLFORTH & FLINT

DATE: April 6, 1979

RE: Commercial Fishing & Agriculture Bank/Comments On SSHB 30

On April 4, you requested our assistance in preparing a position paper as to SSHB 30 for submission to th Legislature next week. The comments on the subject bill which follow are submitted for your consideration. They are structured in such a way that you need only add introductory and concluding paragraphs and insert a discussion of policy matters as appropriate, particularly in the areas of composition of the Board of Directors (where I sensed a strong feeling at the April 4 meeting in favor of independence) and in the area of the business judgments to be made when considering loans for entry permits which are to be secured by those permits. (Although, perhaps nothing additional need be said on the latter subject.)

Section 1. Addition of the word "Alaska" to the name of the Bank is desirable and, in fact, reflected in the draft Articles of Incorporation and By-Laws of the Bank now under consideration by the Board of Directors.

Section 2. The Board of Directors of the Bank under the present law is composed of five members, initially appointed by the Governor, to serve staggered terms. Following expiration of the initial term, directors are then elected by the member/shareholders of the Bank which under AS 44.54 is organized as a cooperative corporation. AS 10.15.140, to which the Bank is subject, requires that the elected directors be members of the cooperative. Counsel to the Bank have examined the present method of constituting the Board of Directors of the Bank and have advised that,

in their opinion, under Section 103 of the Internal Revenue Code and the regulations thereunder the Bank may not issue tax exempt revenue bonds. In general, this is because in order to issue tax exempt bonds "on behalf of" the State, the Bank must be considered by the Internal Revenue Service to be a "constituted authority". To satisfy this requirement it is necessary that all members of the Bank Board of Directors be public officials of the State, be elected by the voters of the State or be appointed directly by the State. And, the requirement continues for the life of any bonds issued by the Bank.

We have also been advised by counsel that the proposed revision to AS 44.54.020 which would expand the Board of Directors to seven members, three of whom would be appointed by the Governor until such time as the Bank has repurchased all non-voting preferred shares held by the State does not satisfy the IRS criteria either. In order to issue tax exempt revenue bonds it would be necessary that the Board of Directors be composed in its entirety of gubernatorial appointees for the life of any outstanding bonds.

The present formulation of the Board, of course, is quite satisfactory to accomplish the primary purpose envisioned by the Legislature when it established the Bank, i.e., to leverage the bank's capital with the federal farm credit system banks in order to make loans to those engaged in commercial fishing and agriculture. In that regard, the federal banks require as a condition of eligibility for loans that associations such as the Commercial Fishing and Agriculture Bank be organized in such a way that not less than 80% of the voting control of the bank is held by fishermen or farmers. See, e.g., 12 USCA 2129 which sets out these requirements as they apply to the federal banks for cooperatives. At first blush, this would seem to preclude a Board of Directors where 3/7ths of the members are gubernatorial appointees rather than representatives of the membership. However, we have informally discussed the matter with representatives of the federal farm credit system in Spokane who have advised us that they do not believe that reconstituting the Bank's Board of Directors as envisioned by SSHB 30 would preclude them from working with the Commercial Fishing and Agriculture Bank. Rather, they interpret the Federal requirement to mean that the control of at least 80% of the votes which would elect the other four members of a reconstituted Board of Directors must be in fishermen and farmers.

It would appear that a change in the composition of the Board of Directors as proposed in SSHB 30 would accomplish one, or both, of two objectives. One, it would establish a mechanism through which Board members who otherwise would not be eligible for election by the members (e.g., bankers, economists, business consultants) could remain on or be appointed to the Board of Directors even though they are not actively engaged in commercial fishing or agriculture. Two, it would vest some modicum of control in the State through the power of the Governor to continue to appoint a minority of the Board during the early life of the Bank. While the first of these reasons is certainly desirable, perhaps some additional discussion of the need for State representation on the Board of Directors through gubernatorial appointees is necessary. At the outset, it should be noted that the Legislature will always retain its ability to influence the Bank through the appropriation process, particularly during the capital formation phase of the Bank, and through its ability to modify to a great extent the Bank's enabling legislation should that ever become necessary. However, a basic tenet of the federal farm credit system is that organizations such as the Bank should operate on a cooperative basis for the mutual benefit of the members.

(insert additional policy considerations re independence of the bank as desired)

One final comment on Section 2 of SSHB 30. The draft bill, as well as the present statute, states that Board member election shall be by the "shareholders". Generally speaking the privilege of the vote in a cooperative corporation belongs to the member or holder of membership stock. Most members will also hold shares of capital stock, but it is entirely possible for one to be a capital stockholder (thus, a shareholder) at the time of a membership meeting, yet for several reasons not currently eligible to vote as a member. Therefore, it is our recommendation that the word "shareholders" on line 22 of page 1 of SSHB 30 be replaced by the term "members" or the term "membership". "Member" is a defined term in AS 10.15.595(9) and would be the preferred term.

Section 3. The proposed amendments to AS 44.54.090 found in Section 3 of SSHB 30 are satisfactory and appear to solve the drafting problem in the present statute.

However, during the organization of the Board of Directors of the Bank two other concerns have surfaced which may be solved by adding language to AS 44.54.090. The first of these is the method to be used when determining

which members of the Board of Directors shall serve for the one, two and three year term. One way to resolve this problem is to provide that the terms be determined by lot, as the Legislature has provided in other instances. (See AS 18.26.030 where such a system is applied to the Board of Directors to the Alaska Medical Facility Authority.)

The second problem is insuring that the initial terms of the Board of Director members expire on the date of the cooperative annual meeting rather than on the anniversary date of the appointment by the Governor. As the Bank's draft By-Laws provide that the annual meeting be held in November of each year, we strongly urge that AS 44.54 provide that the initial one year Board of Governor terms extend until November 1980, and that the two and three year terms expire at the time of the following two annual meetings. Since the initial appointments to the Board of Directors were made on February 19, 1979, to provide that the one year terms expire in November 1979, would not be a prudent business decision as it would mean that the expertise and experience of the one year directors would be lost to the Bank even before it is in full operation.

These recommendations may be implemented by striking the period following the word "years" on line 5 of page 2 of SSHB 30, and inserting a comma and the following language;

> , to be determined by lot. The initial terms shall expire at the annual meeting of the bank held in November 1980, 1981 and 1982 respectively.

Section 4. We are aware that the language of Sections 4 and 5 of SSHB 30 tracks in most respects the language of AS 16.10.300 et seq, the Commercial Fishing Loan Act, and agree that it is desirable that the Bank as well have the power to make loans to individual commercial fishermen to purchase entry permits. The Board of Directors of the Bank will, of course, at the appropriate time be faced with the necessity of determining its policies, from a business standpoint when considering loans to be secured by entry permits. We are aware that there are presently on appeal to the Alaska Supreme Court two Superior Court decisions in cases which challenge the limited entry permit system and/or the method by which permits have been issued. The Supreme Court decision in those cases, or future cases, may result in the issuance of a sufficient number of additional entry permits so that the value of an entry permit held by the Bank as security is substantially lessened.

Future action by the Legislature could work to the same end and must also be taken into consideration by the Bank when making loans of this type.

As to the specific language of Section 4 of SSHB 30, we note that eligibility for a loan to purchase an entry permit is conditioned upon a five year durational residency requirement which, if challenged at some future time, could be held unconstitutional. We also note that the requirement for active participation in the fishery at some time during the past five years is vague enough so that it may cause problems in determining loan eligibility. E.g., would thirty days some time during the five year period be sufficient? would seven days?

Section 5. AS 44.54.230 would require that the executive director of the Bank be listed as the legal owner of a pledged permit and Section 5 at several places requires that the executive director of the Bank take certain actions in regard to a permit. While under AS 16.43 entry permits are held only by natural persons and while the Commercial Fishing Loan Act assigns the same duties to the Commissioner of Commerce and Economic Development, it is desirable in this situation that the legal ownership of an entry permit or directions for taking certain actions rest with the Bank itself, rather than with a specific individual so as to give the Bank maximum flexibility in managing its business. For that reason we recommend that the language "executive director of the" be eliminated where it appears in Section 5 of SSHB 30. But if it is determined that AS 16.43 requires that an individual be named, it nonetheless is desirable that the language "as trustee for the bank" be inserted directly following the designation of the executive director so that it is clear the capacity in which the director acts.

AS 44.54.250(b) would allow a debtor to nominate a person to assume his note under certain conditions and require that the person so nominated qualify under the requirements of AS 44.54.230(a) i.e., that the person nominated qualify as a transfee for an entry permit under AS 16.43. There appears, however, to be no requirement that the nominee to assume the note meet the requirements set up by proposed AS 44.54.210(20), specifically that he meet the five year durational residency requirement as did the original debtor. If this is considered desirable, the language "and AS 44.54.210(20)" should be inserted immediately following the end of the partial sentence on line 1, page 5 of SSHB 30.

Recommended Additions

AS 16.43 provides that entry permits may not be pledged as security or transferred except under certain conditions, one of which is as provided in the Commercial Fishing Loan Act. Similarly, it would appear that additional amendments are necessary to at least sections AS 16.43.150(g) and AS 16.43.170, which language should refer specifically to the program proposed in SSHB 30.

As a matter of convenience and style in drafting it may be desirable to consider addition of a new section .260, Definitions, to AS 44.54. Such a section initially would define the word "bank" as the Alaska Commercial Fishing and Agriculture Bank which definition was not included in Chapter 159, SLA 1978, even though extensive use is made therein of the term "bank". In addition it would appear desirable to define the word "commission" as the Alaska Commercial Fisheries Entry Commission in order to avoid the problem now found throughout Section 5 of SSHB 30 where reference is sometimes made to the Alaska Commercial Fisheries Entry Commission, but more often is made simply to the "commission".

Finally we strongly recommend that the amendments to AS 44.54 include a specific provision insuring that the Bank has the necessary power to indemnify directors, officers and employees when negligence and misconduct is not involved. Such a provision is routinely included in the bylaws of private sector organization and is specifically included among the general powers given to a cooperative corporation organized in Alaska by AS 10.15.010(13). Counsel has advised us that in its opinion the Bank does have the power to indemnify its directors, officers and employees by virtue of the fact that AS 44.54.010 subjects the Bank to the provisions of AS 10.15, except as otherwise provided in AS 44.54. Nonetheless, the fact that the specific powers of the Bank enumerated in AS 44.54.210 do not include a provision on indemnification means that it is not impossible that a court might hold that the Legislature intended the Bank not be allowed to indemnify directors, officers and employees under appropriate conditions. For that reason we recommend the addition of the same language now found in AS 10.15.010(13) as an additional paragraph numbered (21) to AS 44.54.210. Section 4 of SSHB 30 may be amended by changing the word "paragraph" on line 6 of page 2 to "paragraphs" and by inserting an additional paragraph at line 14 which reads:

> (21) indemnify a director, officer or agent or former director, officer or agent, or a person who may have served at its request

as a director or officer of another domestic or foreign cooperative of which it is a member, against expenses necessarily incurred in defense of a proceeding in which he is a party because he served as a director, officer or agent, but this paragraph does not apply to proceedings in which the director, officer or agent is adjudged liable for negligence or misconduct in the performance of duty, and indemnification under this paragraph is not exclusive of other rights to which the director, officer or agent may be entitled.

cc: Mr. Frank M. Homan, Chairman,
Commercial Fishing and Agriculture Bank

Mr. Frank Orth, Financial Consultant
to Commercial Fishing and Agriculture Bank

Mr. Larry Butterfield, Spokane Bank For
Cooperatives

Mr. R. M. Gordet, Federal Intermediate
Credit Bank of Spokane

The banks for cooperatives [illegible] ments to eligible cooperative associations and to extend to them other technical and financial assistance, including but not limited to discounting notes and other obligations, guarantees, collateral custody, or participation with other banks for cooperatives and commercial banks or other financial institutions in loans to eligible cooperatives, under such terms and conditions as may be determined to be feasible by the board of directors of each bank for cooperatives under regulations of the Farm Credit Administration. Such regulations may include provisions for avoiding duplication between the Central Bank and district banks for cooperatives. Each bank may own and lease, or lease with option to purchase, to stockholders eligible to borrow from the bank equipment needed in the operations of the stockholder.

Pub.L. 92-181, Title III, § 3.7, Dec. 10, 1971, 85 Stat. 605.

§ 2129. Eligibility

Any association of farmers, producers,[1] or harvesters of aquatic products, or any federation of such associations, which is operated on a cooperative basis, and has the powers for processing, preparing for market, handling, or marketing farm or aquatic products; or for purchasing, testing, grading, processing distributing, or furnishing farm or aquatic supplies or furnishing farm business services or services to eligible cooperatives and conforms to either of the two following requirements:

(a) no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein; or

(b) does not pay dividends on stock or membership capital in excess of such per centum per annum as may be approved under regulations of the Farm Credit Administration; and in any case

(c) does not deal in farm products or aquatic products, or products processed therefrom, farm or aquatic supplies, or farm business services with or for nonmembers in an amount greater in value than the total amount of such business transacted by it with or for members, excluding from the total of member and nonmember business transactions with the United States or any agency or instrumentality thereof or services or supplies furnished as a public utility; and

(d) a percentage of the voting control of the association not less than 50 per centum (70 per centum, in the case of rural electric, telephone, and public utility cooperatives), or such higher percentage as established by the district board is held by farmers, producers or harvesters of aquatic products, or eligible cooperative associations as defined herein;

shall be eligible to borrow from a bank for cooperatives.

Pub.L. 92-181, Title III, § 3.8, Dec. 10, 1971, 85 Stat. 605, amended Pub. L. 94-184, § 1(a), Dec. 31, 1975, 89 Stat. 1060.

[1] So in original. A comma after "producers" was probably not intended.

1975 Amendment. Subsec. (d). Pub.L. 94-184 added provision relating to 70 per centum of voting control in the case of rural electric, telephone, and public utility cooperatives.

Legislative History. For legislative history and purpose of Pub.L. 94-184, see 1975 U.S.Code Cong. and Adm.News, p. 2148.

§ 2130. Ownership of stock by borrowers

(a) Each borrower at the time a loan is made by a bank for cooperatives shall own at least one share of voting stock and shall be required by the bank with the approval of the Farm Credit Administration to invest in additional voting stock or nonvoting investment stock at that time, or from time to time, as the lending bank may determine, but the requirement for investment in stock at the time the loan is closed shall not exceed an amount equal to 10 per centum of the face amount of the loan. Such additional ownership requirements may be based on

ing any quarter thereof, or upon such other basis as the bank, with the approval of the Farm Credit Administration, determines will provide adequate capital for the operation of the bank and equitable ownership thereof among borrowers. In the case of a direct loan by the Central Bank, the borrower shall be required to own or invest in the necessary stock in a district bank or banks as may be approved by the Farm Credit Administration and such district bank shall be required to own a corresponding amount of stock in the Central Bank, but voting stock shall be in the one district bank designated by the Farm Credit Administration.

(b) Notwithstanding the provisions of subsection (a) of this section, the purchase of stock need not be required with respect to that part of any loan made by a bank for cooperatives which it sells to or makes in participation with financial institutions other than any of the banks for cooperatives. In such cases the distribution of earnings of the bank for cooperatives shall be on the basis of the interest in the loan retained by such bank.

Pub.L. 92-181, Title III, § 3.9, Dec. 10, 1971, 85 Stat. 605.

§ 2131. Loans—Interest rates and charges

(a) Loans made by a bank for cooperatives shall bear interest at a rate or rates determined by the board of directors of the bank from time to time, with the approval of the Farm Credit Administration. In setting rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers at the lowest reasonable cost on a sound business basis, taking into account the net cost of money to the bank, necessary reserves and expenses of the bank, and services provided. The loan documents may provide for the interest rate or rates to vary from time to time during the repayment period of the loan, in accordance with the rate or rates currently being charged by the bank.

Security

(b) Loans shall be made upon such terms, conditions, and security, if any, as may be determined by the bank in accordance with regulations of the Farm Credit Administration.

Lien

(c) Each bank for cooperatives shall have a first lien on all stock or other equities in the bank as collateral for the payment of any indebtedness of the owner thereof to the bank. In the case of a direct loan to an eligible cooperative by the Central Bank, the Central Bank shall have a first lien on the stock and equities of the borrower in the district bank and the district bank shall have a lien thereon junior only to the lien of the Central Bank.

Cancellation; application on indebtedness

(d) In any case where the debt of a borrower is in default, or in any case of liquidation or dissolution of a present or former borrower from a bank for cooperatives, the bank may, but shall not be required to, retire and cancel all or a part of the stock, allocated surplus or contingency reserves, or any other equity in the bank owned by or allocated to such borrower, at the fair book value thereof not exceeding par, and, to the extent required in such cases, corresponding shares and allocations and other equity interests held by a district bank in another district bank on account of such indebtedness, shall be retired or equitably adjusted.

Pub.L. 92-181, Title III, § 3.10, Dec. 10, 1971, 85 Stat. 606.

§ 2132. Earnings and reserves; application of savings—Application of savings when bank has outstanding stock held by Governor

(a) Each bank for cooperatives, at the end of each fiscal year when said bank shall have stock outstanding held by the Governor of the Farm

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

HB

34

COMMITTEE REPORT

SENATE

FURTHER: Finance

3/1/79

Date: 3-01-79

Mr. President:

The Committee on STATE AFFAIRS has had CSHB 34

Relating to preparation and distribution of a taxpayer's summary 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)

[ ] 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

S 60 (Rev. 12/78)

Original Sponsor: Roger

CSHB 34 An act relating to the preparation and distribution of a taxpayers' summary of the budget. H. St.

SUMMARY

This bill amends the existing statutes by addition of a new sub-section which requires the Department of Revenue to include with each set of tax forms a summary of proposed expenditures and the source of funding for the expenditures in each program category.

SUPPORTING INFORMATION

Will get from Revenue tomorrow 3/14/79
pp

FISCAL NOTE: Attached with analysis

RELATED LEGISLATION:

VOTING: House- Yes-31, No-1
House Finance- Do Pass-5, No rec.-4.

INTERESTED PARTIES: Original sponsor-Rogers
Dept. of Revenue
Dept. of Admin, Div. of Budget & Mgmt?

PHIL WALL 2313 - REV.

Marginal

Dept.-

Completed because they
wipe away submission
of federal return.

Is need for getting budget
INFO OUT TO TAXPAYERS
this effort any help.

4 page summary - will it
mean anything to anybody

50% of tax returns by
practitioners. So they
wouldn't get form

Original Sponsor: Rogers

CSHB 34 — An act relating to the preparation and distribution of a taxpayers' summary of the budget. — H. St. Aff.

SUMMARY

This bill amends the existing statutes by addition of a new sub-section which requires the Department of Revenue to include with each set of tax forms a summary of proposed expenditures and the source of funding for the expenditures in each program category.



1. ~~What will be cost + how many will it effect. ABOUT $1,500 Billy. reading on~~
2. How does department of Revenue ~~feel~~. Do they think there is a need + do they feel the average tax payer will actually reach it?

any feelings from them that you can ~~them~~ come up with

CSHB 34
House Finance
DO PASS
AM REC-4

LOST

SENATE STATE AFFAIRS

March 19, 1979

CSHB 34 An Act Relating to the preparation and distribution of a taxpayer's summary of the budget

SUMMARY

This legislation would amend 43.20.160 to include in each set of individual tax forms a summary of proposed expenditures and the source of funding for those expenditures. The summary would not be any longer than 6 pages.

FISCAL

This legislation would cost $16,300 in FY 80. Please refer to the attached fiscal note and additional comments by the Department of Revenue

Rec'd 2/27/79
cs reported out 2/16/79.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution N. CSHB 34
Title Preparation & Distribution of a Taxpayers' Summary of the Budget
Requested by State Affairs Committee Date 2-12-79

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 2-16-79 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.

Forms - The expenditures in the State budget, by program category and sources of funding contained on six pages, (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.

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

HB

45

***** PRINTED FROM SCIV JUL. DATE IS 0079078 TIME EQUAL 1153212 ** **

HB 45 TITLE & SPONSOR SUMMARY 11:53 3/19/79 PAGE 1 OF 3

AMENDED TITLE:
AN ACT RELATING TO POWERS OF THE ALASKA LEGISLATIVE COUNCIL
AND THE LEGISLATIVE BUDGET AND AUDIT COMMITTEE;
AND PROVIDING FOR AN EFFECTIVE DATE

PRIME SPONSORS: HOUSE RULES COMMITTEE.

CO-SPONSORS:

CURRENT STATUS: 2/14/79 IN (S) STATE AFF. REFERRAL: JUDICIARY

***** PRINTED FROM SCIV JUL. DATE IS 0079078 TIME EQUAL 1153303 ** **

HB 45 HOUSE ACTION 11:53 3/19/79 PAGE 2 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
01/24/79	01	0050	FIRST READING -- COMMITTEE REPORTS
01/24/79	02	0050	LEG BUDGET & AUDIT CMTE
02/09/79	03	0179	JUD -- DP06, NR02
02/13/79	04	0226	SECOND READING
02/13/79	05	0226	ADVANCED TO 3RD READING BY UNAN CONSENT
02/13/79	06	0226	THIRD READING
02/13/79	07	0227	PASSED BY DIV 36-01-03
02/13/79	08	0227	EFFECTIVE DATE VOTE SAME AS PASSAGE
****	**	**	*** *** ***

***** PRINTED FROM SCIV JUL. DATE IS 0079078 TIME EQUAL 1153392 ** **

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/14/79	09	0251	FIRST READING -- COMMITTEE REPORTS STATE AFF. JUDICIARY RULES
****	**	**	*** *** ***

IN THE DISTRICT COURT

IN AND FOR THE

CITY AND COUNTY OF DENVER

AND THE

STATE OF COLORADO

CIVIL ACTION NO. C-24520

DONALD H. MACMANUS AND
CLARENCE A. DECKER,

PLAINTIFFS,

VS.

JOHN A. LOVE, GOVERNOR OF THE STATE OF COLORADO, AND HILBERT SCHAUER, EXECUTIVE DIRECTOR OF THE DEPARTMENT OF INSTITUTIONS OF THE STATE OF COLORADO,

DEFENDANTS.

FINDINGS, CONCLUSIONS, AND DECREE

THIS MATTER HAVING COME ON FOR TRIAL ON THE 20TH DAY OF OCTOBER, 1971, AND THE COURT, HAVING HEARD THE TESTIMONY AND THE STIPULATIONS, STATEMENTS, AND ARGUEMENTS OF COUNSEL, AND NOW BEING FULLY ADVISED IN THE PREMISES, FINDS AND CONCLUDES AS FOLLOWS:

1. IN ORDER TO AVOID UNDUE COMPLICATION, THE COURT WILL SET FORTH ITS RULINGS UPON EACH OF THE CONTESTED VETOES TO SENATE BILL 436 IN SERIATIM, MAKING SUCH FINDINGS OF FACT AND CONCLUSIONS OF LAW AS NECESSARY TO SUPPORT THE COURT'S CONCLUSIONS. HEREAFTER, THE VETOES WILL BE REFERRED TO IN ACCORDANCE WITH THEIR APPEARANCE IN, AND APPLICATION TO, SENATE BILL 436.

> Sec. 2.(a) Except as otherwise specifically provided in this act, wherever appropriations are from both cash funds and the general fund to the same agency, unexpended balances of the appropriation, existing at the close of the fiscal period covered hereunder, shall revert to the general fund. In the event any ongoing program currently finances in whole or in part from federal funds and the appropriation thereof is inadvertently omitted from this act, the controller, with

the approval of the governor, may approve the expenditure of said funds to continue such programs; but no such funds shall be used to initiate new programs;

2. THE COURT FUNDS THAT THE VETO TO SUBSECTION 2(A) WAS A PROPER VETO. THE COURT FINDS THAT ALL THE PROVISIONS CONTAINED IN THIS SUBSECTION, WITH THE EXCEPTION OF THAT CONTAINED IN THE LAST CLAUSE THEREOF, ARE GOVERNED BY EXISTING LAW. THE LAST CLAUSE SEEKS TO PROHIBIT EXECUTIVE DEPARTMENT AGENCIES FROM USING FEDERAL FUNDS "INADVERTENTLY OMITTED FROM THIS ACT" TO INITIATE NEW PROGRAMS. THE COURT FINDS THAT THIS LAST CLAUSE IS SUBSTANTIVE LEGISLATION CONTRARY TO ARTICLE V, SECTION 33, CONSTITUTION OF COLORADO, AS IT PURPORTS TO GRANT TO THE GENERAL ASSEMBLY A POWER TO APPROPRIATE FEDERAL MONEYS CONTRARY TO THE LIMITATIONS OF 3-6-15 CRS 1963, AS AMENDED BY SECTION 1, CHAPTER 28, SESSION LAWS OF COLORADO 1971.

Sec. 2.(b) Wherever, in the judgment of the controller, good fiscal order may be fostered, the controller may order the payment of any of the expenses authorized by appropriation hereunder from either cash or general funds when appropriations are made hereunder from both general and cash funds for the agency; except that in no case shall the total expenditure for each agency exceed the aggregate amount appropriated from both funds as hereinafter set forth; and except that if expenditures are made from the general fund under this authority, controller shall make transfers from cash funds to the general fund as necessary to keep the ultimate burden on the general fund within the appropriation therefrom for the fiscal year;

Sec. 2.(c) Appropriations made herein to organizational units of state government which subsequently are reorganized and reconstituted by statutory authority may be reallocated for like functions to the new organizational units by the controller, with approval of the governor and advice to the joint budget committee;

3. THE COURT RULES THAT THE VETOES OF SUBSECTIONS 2(B) AND 2(C) WERE PROPER VETOES BECAUSE THE PROVISIONS CONTAINED IN EACH OF THESE SUBSECTIONS ARE SUBSTANTIVE LEGISLATION CONTRARY TO ARTICLE V, SECTION 33, CONSTITUTION OF COLORADO, AND FOR THAT REASON ARE VOID AND UNENFORCEABLE.

Sec. 2.(d) The figures in the column headed "cash funds" are from both federal and state cash accounts.

> The letters in parentheses after each figure shall designate which fund is to be used. An "(F)" shall designate federal funds and a "(C)" shall designate cash funds. Any federal or cash funds received by any agency in excess of the appropriation shall not be expended without additional legislative appropriation;

4. THE COURT FINDS THAT THE VETO OF SUBSECTION 2(D) WAS IMPROPER BECAUSE THE MATTERS CONTAINED THEREIN DO NOT REPRESENT ITEMS SUBJECT TO VETO; AND, MOREOVER, BECAUSE THE PURPOSE OF THIS SUBSECTION IS MERELY TO EXPLAIN THE MEANING OF CERTAIN PORTIONS OF THE BILL ITSELF AND THEREFORE CONSTITUTES A CONDITION INSEPARABLY CONNECTED TO ALL THE APPROPRIATIONS TO WHICH IT APPLIES. THE COURT FURTHER FINDS THAT THE GENERAL ASSEMBLY HAS THE AUTHORITY TO APPROPRIATE THE FEDERAL FUNDS TO WHICH THIS SUBSECTION APPLIES.

> Sec. 2.(e) Of the separate amounts from the general fund and from cash funds appropriated herein, excepting Part I, fifteen percent of each amount set forth for capital outlay and ten percent of each other amount set forth, other than amounts designated for personal services, is intended to be, and is hereby declared to be, set aside in a reserve and no part thereof shall be expended or encumbered during the fiscal year 1971-1972 except on the written prior approval of the governor, pursuant to section 3-3-7, C.R.S. 1963;

5. THE VETO TO SUBSECTION 2(E) WAS CONFESSED BY THE PLAINTIFFS TO HAVE BEEN A PROPER VETO ON THE GROUNDS THAT THE CONTENTS OF THIS SUBSECTION ARE SUBSTANTIVE LEGISLATION CONTRARY TO ARTICLE V, SECTION 33, CONSTITUTION OF COLORADO; THEREFORE, THE COURT FINDS THAT SAID VETO WAS PROPER, AND THAT THE PROVISIONS OF SUBSECTION 2(E) ARE VOID AND UNENFORCEABLE.

> Sec. 2.(f) No moneys appropriated by this act shall knowingly be paid to any organization, business firm, person, agency, or club which places restrictions on employment or membership based on sex, race, creed, color, religion, national origin, or ancestry.

6. THE COURT FINDS THAT THE VETO TO SUBSECTION 2(F) WAS IMPROPER AS THIS SUBSECTION IS NOT AN ITEM SUBJECT TO VETO BECAUSE THE PROVISIONS OF THIS SUBSECTION CONSTITUTE A VALID LIMITATION ON THE EXPENDITURE OF APPROPRIATIONS AND ARE INSEPARABLY CONNECTED TO ALL APPROPRIATIONS.

LEGISLATIVE INTENT - The following expressions of legislative appropriations intent are referenced to numbered footnotes throughout Section 2.

[1]Executive Aircraft - Any state agency utilizing this aircraft shall reimburse the general fund for all cost incurred in such use, from their appropriated operating accounts.

7. THE COURT FINDS THE VETO TO FOOTNOTE 1 OF SECTION 2 WAS A PROPER VETO. THE COURT FINDS THAT THE CONTENTS OF THIS FOOTNOTE ARE NEITHER A LIMITATION NOR A CONDITION INSEPARABLY CONNECTED TO THE APPROPRIATION OF $56,433.00 FOR THE EXECUTIVE AIRCRAFT IN THE OFFICE OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF INSTITUTIONS. BY ITS OWN LANGUAGE, THE FOOTNOTE CLEARLY IS INTENDED TO APPLY TO APPROPRIATIONS OTHER THAN THE ONE TO WHICH IT IS ATTACHED. THEREFORE, THE FOOTNOTE IS AN ITEM SUBJECT TO SPECIFIC DISAPPROVAL BY THE GOVERNOR PURSUANT TO POWERS GRANTED HIM BY ARTICLE IV, SECTION 12, CONSTITUION OF COLORADO.

[5]Group Health Insurance - These funds shall not be allocated to individial agencies. The Controller shall make payments directly to the insurance carriers on a quarterly or less frequent basis.

8. THE PLAINTIFFS HAVE CONFESSED THAT THE VETO OF FOOTNOTE 5 OF SECTION 2 WAS A PROPER VETO ON THE GROUNDS THAT THIS FOOTNOTE CONSTITUTES SUBSTANTIVE LEGISLATION CONTRARY TO ARTICLE V, SECTION 33, CONSTITUTION OF COLORADO, AND FURTHER CONSITUTES AN INVASION OF THE SEPARATION OF POWERS REQUIRED BY ARTICLE III OF THE CONSTITUTION OF COLORADO. ACCORDINGLY, THE COURT FINDS THAT THE VETO OF FOOTNOTE 5 OF SECTION 2 WAS PROPER, AND THAT THE PROVISIONS OF FOOTNOTE 5 ARE VOID AND UNENFORCEABLE.

[6]Department of Administration and Department of Higher Education - The funds in these ADP appropriations are the total amount to be expended for ADP services. The appropriation shall not be increased by transfer from other funds, except as may be allocated from the central appropriations for Salary Survey, Group Health Insurance, and Workmen's Compensation.

9. THE COURT FINDS THAT THE VETO OF FOOTNOTE 6 IN SECTION 2 WAS A PROPER VETO. THIS FOOTNOTE CONSTITUTES SUBSTANTIVE LEGIS-

LATION IN VIOLATION OF ARTICLE V, SECTION 33, CONSTITUTION OF COLORADO INASMUCH AS THE SECOND SENTENCE CLEARLY CONFLICTS WITH THE EXISTING POWERS GRANTED TO THE CONTROLLER PURSUANT TO SECTION 3-3-1(10), CRS 1963.

[7]Automated Data Processing Division - The Department of Administration appropriation contains $53,100 for the statewide Co-Tie project. The Department of Higher Education shall assign a high priority to Co-Tie and shall allocate funds appropriated for Higher Education ADP so as to insure timely implementation of this program.

10. THE COURT FINDS THAT THE VETO OF FOOTNOTE 7 IN SECTION 2 WAS NOT A PROPER VETO AS THE FOOTNOTE CONSTITUTES A LIMITATION OF $53,000.00 ON THE SPENDING AUTHORITY FOR THE STATE-WIDE CO-TIE PROJECT. THE COURT FINDS THIS TO BE A VALID LIMITATION ON THE EXPENDITURE OF THESE FUNDS IN ACCORDANCE WITH THE GENERAL ASSEMBLY'S POWER TO APPROPRIATE MONEYS FOR THE OPERATION OF STATE GOVERNMENT.

[8]ADP Division - In order to continue centralized ADP appropriations the Department of Administration shall develop an output-oriented ADP performance evaluation system applicable to all ADP installations and services of the State. This system shall be installed by July 1, 1971, and shall include, but not be limited to, a turnaround time, utilization rates, unit costs, and error rates. There also shall be developed a procedure for comparing the production potential of each State installation. This procedure shall include, but not be limited to, current market value of equipment, original cost, staffing, and maximum potential utilization. Further, the Executive Director shall undertake a comparative study of state operated ADP versus outside contractual services. The Executive Director shall select an ADP application which can be split for comparative purposes or two comparable applications. The criteria for evaluation shall be the same criteria used in the statewide ADP performance evaluation system.

11. THE PLAINTIFFS HAVE CONFESSED THAT THE VETO TO FOOTNOTE 8 OF SECTION 2 WAS A PROPER VETO ON THE GROUNDS THAT SAID FOOTNOTE CONSTITUTES SUBSTANTIVE LEGISLATION CONTRARY TO ARTICLE V, SECTION 33, CONSTITUTION OF COLORADO. ACCORDINGLY, THE COURT FINDS THAT THE VETO OF FOOTNOTE 8 OF SECTION 2 WAS PROPER, AND THAT THE PROVISIONS OF FOOTNOTE 8 ARE VOID AND UNENFORCEABLE.

[9]ADP Division - The appropriation provides $87,500 for feasibility studies relative to a central accounting system and $120,500 for Social Services

systems work. The Department of Administration shall contract for these studies with outside ADP consulting firms for an amount not to exceed $208,000.

12. THE PLAINTIFFS HAVE CONFESSED THAT THE CONTENTS OF FOOTNOTE 9 OF SECTION 2 CONSTITUTE ITEMS SUBJECT TO VETO AND THAT, THEREFORE, THE VETO WAS PROPER. ACCORDINGLY, THE COURT FINDS THAT THE VETO OF FOOTNOTE 9 OF SECTION 2 WAS A PROPER EXERCISE OF THE POWERS CONFERRED UPON THE GOVERNOR BY ARTICLE IV, SECTION 12, CONSTITUTION OF COLORADO.

[10] Archives and Public Records - The general fund portion is the maximum general fund authorization. Total expenditures shall be reduced by any amount failed to be achieved by the cash fund. Any excess generated in the cash fund above the $38,085 appropriated shall be deposited to the general fund.

13. FOOTNOTE 10, SECTION 2 CONTAINS THREE SENTENCES. THE COURT FINDS THAT THE VETO OF THE FIRST TWO SENTENCES WAS IMPROPER, BUT THE VETO OF THE THIRD SENTENCE WAS PROPER. THE COURT FINDS THE FIRST SENTENCE IS A PROPER LIMITATION ON THE APPROPRIATION, AND THAT THE SECOND SENTENCE CONSTITUTES A REITERATION OF THE EFFECT OF THE CURRENT LAW. THE THIRD SENTENCE CONSTITUES SUBSTANTIVE LEGISLATION CONTRARY TO ARTICLE V, SECTION 33 OF THE CONSTITUTION OF COLORADO, AND ON THAT GROUND THE VETO OF THE THIRD SENTENCE WAS PROPER, THEREFORE, THE SENTENCE IS VOID AND UNENFORCEABLE.

[11] Department of Administration - All federal reimbursements under the State of Colorado Statewide Cost Allocation Plan, dated February 4, 1971, or later revisions, shall be deposited to the general fund.

14. THE PLAINTIFFS HAVE CONFESSED THAT FOOTNOTE 11 OF SECTION 2 CONSTITUTES SUBSTANTIVE LEGISLATION CONTRARY TO ARTICLE V, SECTION 33, CONSTITUTION OF COLORADO, AND THAT THEREFORE THE VETO WAS PROPER. ACCORDINGLY, THE COURT FINDS THAT THE VETO OF FOOTNOTE 11 OF SECTION 2 WAS PROPER, AND THAT THE PROVISIONS OF FOOTNOTE 11 ARE VOID AND UNENFORCEABLE.

[14] Department of Higher Education - Appropriations in Part VII for colleges, universities, and community colleges include all operating cash receipts except for nonappropriated auxiliary enterprises, provided that any cash or federal

receipts in excess of those appropriated herein shall not be expended without additional legislative appropriation action. Cash receipts are appropriated on the basis of the following academic year tuition rates. Each student shall be presented with an invoice at the time of registration indicating the total tuition cost and the amount of that cost covered by his tuition payment.

*** Table Deleted ***

None of the appropriated funds in Part VII shall be used to implement public broadcast educational television. Expenditure of these appropriations for television operations shall be for existing closed-circuit teaching and vocational-technical operations only.

15. FOOTNOTE 14, SECTION 2 CONTAINS FIVE SEPARATE SENTENCES AND A TABLE RELATING TO COLLEGES AND UNIVERSITIES. OF THESE, THE GOVERNOR VETOED THE FIRST AND THIRD SENTENCES, AND THE TWO SENTENCES IMMEDIATELY FOLLOWING THE TABLE. THE PLAINTIFFS HAVE CONFESSED THAT THE THIRD SENTENCE CONTAINS SUBSTANTIVE LEGISLATION CONTRARY TO ARTICLE V, SECTION 33 OF THE CONSTITUTION OF COLORADO. THE DEFENDANTS HAVE CONFESSED THAT THE LAST TWO SENTENCES WERE IMPROPERLY VETOED, AS A MATTER OF LAW. THE COURT FINDS THAT THE FIRST SENTENCE CONSTITUTES AN INVASION OF THE SEPARATION OF POWERS AS REQUIRED BY ARTICLE III OF THE CONSTITUTION OF COLORADO. ACCORDINGLY, THE COURT FURTHER FINDS THAT THE VETO OF THE FIRST AND THIRD SENTENCES OF FOOTNOTE 14 WAS PROPER, AND THAT THOSE PROVISIONS ARE VOID AND UNENFORCEABLE. THE COURT FURTHER FINDS THAT THE VETO OF THE LAST TWO SENTENCES OF FOOTNOTE 14 WAS IMPROPER.

[16]Department of Higher Education - The following is intended to be the maximum expenditure level for extension courses at each institution. No additional funds may be used to expand these programs.

University of Colorado.....	$1,159,764
Colorado State University.....	4,763,431
Adams State College.....	70,000
Southern Colorado State College..	140,400
University of Northern Colorado..	150,000
Western State College.....	60,000
Fort Lewis College.....	5,000
Arapahoe Community College.....	28,104

16. THE PLAINTIFFS HAVE CONFESSED THAT THE VETO OF FOOTNOTE 16 WAS PROPER INASMUCH AS THE FOOTNOTE WAS LOCATED AT LINE (1)

BY ITS TERMS THE FOOTNOTE APPLIES TO THE COLLEGES AND UNIVERSITIES OF THE STATE AND NOT TO THE COMMISSION ON HIGHER EDUCATION. ACCORDINGLY, THE PLAINTIFFS HAVE CONFESSED THAT THE VETO WAS PROPER BECAUSE THE FOOTNOTE APPEARS TO BE AN ERROR IN DRAFTING. ACCORDINGLY, THE COURT FINDS THAT FOOTNOTE 16 IS MEANINGLESS AND UNENFORCEABLE.

> [18]Colorado General Hospital - Additional positions of 73.3 FTE nursing and 36.2 FTE support over the current year's approved level of staff are contingent upon realizing an increase to 140,400 in-patient days and 207,000 out-patient visits.

17. THE COURT FINDS THAT THE VETO OF FOOTNOTE 18, SECTION 2 WAS A PROPER EXERCISE OF THE POWERS CONFERRED UPON THE GOVERNOR BY ARTICLE IV, SECTION 12, CONSTITUTION OF COLORADO, INASMUCH AS THE FOOTNOTE CONSTITUTES A SEPARATE ITEM BECAUSE THE CONTENTS OF THE FOOTNOTE ARE SEPARABLE FROM THE APPROPRIATION AND BECAUSE ITS CONTENTS ARE NOT INSEPARABLY CONNECTED TO THE APPROPRIATION MADE TO COLORADO GENERAL HOSPITAL.

> [20]Northeastern Community College - This appropriation is contingent upon the dissolution of the existing Northeastern Junior College School pursuant to article 26 of chapter 124 CRS 1963, with the transfer of all assets and applicable liabilities effective July 1, 1971.

18. THE DEFENDANTS HAVE CONFESSED THAT AS A MATTER OF LAW THE VETO OF FOOTNOTE 20, SECTION 2 WAS IMPROPER BECAUSE THIS FOOTNOTE CONSTITUTES A LAWFUL CONDITION ON THE APPROPRIATION TO NORTHEASTERN COMMUNITY COLLEGE, EVEN THOUGH THE APPROPRIATION ITSELF FAILED BECAUSE THE NORTHEASTERN JUNIOR COLLEGE DISTRICT WAS NOT DISSOLVED. IF THE NORTHEASTERN COMMUNITY COLLEGE HAD BEEN ESTABLISHED, DEFENDANTS CONFESS THAT FOOTNOTE 20 WOULD HAVE BEEN A VALID CONDITION ON THE APPROPRIATION TO NORTHEASTERN COMMUNITY COLLEGE. ACCORDINGLY, THE COURT FINDS THAT THE VETO OF FOOTNOTE 20 WAS IMPROPER EVEN THOUGH THE APPROPRIATION FAILED.

> [21]Area Schools, Guidance and Advisory Workshops - The appropriation includes the funding of San Juan Basin Area School and the San Luis Area School based upon 10% state funds, not to exceed $17,720, 10% local funds and 80% federal funds of each school's approved budget less tuitions at current

rates and other income. Prior to the establishment of any additional Area Schools the state authority shall submit to the Joint Budget Committee, for approval, any applications which will require either state or local matching.

19. FOOTNOTE 21, SECTION 2 CONTAINS TWO SENTENCES, THE SECOND OF WHICH WAS VETOED BY THE GOVERNOR. THE PLAINTIFFS HAVE CONFESSED THAT THE SECOND SENTENCE CONSTITUTES SUBSTANTIVE LEGISLATION CONTRARY TO ARTICLE V, SECTION 33, CONSTITUTION OF COLORADO. ACCORDINGLY, THE COURT FINDS THAT THE VETO OF THE SECOND SENTENCE OF FOOTNOTE 21, SECTION 2 WAS PROPER, AND THAT THIS SENTENCE IS VOID AND UNENFORCEABLE.

21a These moneys are to be used only for contract services and no single recipient is to receive more than $5,000.

20. THE PLAINTIFFS HAVE CONFESSED THAT THE VETO OF FOOTNOTE 21(A), SECTION 2 WAS PROPER. THE COURT FINDS THAT THIS FOOTNOTE INVADES THE SEPARATION OF POWERS REQUIRED BY ARTICLE III OF THE CONSTITUTION OF COLORADO IN THAT IT ATTEMPTS TO CONTROL THE SALARIES OF THE STAFF OF THE COUNCIL ON ARTS AND HUMANITIES CONTRARY TO THE PROVISIONS OF EXISTING LAW IN WHICH SALARIES OF PERSONS WITHIN THE CLASSIFIED PERSONNEL SYSTEM OF THE STATE DEPEND UPON THEIR GRADE AS DETERMINED BY THE STATE PERSONNEL BOARD. ACCORDINGLY, THE COURT FINDS THAT THE VETO OF FOOTNOTE 21(A), SECTION 2 WAS PROPER, AND THAT FOOTNOTE 21(A) IS VOID AND UNENFORCEABLE.

24 Department of Institutions - Division of Mental Health - This appropriation is intended to provide up to 90% of the eligible cost under the existing federal Mental Health staffing grants to continue the present level of services established through Community Center Programs. Prior to the establishment of additional Community Mental Health Centers the state authority shall submit to the Joint Budget Committee, for approval, any federal applications which shall require either state matching or state replacement of federal funds. No funds are appropriated in this Act for any other Community Mental Health Center.

21. FOOTNOTE 24, SECTION 2 CONTAINS THREE SENTENCES, THE SECOND OF WHICH WAS VETOED BY THE GOVERNOR. THE PLAINTIFFS HAVE CONFESSED THAT THIS VETO WAS PROPER INASMUCH AS THIS SENTENCE CONTAINS SUBSTANTIVE LEGISLATION AND CONSTITUTES A VIOLATION OF THE

SEPARATION OF POWERS REQUIRED BY ARTICLE III OF THE CONSTITUTION OF COLORADO. ACCORDINGLY, THE COURT FINDS THAT THE VETO OF THE SECOND SENTENCE OF FOOTNOTE 24 WAS PROPER, AND THAT THIS SENTENCE IS VOID AND UNENFORCEABLE.

> [26]Department of Local Affairs - Law Enforcement Training Academy - The appropriation includes an estimate of $25,000 in tuition receipts. No less than this amount shall be deposited to the general fund by the end of the fiscal year from tuition charges.

22. FOOTNOTE 26, SECTION 2 CONTAINS TWO SENTENCES, THE LAST OF WHICH WAS VETOED BY THE GOVERNOR. THE PLAINTIFFS HAVE CONFESSED THAT THIS VETO WAS PROPER ON THE GROUNDS THAT THIS SENTENCE CONTAINS SUBSTANTIVE LEGISLATION CONTRARY TO ARTICLE V, SECTION 33 OF THE CONSTITUTION OF COLORADO, AND IS UNENFORCEABLE. ACCORDINGLY, THE COURT FINDS THAT THE VETO OF THE LAST SENTENCE OF FOOTNOTE 26 WAS PROPER, AND THAT THIS SENTENCE IS VOID AND UNENFORCEABLE.

> [27]Department of Natural Resources - Division of Game, Fish, and Parks - The Division shall give highest priority to conducting, with existing staff, a Metropolitan Area Fish Study.

23. THE COURT FINDS THAT THE VETO OF FOOTNOTE 27, SECTION 2 WAS IMPROPER BECAUSE THIS FOOTNOTE CONSTITUTES A CONDITION UPON THE APPROPRIATION NECESSARY TO CARRY OUT THE PURPOSES OF THE AGENCY, AND, THEREFORE, THIS FOOTNOTE IS NOT A SEPARATE ITEM SUBJECT TO VETO BY THE GOVERNOR.

> [28]Department of Natural Resources - Division of Game, Fish, and Parks - Parks Operations - Summer Work Program - For part-time help to clean and maintain state recreation areas and parks during the summer tourist season. These funds may not be expended on salaries exceeding $300 per month and may not be used for full-time positions.

24. FOOTNOTE 28, SECTION 2 CONTAINS TWO SENTENCES, BOTH OF WHICH WERE VETOED BY THE GOVERNOR. THE COURT FINDS THAT THE VETO OF THE FIRST SENTENCE PERTAINING TO PART TIME HELP WAS NOT PROPER BECAUSE THIS SENTENCE CONSTITUTES A PROPER LIMITATION UPON THE APPROPRIATION, AND, THEREFORE, THIS SENTENCE IS NOT A SEPARATE ITEM SUBJECT TO VETO. THE COURT FURTHER FINDS THAT THE VETO OF THE SECOND SENTENCE WAS

PROPER INASMUCH AS THIS SENTENCE PURPORTS TO LIMIT THE EXPENDITURE OF SALARIES FOR PERSONS EMPLOYED WITH THE FUNDS APPROPRIATED. THE COURT FINDS THAT THIS LIMITATION CONSTITUTES AN INVASION OF THE SEPARATION OF POWERS PROVIDED BY ARTICLE III, AND OF ARTICLE XII, SECTION 13, 14 AND 15 OF THE CONSTITUTION OF COLORADO. ACCORDINGLY, THE COURT FINDS THAT THE VETO WAS PROPER, AND THAT THE SECOND SENTENCE OF FOOTNOTE 28 IS VOID AND UNENFORCEABLE.

[29]Civil Rights Division - This appropriation is only for the "Colorado Investigations, Conciliations Coordination Pilot Program" to coordinate efforts between the state and federal commission investigating the same complaints in employment.

25. THE COURT FINDS THAT THE VETO OF FOOTNOTE 29, SECTION 2 WAS IMPROPER BECAUSE THIS FOOTNOTE CONSTITUTES A PROPER LIMITATION ON THE APPROPRIATION FOR CONTRACTUAL SERVICES IN THE CIVIL RIGHTS DIVISION OF THE DEPARTMENT OF REGULATORY AGENCIES; THEREFORE, THIS FOOTNOTE IS NOT A SEPARATE ITEMS SUBJECT TO VETO.

[30]Medical Care Title XIX - The Title XIX appropriation is based on an estimate of 156,301 welfare clients in 1971-72. A supplemental request will only be considered at the next session of the General Assembly for the reason of having exceeded that caseload estimate.

26. THE PLAINTIFFS CONFESS THAT THE VETO OF THE SECOND SENTENCE OF FOOTNOTE 30, SECTION 2 WAS PROPER ON THE GROUNDS THAT THIS SENTENCE CONSTITUTES SUBSTANTIVE LEGISLATION CONTRARY TO ARTICLE V, SECTION 33 OF THE CONSTITUTION OF COLORADO. ACCORDINGLY, THE COURT FINDS THAT THE VETO OF THE SECOND SENTENCE OF FOOTNOTE 30 WAS PROPER, AND THAT THIS SENTENCE IS VOID AND UNENFORCEABLE.

[31]Nursing Homes - This appropriation provides $11.77 average total cost per day for the projected caseload of 9,055 with an anticipated $2.26 per day in patient income. The Department of Social Services will establish payment ceilings so as to remain at or below the total per day average.

27. THE PLAINTIFFS HAVE CONFESSED THAT THE VETO OF THE SECOND SENTENCE OF FOOTNOTE 31, SECTION 2 WAS PROPER ON THE GROUNDS THAT THIS SENTENCE CONSTITUTES SUBSTANTIVE LEGISLATION CONTRARY TO ARTICLE V, SECTION 33 OF THE CONSTITUTION OF COLORADO. ACCORDINGLY,

THE COURT FINDS THAT THE VETO OF THE SECOND SENTENCE OF FOOTNOTE 31, SECTION 2 WAS PROPER, AND THAT THIS SENTENCE IS VOID AND UNENFORCEABLE.

[32]Division of Rehabilitation
A. The General Assembly desires that the Department of Social Services establish the following priority order regarding clients served:
   1. State and community institutional populations.
   2. Present welfare caseload.
   3. Potential welfare caseload.
   4. Disadvantaged and minority persons.
   5. General population.
   The Department of Social Services shall not add any additional clients in four-year academic degree or graduate degree programs.
B. The Department of Social Services shall implement a uniform means test to insure that only those clients who are unable to provide all or a part of Rehabilitation services for themselves are supported by the state program.
C. The Department of Social Services shall use the services of the Division of Employment to the fullest extent possible, for job counseling, job seeking, job placement, and follow-up.
D. The Model Cities program is viewed as having a high priority. The Department of Social Services shall insure that the program is fully supported.

28. THE PLAINTIFFS HAVE CONFESSED THAT THE VETO OF THE SECOND SENTENCE OF PART A AND THE VETO OF PARTS B AND C OF FOOTNOTE 32, SECTION 2 WERE PROPER ON THE GROUNDS THAT THESE PARTS OF SAID FOOTNOTE CONTAIN SUBSTANTIVE LEGISLATION CONTRARY TO THE PROVISIONS OF PARTICLE V, SECTION 33 OF THE CONSTITUTION OF COLORADO. THE COURT FURTHER FINDS THAT THE VETO OF PART D OF FOOTNOTE 32, SECTION 2 WAS A PROPER VETO ON THE GROUNDS THAT PART D CONSTITUTES A SEPARATE ITEM BECAUSE IT IMPOSES NEITHER A LIMITATION NOR A CONDITION INSEPARABLY CONNECTED TO THE APPROPRIATION, AND THAT PART D IS SUBSTANTIVE LEGISLATION CONTRARY TO ARTICLE V, SECTION 33 OF THE CONSTITUTION OF COLORADO. ACCORDINGLY, THE COURT FINDS THAT THE VETOES OF PARTS A, B, C, AND D OF FOOTNOTE 32, SECTION 2 WERE PROPER, AND THAT SAID PARTS ARE VOID AND UNENFORCEABLE.

[35]Colorado Bureau of Investigation - Seven of these personnel shall be used for narcotics cases.

29. THE COURT FINDS THAT THE VETO OF FOOTNOTE 35, SECTION 2 WAS PROPER ON THE GROUNDS THAT THIS FOOTNOTE CONSTITUTES AND INVASION OF THE SEPARATION OF POWERS PROVIDED IN ARTICLE III OF THE

CONSTITUTION OF COLORADO, AND THAT FOOTNOTE 35 IS VOID AND UNENFORCEABLE.

> [36] The total expenditure for these two projects is not to exceed the $20,000 appropriated.

30. THE PLAINTIFFS HAVE CONFESSED THAT THE VETO OF FOOTNOTE 36, SECTION 2 WAS A PROPER VETO ON THE GROUNDS THAT THIS FOOTNOTE IS DUPLICATIVE OF THE APPROPRIATION AND MEANINGLESS SURPLUSAGE, AND NOT INSEPARABLY CONNECTED TO THE APPROPRIATION TO WHICH IT REFERS, AND THEREFORE IS AN ITEM SUBJECT TO VETO. ACCORDINGLY, THE COURT FINDS THE VETO OF FOOTNOTE 36, SECTION 2 WAS PROPER, AND THAT FOOTNOTE 36 IS VOID AND UNENFORCEABLE.

> [40] Department of Institutions - Division of Mental Retardation - No less than sixty percent of personnel employed shall be used for direct care of patients.

31. THE COURT FINDS THAT THE VETO OF FOOTNOTE 40, SECTION 2 WAS A PROPER VETO ON THE GROUNDS THAT THIS FOOTNOTE VIOLATES THE SEPARATION OF POWERS REQUIRED BY ARTICLE III OF THE CONSTITUTION OF COLORADO, AND THE FOOTNOTE 40 IS VOID AND UNENFORCEABLE.

CAPITAL CONSTRUCTION

> (2) Appropriations from state funds shall be reduced by any amounts received from federal, local, or private sources not appropriated herein.

32. THE DEFENDANTS HAVE CONFESSED THAT AS A MATTER OF LAW THE VETO OF SUBSECTION (2) OF SECTION 3 WAS IMPROPER ON THE GROUNDS THAT THE GENERAL ASSEMBLY MAY APPROPRIATE STATE MONEYS CONDITIONED UPON THE RECEIPTS OF FEDERAL MONEYS, AND MAY FURTHER REDUCE THE APPROPRIATION OF STATE FUNDS BY ANY AMOUNTS RECEIVED FROM FEDERAL SOURCES. ACCORDINGLY, THE COURT FINDS THAT THE VETO OF SUBSECTION (2) OF SECTION 3 WAS IMPROPER BECAUSE THIS SUBSECTION IS A PROPER LIMITATION UPON APPROPRIATIONS AND DOES NOT CONSTITUTE AN ITEM SUBJECT TO VETO.

> (3) Allotment of appropriations for construction of higher education facilities shall be made only upon certification by the Commission on Higher Education

that program planning has been completed and is approved by the Commission.

(4) Allotment of progar and master planning appropriations made to the Commission on Higher Education shall be made only upo.. certification of specific planning request, with advice to the Joint Budget Committee.

33. THE COURT FINDS THAT THE VETOES OF SUBSECTIONS (3) AND (4) OF SECTION 3 WERE PROPER ON THE GROUNDS THAT THESE SUBSECTIONS CONTAIN SUBSTANTIVE LEGISLATION CONTRARY TO ARTICLE V, SECTION 33 OF THE CONSTITUTION OF COLORADO, AND THAT SUBSECTIONS (3) AND (4) OF SECTION 3 ARE VOID AND UNENFORCEABLE.

[14] Department of Natural Resources - Parks - Of th's amount $500,000 shall be used to hire part-time help at a salary not to exceed $300 a month to assist in the development and construction of recreational areas, with priority being given to summer projects so as to provide summer jobs for youth.

34. THE COURT FINDS THAT THE VETO OF FOOTNOTE 14 OF SECTION 3 WAS A PROPER VETO ON THE GROUNDS THAT THIS FOOTNOTE PURPORTS TO CONTROL THE EXPENDITURE OF $500,000 OF FEDERAL MONEYS BY LOCAL GOVERNMENTS FOR PART TIME HELP TO ASSIST IN THE DEVELOPMENT AND CONSTRUCTION OF RECREATIONAL AREAS. THE GENERAL ASSEMBLY HAS NEITHER THE POWER NOR THE AUTHORITY TO APPROPRIATE OR CONTROL SUCH MONEYS AS A MATTER OF LAW. THE COURT FINDS SPECIFICALLY THAT THE GENERAL ASSEMBLY DOES NOT HAVE THE POWER TO APPROPRIATE FEDERAL FUNDS RECEIVED BY AN AGENCY OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT AS A CONDUIT FOR THE DISTRIBUTION OF FEDERAL MONEYS TO ELEMENTS OF LOCAL GOVERNMENT ON THE GROUNDS THAT SUCH FUNDS ARE NOT PROPERTY OF THE STATE SUBJECT TO APPROPRIATION.

[19] The General Fund moneys herein appropriated shall be reduced by any federal funds received by the state for mental health construction above the amount herein appropriated. The federal funds appropriated for this purpose shall not be expended until the Jefferson County Mental Health Center shall receive $105,000 of federal construction funds.

35. THE DEFENDANTS HAVE CONFESSED AS A MATTER OF LAW THE VETO OF FOOTNOTE 19, SECTION 3 WAS IMPROPER BECAUSE THE GENERAL

ASSEMBLY MAY REDUCE THE APPROPRIATION OF STATE FUNDS BY ANY AMOUNTS RECEIVED FROM FEDERAL SOURCES. ACCORDINGLY, THE COURT FINDS THAT THE VETO OF THE FIRST SENTENCE OF FOOTNOTE 19 IS NOT AN ITEM SUBJECT TO VETO.

36. IN FINDING PROPER THE VETOES TO FOOTNOTES WHICH VIOLATE EITHER ARTICLE III OR ARTICLE V, SECTION 33 OF THE COLORADO CONSTITUTION, THE COURT HAS NOT HELD THE FOOTNOTES TO BE SEPARATE ITEMS UNLESS SPECIFICALLY INDICATED. THE COURT CONCLUDES, HOWEVER, THAT SINCE ANY FOOTNOTE VIOLATING EITHER ARTICLE III OR ARTICLE V, SECTION 33 IS VOID AND UNENFORCEABLE, THE GOVERNOR'S ACT OF DISAPPROVAL IS AN APPROPRIATE ACT CALLING ATTENTION TO THE INVALID ACT. THE COURT ALSO CONCLUDES THAT THE GOVERNOR'S DISAPPROVAL IS NOT NECESSARY TO INVALIDATE ANY PROVISION VIOLATING EITHER ARTICLE III OR ARTICLE V, SECTION 33.

ON THE BASIS OF THE FINDINGS AND CONCLUSION HEREINABOVE EXPRESSED, THE COURT ORDERS AS FOLLOWS:

1. THAT JUDGMENT BE ENTERED ON BEHALF OF THE PLAINTIFFS AND AGAINST THE DEFENDANTS DECLARING THAT THE VETOES OF: PARAGRAPHS (D) AND (F) OF SUBSECTION (1) OF SECTION 2; OF FOOTNOTE 7 OF SECTION 2; OF THE FIRST TWO SENTENCES OF FOOTNOTE 10 OF SECTION 2; LAST TWO SENTENCES OF FOOTNOTE 14, SECTION 2; FOOTNOTE 20 OF SECTION 2; OF FOOTNOTE 27 OF SECTION 2; OF THE FIRST SENTENCE OF FOOTNOTE 28,, SECTION 2; OF FOOTNOTE 29, SECTION 2; OF SUBSECTION 2 OF SECTION 3; AND OF THE FIRST SENTENCE OF FOOTNOTE 19, SECTION 3 ARE ILLEGAL, VOID, AND WITHOUT EFFECT;

2. THAT JUDGMENT BE ENTERED IN FAVOR OF THE DEFENDANTS AND AGAINST THE PLAINTIFFS DECLARING THAT THE FOLLOWING PARTS OF SENATE BILL 436 ARE VOID AND OF NO EFFECT ON THE GROUNDS THAT THE CONTENTS THEREOF VIOLATE ARTICLE III OF THE CONSTITUTION OF COLORADO:

FOOTNOTES 21(A), 35, OF SECTION 2;
THE FIRST SENTENCE OF FOOTNOTE 14;
THE SECOND SENTENCE OF FOOTNOTE 24;
THE SECOND SENTENCE OF FOOTNOTE 28, OF SECTION 2;
AND FOOTNOTE 14 OF SECTION 3;

3. THAT JUDGMENT BE ENTERED IN FAVOR OF THE DEFENDANTS AND AGAINST THE PLAINTIFFS DECLARING THAT THE FOLLOWING PARTS OF SENATE BILL 436 ARE VOID ON THE GROUNDS THAT THE CONTENTS THEREOF CONTAIN SUBSTANTIVE LEGISLATION CONTRARY TO ARTICLE V, SECTION 33 OF THE CONSTITUTION OF COLORADO:

PARAGRAPHS (A), (B), (C), (E) OF SUBSECTION (1) OF SECTION 2;
FOOTNOTES 5, 6, 8, 11, 32, 36 OF SECTION 2;
THE THIRD SENTENCE OF FOOTNOTE 10;
THE THIRD AND THE LAST TWO SENTENCES OF FOOTNOTE 14;
THE SECOND SENTENCE OF FOOTNOTE 21;
THE LAST SENTENCE OF FOOTNOTE 26;
THE SECOND SENTENCE OF FOOTNOTE 30;
SUBSECTIONS (3) AND (4) OF SECTION 3;

4. THAT JUDGMENT BE ENTERED ON BEHALF OF THE DEFENDANTS AND AGAINST THE PLAINTIFFS DECLARING THAT THE VETOES OF THE FOOTNOTES HEREINABOVE DESCRIBED AS VIOLATING ARTICLE III AND ARTICLE V, SECTION 33 OF THE CONSTITUTION OF COLORADO WERE PROPER AND IN ACCORDANCE WITH THE POWERS CONFERRED UPON THE GOVERNOR BY ARTICLE IV, SECTION 12 OF THE CONSTITUTION OF COLORADO;

5. THAT JUDGMENT BE ENTERED ON BEHALF OF THE DEFENDANTS AND AGAINST THE PLAINTIFFS DECLARING THAT THE VETOES OF THE FOLLOWING FOOTNOTES WERE PROPER INASMUCH AS THOSE FOOTNOTES, AS A MATTER OF LAW, CONSTITUTE SEPARATE ITEMS SUBJECT TO VETO BY THE GOVERNOR IN ACCORDANCE WITH THE POWERS CONFERRED UPON HIM BY ARTICLE IV, SECTION 12 OF THE CONSTITUTION OF COLORADO:

FOOTNOTES 1, 9, 16, 18, 40 OF SECTION 2;
PART D OF FOOTNOTE 32 OF SECTION 2;

6. THAT THE PLAINTIFFS' SECOND CLAIM FOR RELIEF BE DISMISSED, AND THAT JUDGMENT BE ENTERED THEREON IN FAVOR OF THE DEFENDANTS AND AGAINST THE PLAINTIFFS.

7. THE COURT FURTHER ORDERS THAT EACH PARTY SHALL PAY HIS OWN COSTS.

DONE IN OPEN COURT THIS _____ DAY OF NOVEMBER, 1971.

BY THE COURT:

_____

HENRY E. SANTO
DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENTS:

_____

C. THOMAS BASTIEN
COUNSEL FOR PLAINTIFFS

PATRICK RODEY
SPENARD

601 W. 5TH AVE. SUITE 820
ANCHORAGE, ALASKA 99501

DURING SESSION

POUCH V
JUNEAU, ALASKA 99811

Alaska State Senate

JUNEAU, ALASKA 99811

March 19, 1979

MEMORANDUM

TO : Senator Bob Mulcahy, Chairman, Senate State Affairs

FROM: Senator Patrick Rodey

RE : Proposed Amendment to House Bill 45, "An act relating to powers of Legislative Council"

I would like to propose an amendment to House Bill 45 when it is considered in Senate State Affairs. The amendment would establish a student legislative internship program. Enclosed is a summary of the proposed amendment's effects. I hope you will be able to support it. Please let me know if you have any questions. Thanks.

Attachment

STATE AFFAIRS

March 19, 1979

HB 45 An Act Relating to powers of the legislative council and the legislative budget and audit committee and providing for an effective date

SUMMARY

This legislation would give the legislative budget and audit committee and legislative council the power to sue in the name of the legislature during interim if authorized by a majority vote of the full membership of each.

FISCAL

None

RELATED LEGISLATION

This bill was HCSSB432 last year which passed both houses but was vetoed by the governor.

SUMMARY OF AMENDMENT TO ESTABLISH STUDENT LEGISLATIVE INTERNSHIP PROGRAM

This amendment to AS 24 would establish a legislative internship program designed to serve students who have at least reached their junior year in an accredited postsecondary institution.

As interns, students would earn both salary and credit, a concept which already has precedence in programs presently operating at the University of Alaska such as Cooperative Education and the University Year in Action (UYA). As the program is envisioned at this time, the credits (three for the internship and three for an independent study course taken at the same time) would be provided through and under the auspices of the University of Alaska, Juneau. The salary, which would be at least minimum wage, would come from the Legislative Council.

Interns would be assigned to standing committees of the legislature, and their period of service would last throughout the session. In addition to meeting the above-mentioned criteria, interns would be chosen on the basis of experience and interest in subjects which are likely to be addressed during any particular session.

This legislation would not require a set number of interns per year, nor would it restrict the number of interns who could participate in any given year. Interns would be chosen by the Legislative Council in cooperation with representatives from the cooperating postsecondary institution.

Alaska State Legislature

House of Representatives

STATE CAPITOL
POUCH V
JUNEAU, ALASKA 99811
465-3818

HOME ADDRESS
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JUNEAU, ALASKA 99803
789-9792

REPRESENTATIVE JIM DUNCAN
CHAIRMAN
BUDGET & AUDIT COMMITTEE

MEMBER
FINANCE COMMITTEE

M E M O R A N D U M

TO: Senator Bob Mulcahy
Chairman, State Affairs Committee

FROM: Rep. Jim Duncan
Chairman, Budget & Audit Committee

SUBJECT: House Bill No. 45 DATE: March 27, 1979

Attached is a copy of a proposed amendment to House Bill No. 45.

The amendment would allow for the appointment of alternate members to the Legislative Budget & Audit Committee. Often during the interim, the Legislative Budget & Audit Committee has difficulty establishing a quorum. The appointment of alternate members would allow the committee the flexibility to establish a quorum on a regular basis.

I do strongly support the amendment. Jay Hogan of Legislative Finance will be in attendance at your meeting to testify on the amendment.

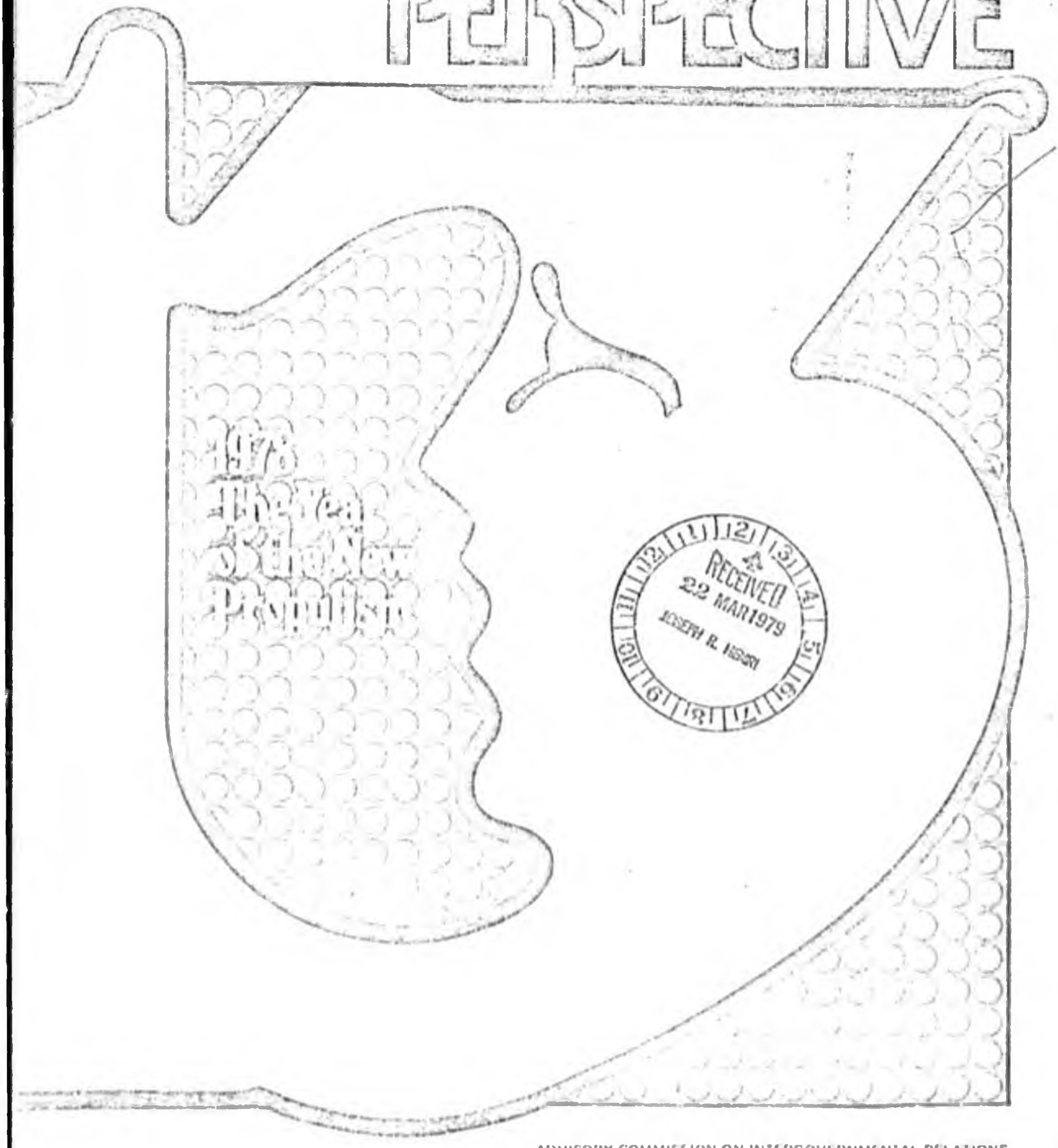
If I can provide further information, please feel free to contact me.

JD:jp

Winter 1979, Vol. 5, No. 1

For Jay Hogan

Intergovernmental PERSPECTIVE



RECEIVED
22 MAR 1979
JOSEPH R. HOGAN

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

state organization and procedure were generally not very significant in 1978.

While there was some activity in legislative review of agency applications for federal funds and in "sunset" legislation, in only one area was there an event of considerable impact to intergovernmental relations during 1978. In a landmark case, the Pennsylvania Supreme Court ruled in *Shapp v. Sloan* that the state legislature had the right to appropriate federal funds.

Legislative Oversight of Federal Funds

In a July decision, Pennsylvania's highest court upheld a lower court's ruling in *Shapp v. Sloan* that there was "no legal basis" for the assumption that federal funds are not subject to the General Assembly's appropriation power.

Shapp v. Sloan was initiated in 1976 with passage of legislation requiring federal funds to be deposited in the state's general fund and thus subject to appropriation by the legislature. A second bill specifically appropriated all federal funds coming into the state for that fiscal year. The court challenge arose when the state's treasurer refused to release federal funds for a special prosecutor's office because there was no legislative appropriation for that office.

The state supreme court, in upholding the validity of the two acts noted: "The framers (of the state constitution) gave to the General Assembly the exclusive power to pay money out of the state treasury without regard to the source of the funds. In contrast, nowhere in our constitution is the executive branch given any right or authority to appropriate public moneys for any purpose. . . The constitution says 'no money' shall be paid without an appropriation. We think the constitution means what it says."

The plaintiffs in the case had argued that legislative appropriation of federal funds violated the separation of powers doctrine and encroached on the duties of the executive. The court disagreed, saying, "it is the General Assembly, not the executive branch, which has been given the constitutional power to determine what programs will be adopted in our Commonwealth and how they will be financed. The executive's function is to carry out these programs authorized by legislation."

To the plaintiff's charge that the law violated the supremacy clause of the U.S. Constitution, the court responded that there was "no clear and direct conflict" between state and federal law.

The court considered at some length the nature of the federal grant. Plaintiffs argued that the legislative action violated a contract between the federal grantor agency and state grantee agency. The court, however, determined that "the federal funding system is, in essence, one of a voluntary cooperative effort between two governments to provide needed services for their citizens. The federal government supplies the funding while the state government plans and administers the programs. This cooperative venture is not based upon those rights and duties of an obligatory nature, enforceable in a court of law, which characterize a contractual relationship."

The case has been appealed to the U.S. Supreme Court. The court will decide in early 1979 if it will accept the case (now called *Shapp v. Casey*).

A related issue of concern in at least two states during 1978 was legislative authority to appropriate federal funds during periods when the legislature is not in session. While several states use an interim committee to accomplish this, the courts in other states have called such action an unconstitutional delegation of legislative authority.

In Alaska, a court case, *Kelley v. Hammond*, was partially decided by the superior court when it held that all federal receipts must be appropriated by the legislature. However, the court refused to allow the state's budget and audit committee to perform the appropriating function in concert with the Governor during the interim. A petition by the Governor for a review of the first part of the decision was denied. An agreement by the parties that the second part should be decided by the people in a constitutional amendment vote in November led to dismissal of the case. In November, the voters rejected the amendment which would have provided the interim authority of a legislative committee, working with the Governor, to deal with budget amendments when the legislature was out of session.

A November vote on interim legislative appropriating during the interim was also defeated in Montana. This proposal would have authorized a joint interim committee of the legislature to approve or reject budget amendments to spend funds not appropriated during the preceding session. Like Alaska, the Montana amendment was precipitated by a court decision (*Montana ex. rel. Judge v. Legislative Finance Committee*, 1975). Unlike the Alaska proposal, the Montana measure did not include a state gubernatorial role.

Several states attempted to come to grips with state agencies' applications for federal aid during 1978. Vermont instituted a requirement that approval for all federal grants must be obtained from a joint legislative fiscal committee. South Carolina enacted a requirement that state agencies must get prior approval for seeking federal funds, and delegated authority to a permanent joint appropriations review committee to approve or disapprove a grant request when the legislature is not in session. Louisiana passed a law providing for review of grants by the Governor, the budget committee, and legislative fiscal office.

A 1978 Illinois law requires all agencies under the governor to submit all applications for federal aid to the bureau of the budget for approval. A Missouri enactment requires all state agencies to supply the fiscal affairs and appropriations committee of both houses of the legislature with monthly reports on expenditures of federal and state matching funds.

Legislative Oversight of the Executive Branch

Activity in legislative oversight was not limited to federal funds during 1978. Several states provided for legislative review of administrative rules and regulations prior to their promulgation. Idaho enacted provisions for legislative review of rules and regulations when the legislature is out of session. An Alaska measure, passed over the Governor's veto, empowers the Administrative Regulation Review Committee to suspend regulations adopted when the legislature is out of session.

Implementation of a 1978 South Carolina law requiring legislative approval of rules of practice and procedure issued by the state supreme court has been delayed until March 1979. The extension gives the legislature and the state supreme court time to come to an agreement on the controversial issue.

Iowa eased requirements for legislative oversight of administrative rules and established a legislative oversight bureau with subpoena power and access to all records. Wisconsin expanded the membership of a joint committee to review administrative rules. Kentucky created a legislative program review and investigations committee.

In Pennsylvania, the Governor must present budget information to the legislative leadership prior to formal submission, and the legislature there is now to be given periodic revenue estimates.

November 16, 1978

M E M O R A N D U M

TO: Chairman and Members
Budget & Audit Committee

FROM: J. H. Hogan, Director
Legislative Finance Division

The enclosed measure granting the Legislative Budget and Audit Committee and the Legislative Council power to sue in the name of the Legislature was passed during the 1978 session and vetoed by the Governor. I would suggest that the Committee officially request that the Legislative Council prefile for introduction a new bill incorporating the act as passed last year, and that the legislative leadership be requested to expedite passage of this measure early in the 1979 legislative session.

JHH:pw

Attachments

LAWS OF ALASKA

1978

Source | Chapter No.

HCSSB 432(Rules) | _____

AN ACT

Relating to powers of the Legislative Budget and Audit Committee and of the Legislative Council; and providing for an effective date.

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

* Section 1. AS 24.20.211(a) is amended by adding a new paragraph to read:

(8) sue in the name of the legislature during the interim if authorized by majority vote of the full membership of the committee.

* Sec. 2. AS 24.20.060(4) is amended by adding a new subparagraph to read:

(G) sue in the name of the legislature during the interim if authorized by majority vote of the full membership of the council.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.070(c).

ACTION BY GOVERNOR

Vetoed
~~Approved~~ by the Governor July 3 1978

Governor of Alaska

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

July 3, 1978

The Honorable John Rader
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

After due consideration, I have decided that I must veto HCSSB 432 (Rules) which would empower both the Legislative Council and Budget and Audit Committee to bring suit in the name of the legislature.

Legislation authorizing legislative agents to bring civil actions in the name of the legislature in support of its orders and subpoenas is constitutional, and their doing so would be quite proper were the executive to fail to do so at the legislature's request. It would also be proper to authorize legislative agents to appear as amici curiae in cases challenging the validity of legislative acts, particularly as, for instance, in cases such as A.L.I.V.E. Voluntary, where the executive is challenging their validity. No one could possibly question the legislature's empowering its interim committee to act on these matters.

But bringing civil actions to compel the executive to act in accordance with the constitution and laws of the state exceeds the power vested in the legislative branch. Buckley v. Valeo, 424 U.S. 1 (1976). Circumstances compel me to infer that the legislature intends this bill to serve that purpose, that is, as it has in Croft v. Thomas (enforce election laws); Kelley v. Hammond (enforce finance laws); Bradner v. Hammond (enforce personnel laws); Hammond v. Chance (enforce constitution); and SCR 112 (enforce land laws).

At the present time, the Legislative Council has apparent authority to file amicus briefs in suits brought by others in which the legislature's laws or acts are challenged and

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the executive's position is not in support of the legislature's, for example, as in A.L.I.V.E. Voluntary. So that is no problem. There has never been so much as a hint that the executive would fail to support the legislature's issuance of a subpoena or order. So that is no problem either. Accordingly, there is no pressing need for any authorizing legislation such as this bill at this particular time. There is time in which to develop legislation on the subject which will include standards and guidelines to steer the interim committees away from the shoals of the separation-of-powers doctrine.

Given the recent -- and continuing -- examples of the litigiousness of the interim committees, this bill, which is absolutely devoid of any standards or guidelines for bringing suit, is an open invitation to usurp executive power. As the United States Supreme Court said in Buckley:

> The enforcement power, exemplified by [the] discretionary power to seek judicial relief, is authority that cannot possibly be regarded as merely in aid of the legislative function of Congress. A lawsuit is the ultimate remedy for a breach of the law and it is to the president, and not to the Congress, that the Constitution entrusts the responsibility to 'take care that the laws be faithfully executed.'

The Constitution of Alaska dictates the same result. Public Defender Agency v. Superior Court, 3rd Jud. Dist., 534 P.2d 947 (Alaska 1975).

Accordingly, I have vetoed HCSSB 432 (Rules).

Sincerely,

Jay S. Hammond
Governor

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For or Against.)

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JR BALLOT CARD.

PLACE YOUR BALLOT CARDS IN
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FICIAL TO DO SO IN THE VOTER'S PRE

D B

SIDE 2

I HAVE VOTED

HAVE YOU?

SB 45
HB 45

STATE OF ALASKA
General Election November 7, 1978

BALLOT PROPOSITION NO. 1
Advisory Vote on Legislative Session

Shall the Legislature adopt a resolution placing before the voters an amendment to the state constitution to provide for a maximum length for regular sessions of the legislature of 120 days which may be extended in 10-day increments by a resolution concurred in by a majority of the membership of each house? The vote on this proposition does not amend the constitution. It merely advises the legislature of the voters' preference.

A vote "FOR" advises the legislature to place the proposed amendment before the voters	FOR	+
A vote "AGAINST" advises the legislature not to place the proposed amendment before the voters	AGAINST	+

BALLOT PROPOSITION NO. 2
Constitutional Amendment
Powers of Legislative Interim Committees

This is a proposed constitutional amendment to Article II, section 11 (interim legislative committees) to allow the legislature, by law, to vest one of its interim committees with the authority to share with the Governor the authority to approve or disapprove revisions to the budget. The amendment would also permit the legislature to delegate to the committee its power to appropriate federal or other monies received from non-state sources.

A vote "FOR" adopts the amendment	FOR	+
A vote "AGAINST" rejects the amendment	AGAINST	+

SIDE 1

TOP

OFFICIAL GENERAL ELECTION BALLOT

GENERAL ELECTION NOVEMBER 7,

THIS STUB TO BE REMOVED BY ELECTION BOARD

STATE OF ALASKA
General Election November 7, 1978

BALLOT PROPOSITION NO. 3
Initiative No. 6
Full Bondable Costs of Relocating Capital

This proposal would require that all costs of the capital location be determined. All costs include moving personnel offices to the relocation site; planning, building, furnishing and financing a new capital having facilities equal to those at the current capital and those required by the 1974 capital move initiative; and the social, economic and environmental impact to the present and relocation sites. In addition, it would require that a bond issue including all bondable costs of the capital relocation be approved by a majority of voters prior to the expenditure of state money to relocate the capital.

A vote "FOR" approves the initiative.	FOR
A vote "AGAINST" rejects the initiative.	AGAINST

BALLOT PROPOSITION NO. 5
Initiative No. 11
Refundable Deposits on Certain Beverage Containers

This proposal would provide that all beer and carbonated beverage containers sold in certain areas of Alaska after July 1, 1 have refund value of at least ten cents. Areas without ac to Anchorage, Fairbanks, Juneau and Ketchikan by road, ra mainline state ferry service would not be affected. An unaff ed area could elect to participate by vote of its local gov ing body. Containers would have to be marked "Alaska Ref - 10c" or "Rural Alaska -- No Refund". Dealers could re to accept unstamped, damaged, or unsanitary containers. tabs on metal beverage containers would be banned statew

A vote "FOR" approves the initiative	FOR
A vote "AGAINST" rejects the initiative	AGAINST

SACHETS A.A

GARY PESCA - Legislative Finance- This bill has been introduced to give the legislature the power to sue the Governor. The LB&A Committee and the Legislative Council tried to sue Hammond for transferring money between appropriations (revising programs) during the interim without the approval of the Leg. B&A Committee. (Kelly vs. Hammond). The issue of the right to sue came up after the preliminary judgement. Governor said it was unconstitutional. Ramona Kelly was on the LB&A Committee at the time.* They tried to make it a personal suit but it didn't work. Hammond has pressed this point to a much further extent than other governors. But it is a problem that has been and will be faced with any governor. There will always be a difference of opinion between the Legislative and Executive branches as to their powers as equal but separate branches and how far beyond their powers each can step. LB&A was trying to get the 3rd branch (Judicial) involved as a referee. But without the power to sue the leg. branch has no power to ask for 3rd party involvement. When the leg. is in session the law is clear and the gov. has the pwer to transfer between appropriations by going thru the bedget process (supp. or special appropriations). During the interim he does not have this vehicle and just does it on his own. At this point he cannot legally be stopped during an interim. So unless the leg. is physically here, the gov. can do anything he wants with bills and appropriations. Courts say the issue doesn't matter. The leg. does not have the authority to bring a suit against the Gov.

* [illegible] THOUGHT SHE WAS A PRIVATE PARTY (WHICH SHE WAS) IT WAS [illegible]

Rob C. for Hohman

This bill is to insure that legislative intent is implemented. When the governor circumvents the intent of legislation the only alternative is to sue him. Last election Prop. 2 (which would have given the leg. the power to sue) was voted down by the people.

Bill Barrier-Legislative Affairs, Legal Services

Although he feels that this is a separation of powers issue, Mr. Barrier does not believe that this bill is in violation of the separation of powers concept of American Democracy. In some instances the legislature must be allowed to sue the executive in order to defend their powers. If the legislature wants to give the Legislative Council the power to sue it should be made specific, by statute, if they do or do not have this power. Best example of this type of situation. A few years ago there was aballot proposition on exchange of lands. The legislature said that the ballot title was misleading and couldn't wait for the next session to do something about it as the election would be over by then. So the Legislative Council sued the executive through the Legislative Affairs Division of Legal Services. The court ruled that constitutionally the legislature cannot sue and that the Legislative Council does not have statutory authority to bring suit

Proposition # 2, A Constitutional Amendment

In last election to voters failed to pass A constitutional # 2 This proposed amendment would have given the legislature the ability to vest one of its interim committees the authority to approve or disapprove revisions to the budget. The amendment would also permit the legislature to delegate to the interim committee its power to appropriate federal or other monies received from non-state sources

Opinions OF HB 45. Bob Mulcahy

ROD PEGUES - DEPT. OF LAW

This bill is unconstitutional and violates the separation of powers. The legislative branch enacts laws, the executive branch executes the law and the judicial branch adjudicates. It is clearcut. This bill would in effect usurp, by the legislative branch, the powers of the executive branch. The governor's first obligation is to uphold the constitution. There are cases when the legislature could litigate when exercise of legislative powers is being thwarted (via amicus briefs) He feels that the legislature should have certain powers of sueing (see attached bill draft from Law) but cannot and should not have the power to sue the governor. Please see attached article which gives the Dept. of Law's basic position.

Bill Barrier Leg Affairs

Proposition 4

Gary Reska

Rep HD 5

For an Act entitled:

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

* Section 1. AS 24.20.060 is amended by adding a new paragraph to read:

(8) to litigate in behalf of the legislature during the interim between sessions, if authorized by a majority vote of the full membership of the council, as follows:

(A) initiate civil action to enforce legislative subpoenas;

(B) intervene or appear as amicus curiae in any case in which the power or responsibility of the legislature is placed in issue;

(C) defend legislators, legislative officers or employees, and legislative agencies in actions brought against them in which the validity of their official acts or proceedings are placed in issue.

Legal Services for Congress

Congress now depends on the executive branch's Justice Department for its legal services. Both branches would be better served if Congress had its own legal counsel.

By Dorothy Sellers

THE NEED OF Congress for legal services is beyond question. It is evident from both the volume and substance of present-day litigation involving members, officers, and committees of Congress. The Joint Committee on Congressional Operations in its final report for the Ninety-fourth Congress (December 31, 1976) identified more than forty pending cases "of vital interest to the Congress." The report lists ninety-eight senators and representatives who had assumed litigative as well as legislative responsibilities.

These cases frequently raise core governmental and constitutional issues. Three from the United States Court of Appeals for the District of Columbia Circuit illustrate the point:

1. In *United States v. American Telephone and Telegraph Company*, 551 F. 2d 384 (1976), a congressional subcommittee investigating the scope of warrantless wiretapping for alleged national security reasons subpoenaed from A.T.&T. all wire-tap request letters sent to it or its subsidiaries by the Federal Bureau of Investigation. Because the White House feared public disclosure of the subpoenaed documents, the United States, represented by the Department of Justice, sued A.T.&T. to enjoin compliance with the subpoena. Rep. John Moss, through private counsel, intervened for himself and on behalf of the committee and the House of Representatives. On appeal from a district court decision largely favorable to the plaintiff, the court, characterizing the action as "a portentous clash between the executive and legislative branches," remanded without decision in December of 1976 in the hope that the parties might settle the case. But those negotiations failed, and the court reheard the case in June of 1977.

2. In *Clark v. Valeo*, 559 F. 2d 642 (1977), Ramsey Clark, an unsuccessful candidate for the Democratic party's senatorial nomination in New York, challenged the constitutionality of the provisions of the Federal Election Campaign Act under which a single house of Congress may disapprove regulations promulgated by the Federal Election Commission. The secretary of the Senate and the clerk of the House of Representatives were named defendants. Each was represented by private counsel. Over their objection, the United States, represented by the Department of Justice, intervened on the side of plaintiff on behalf of the president and executive branch. Five constitutional questions were certified to the court of appeals *en banc* pursuant to the unique judicial review provisions of the act. In January of 1977 the court dismissed the case for lack of a ripe case or controversy within the meaning of Article III of the Constitution. The Supreme Court affirmed the judgment in *Clark v. Kimmett* in June (97 S.Ct. 2667).

3. *Dellums v. Powell*, 561 F. 2d 242 (1977), arose from the 1971 May Week demonstrations in the District of Columbia. On May 5 approximately twelve hundred people assembled on the steps of the Capitol to hear speeches by members of the House of Representa-

tives and to present them with a "peoples' peace treaty." The District of Columbia police and the Capitol police dissolved the assemblage by arresting the participants. A district court jury awarded Rep. Ronald Dellums, a scheduled speaker at the disrupted meeting, $7,500 for the invasion of his First Amendment rights. Representative Dellums had private counsel. The Capitol police chief, who was found jointly and severally liable for the award with the District of Columbia police chief, was represented by the Justice Department. The court of appeals affirmed the jury's findings of liability but remanded for a reduction of damages.

Congress Depends on the Justice Department

At present legal services for Congress are provided *ad hoc*, primarily by the Department of Justice and to a lesser extent by private counsel. During the period 1971–75 the Department of Justice defended members, officers, employees, or agencies of Congress in approximately sixty cases. The cases above illustrate the inexpedience of congressional reliance on the Department of Justice. In each the department not only failed to represent a recognizable congressional interest but appeared in opposition to it.

The department's representation of Congress is founded more in custom than statute. 2 U.S.C. §118 empowers the department to defend the officers of Congress against claims relating to their official duties. There is no comparable statutory authority for the department's representation of congressional members and committees. Former Attorney General Edward H. Levi characterized that representation as a matter of comity rather than as an absolute obligation.

The department may have discretion to represent Congress under 28 U.S.C. §§ 517 and 518, which authorize the attorney general to conduct litigation in which the "United States" has an interest, but the definition of "United States" has proved elusive. In *United States* v. *A.T.&T.* and *Clark* v. *Valeo* the department appeared as plaintiff or intervenor-plaintiff "United States" solely on behalf of the executive branch in opposition to the legislative. Yet, in defending the executive branch, Justice has argued with perfect inconsistency that an action which pits the legislative branch against the executive cannot present a case or controversy because the "United States" appears on both sides of the issue. (*Statts* v. *Lynn*, D.D.C. No. 75-0551, dismissed by stipulation November 26, 1975.)

The occasions on which the department does not represent or actively opposes congressional interests reflect the indisputable fact that its primary responsibilities and loyalties run to the executive branch. This raises a question as to the appropriateness of the present attorney-client relationship between the department and Congress under the doctrine of separation of powers. The effective operation of the doctrine requires, if not eternal vigilance, at least continuing suspicion on the part of each branch toward the others. The present system of providing legal services for Congress primarily through the executive branch cannot be reconciled with the doctrine of separation of powers: it leaves Congress perpetually unprepared for the increasingly frequent and inestimably important occasions when it must judicially protect its prerogatives from executive branch inroads.

The situation is equally uncommendable from the department's viewpoint. Its sometimes congressional client is assured a second-class status in relation to its principal client, the executive branch.

Congress Needs Its Own Counsel

The objective should be to assure the uninterrupted availability of legal services for Congress, regardless of the nature of the case. To expand the role of private counsel is to perpetuate a makeshift solution to an unremitting problem. In addition, private counsel are expensive and, when retained case by case, necessarily lack a comprehensive perspective of the problems and policies of congressional litigation.

Recent Congresses have considered proposals for establishing a source of representation within the Congress. The principal measures have been S. 2731, which would have established an Office of Congressional Legal Counsel and was passed in the Ninety-fourth Congress by the Senate but not acted on by the House, and, in the Ninety-fifth Congress, Title II ("Congressional Legal Counsel") of S. 555, the Public Officials Integrity Act of 1977, which passed the Senate on June 27 and is now under consideration in the House.

These proposals would establish within Congress a permanent Office of Congressional Legal Counsel. The legal counsel would be appointed jointly by the Speaker of the House and the president *pro tempore* of the Senate without regard to political affiliation and solely on the basis of fitness to perform the duties of office. The counsel, in turn, would appoint necessary assistants on the same merit basis.

A professional law office serving the entire Congress would have benefits beyond providing needed representation for litigation purposes. Ideally, litigation is the last step in the process of providing legal services. The earlier part of the process—giving advice and counsel—is aimed at avoiding litigation and formulating positions that are legally as well as politically sound. The sources of advisory and litigative services to Congress now are bifurcated: the advisory function is distributed among the various committee counsel (with a consequent unevenness of quality from committee to committee); the litigative function is jointly discharged by the Department of Justice and private counsel. The establishment of an Office of Congressional Legal Counsel would provide a unitary, nonpartisan source for advisory and litigative legal services. But the congressional legal counsel would not displace existing committee counsel. Rather he would be authorized to advise, consult, and co-operate with any

committee or subcommittee regarding the use of congressional investigative powers.

In litigation the proposals would empower the congressional legal counsel on direction from Congress (1) to initiate civil actions to enforce congressional subpoenas, (2) to defend congressional individuals or entities in pending actions in which the validity of their official acts or proceedings was placed in issue, and (3) to intervene or appear as *amicus curiae* in any case in which the powers and responsibilities of Congress are placed in issue. In addition, S. 555 authorizes the counsel to represent Congress in proceedings involving use immunity for persons who testify before Congress pursuant to 18 U.S.C. §§ 6002 and 6005.

The primary substantive difference between S. 555 and S. 2731 is that the former would not allow the congressional legal counsel to commence legal actions—other than those against nongovernmental parties to enforce congressional subpoenas—while the latter would authorize him to bring suit to "require an officer or employee of the executive branch of the government to act in accordance with the Constitution and laws of the United States."

Supreme Court Draws Distinction

In *Buckley v. Valeo*, 424 U.S. 1 (1976), the Court held that the Federal Election Commission could not constitutionally exercise the enforcement powers conferred on it because of the exclusion of the president from participation in the appointment of a majority of its members. The Court drew a distinction between a power "essentially of an investigative and informative nature, falling in the same category as those powers which Congress might delegate to one of its own committees" and the power to seek judicial enforcement of a law of the United States. The former may be exercised by persons appointed without presidential participation; the latter may not.

The Court stated: "The commission's enforcement power, exemplified by its discretionary power to seek judicial relief, is authority that cannot possibly be regarded as merely in aid of the legislative function of Congress. A lawsuit is the ultimate remedy for a breach of the law and it is to the president, and not to the Congress, that the Constitution entrusts the responsibility to 'take Care that the Laws be faithfully executed.'"

This distinction affects the proposals for establishing a congressional legal counsel. Both S. 2731 and S. 555 would authorize the counsel to bring civil actions to enforce congressional subpoenas and orders. Congress now has two methods for handling contempt of Congress cases. It may refer them to the United States attorney for criminal prosecution as a misdemeanor pursuant to 2 U.S.C. §§ 192, 194, or it may bring the contemnor to trial before Congress, although this procedure has not been used since 1945.

The congressional contempt cases inevitably arise from the use of the congressional investigative power. For this reason it appears that a congressionally appointed legal officer may constitutionally bring a civil action in support of that power, and this could be "regarded as merely in aid of the legislative functions of Congress."

The proposals would empower the congressional legal counsel to undertake the defense of congressional committees and personnel in cases in which the validity of their official actions was placed in issue. As this would be in a previously filed action, the counsel would not be involved in the discretionary decision to institute legal proceedings.

Because the counsel's responsibility would be limited to the defense of pending challenges to official congressional actions, it may be construed as supportive of the legislative function of Congress rather than as an invasion of the presidential power. This conclusion is fortified by the practicalities of the situation—exemplified by *Clark v. Valeo*—in which the Department of Justice declined to represent a congressional defendant. Surely Congress may appoint a replacement counsel in that situation.

Counsel Also May Be Friend of the Court

Both proposals would allow the congressional legal counsel to intervene or appear as *amicus curiae* in cases challenging the constitutionality of any law of the United States in which the United States is a party. Intervening and appearing as *amicus curiae* are totally different undertakings. An *amicus curiae* is not a party to the litigation and independently cannot request any form of relief. Thus an appearance *amicus curiae* could not infringe on the executive's power to seek judicial relief.

In contrast, an intervenor is a party to the action and able to request any appropriate relief and to be bound by the ultimate judgment. There is no way of predicting whether a constitutional challenge to an act of Congress will come from a plaintiff seeking declaratory relief or from a defendant charged with violating the act. The right to intervene in support of the constitutionality of a law of the United States may carry with it the discretionary power to appear as plaintiff seeking judicial relief.

The provisions by which the congressional legal counsel may be directed to intervene or appear as *amicus curiae* are clear attempts to protect Congress against the exceedingly rare situation when the executive branch chooses not to defend all or part of the constitutionality of a statute. This situation in fact occurred in *Buckley v. Valeo*. The Department of Justice filed two briefs in the Supreme Court, one on behalf of the defendant attorney general and a second *amicus* brief that argued against the constitutionality of the grant of enforcement powers to the Federal Election Commission. The congressional interest in that case could have been protected without infringing on

executive responsibilities if counsel had appeared as *amicus curiae* rather than as an intervenor.

But provisions like that in S. 2731 that would authorize the congressional legal counsel to institute actions against the executive branch to compel it to act in accordance with the Constitution and laws of the United States would appear to be unsalvageable in light of *Buckley* v. *Valeo*.



Dorothy Sellers practices as a partner in a Washington, D.C., law firm. She holds a B.A. from Stanford University, attended Stanford Law School, and earned her J.D. at George Washington University in 1969.

Challenges by Individual Members of Congress

Buckley v. *Valeo* does not foreclose the possibility that an individual member of Congress may bring suit against the executive branch. Members of Congress, although officers of the United States, are outside the scope of the appointments clause because the Constitution expressly provides the method for their selection. The Supreme Court has never addressed the question of the standing of individual members of the legislative branch to seek judicial relief from actions taken by members of the executive branch. Circuit court decisions, however, hold the member-plaintiff to the standing requirements applicable to all other plaintiffs—the member must demonstrate a specific nonspeculative personal injury in fact. *Harrington* v. *Bush*, 553 F. 2d 190 (D.C. Cir. 1977); *Harrington* v. *Schlesinger*, 528 F. 2d 455 (4th Cir. 1975); *Holtzman* v. *Schlesinger*, 484 F. 2d 1307 (2d Cir. 1974).

The narrow area in which members of Congress do have standing to challenge executive branch action is illustrated by two cases, again from the District of Columbia Circuit. In *Kennedy* v. *Sampson*, 511 F. 2d 430 (1974), Sen. Edward Kennedy sought a declaratory judgment that the Family Practice of Medicine Act was validly enacted despite a purported pocket veto. The court found the requisite injury—and therefore standing to sue—in the nullification of Kennedy's specific vote and of the congressional power to override a veto.

In *Pressler* v. *Simon*, 428 F.Supp. 302 (D.D.C. 1976), the three-judge court, although finding for the defendants on the merits, upheld the standing of the plaintiff, Rep. Larry Pressler, to challenge the Postal Revenue and Salary Act of 1967 and the Executive Salary Cost-of-Living Adjustment Act of 1975 as violative of Article I, Section 6, of the Constitution. Citing *Kennedy* v. *Sampson*, the Court stated, "a Congressman has standing to sue by reason of his office where executive action has impaired the efficacy of his vote. . . ."

Litigation Must Be Directed by Congress

The proposals for establishing an Office of Congressional Legal Counsel would not allow litigation other than as directed or consented to by Congress. Because the individual members of Congress are beyond the pale of the appointments clause, the question is why cannot the actual lawyering on behalf of Congress be delegated without violating the appointments clause. The answer is twofold.

First, as noted earlier, Congress cannot appoint any one to perform duties other than in aid of those functions Congress may itself carry out. A nonlegislative function—for example, enforcement of the laws—cannot properly be delegated because it is not a proper congressional function. Second, even if an individual member of Congress demonstrates standing to sue on his own behalf, that showing is not automatically transferable to Congress as an institution. And a practical problem with assigning a congressionally appointed legal officer to represent an individual member of Congress is that the decision on standing is frequently—as in *Kennedy* v. *Sampson*— inseparable from the decision on the merits and, therefore, simply comes too late for assignment to a congressionally appointed legal officer.

At present the legislative branch is dependent on the executive branch for legal services. The arrangement is inexpedient for both, particularly Congress. It has no reliable source of representation for judicial confrontations with the executive branch. Proposals for establishing an Office of Congressional Legal Counsel are likely to recur as the quantity and importance of litigation involving congressional interests continue to increase.

While it is probable that a statute conferring on a congressionally appointed legal officer the authority to sue an executive branch member for alleged errors of omission or commission in enforcing the laws would be struck down under the appointments clause, there is nevertheless a large area in which the litigative responsibilities of a congressional counsel could be regarded as incidental to the legislative function and outside the appointments clause.

An additional benefit to Congress would be that of merging the advisory and litigative sides of the legal services available to it and of providing a central source for analyzing court and administrative rulings and recommending legislative responses.

While a proposal for establishing a legal office in Congress, where more than half the members are lawyers, may have the superficial appearance of carrying coals to Newcastle, in reality it could provide necessary and now unavailable legal services to Congress. ▲

UNIV. is exempt

HB207

UNIV. OF ALASKA RECEIVED DEC 7 1974

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, 19 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

UNIV. is exempt

HB207

C.H. A.G.



February 22, 1974

Richard W. Freer
Deputy Commissioner
Department of Administration
Pouch C
Juneau, Alaska 99801

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Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By
James H. Hayden
Assistant Attorney General

JHH:jcp

STATE OF ALASKA

DEPARTMENT OF LABOR

NEWS RELEASE

FOR IMMEDIATE RELEASE

JAY S. HAMMOND, GOVERNOR

EDMUND N. ORBECK, COMMISSIONER

L. D. CHAPLIN, INFORMATION OFFICER

P. O. BOX 1149
JUNEAU, 99811
907–465–2700

OUT.

HB 45 An act relating to powers of the Alaska Legislative Council and the Legislative Budget and Audit Committee; and providing for an effective date.

By Rules by request of t Leg. Council For LB&A Com

SUMMARY

This bill amends statutes concerning powers of the Legislative Budget and Audit Committee by adding a new paragraph enabling them to sue in the name of the legislature during the interim between sessions if authorized by a majority vote of the full membership of the committee. HB 45 also amends statutes concerning the powers of the Legislative Council enabling them to do the same by a majority vote of the full membership of the council.

SUPPORTING INFORMATION

Check with Judiciary

FISCAL NOTE: Check with Judiciary

RELATED LEGISLATION: None

INTERESTED PARTIES: Legislative Budget & Audit
Legislative Council

648 Court Bldg

Alaska State Legislature

45

JUNEAU ALASKA

M E M O R A N D U M

TO: Senator Bob Mulcahy, Chairman
Senate State Affairs Committee

FROM. J. W. Hogan, Director
Legislative Finance Division

SUBJECT: HB 45 - Arguments in Favor

At your request I have prepared the following arguments in support of HB 45. HB 45 grants the Legislative Council and the Legislative Budg · & Audit Committee statutory authority to bring suit in the name of the Legislature during the interim. As the bill came to your committee, it was the same bill approved by the Legislature last year and vetoed by the Governor (SB 432 - since SB 432 was enacted by the last legislature this legislature could not override the veto this January, and a new bill had to be introduced, i.e., HB 45).

In the veto message for SB 432 the Governor stressed that the Legislature could always file an amicus brief in suits brought by others. The problem with this of course is that if "others" don't file suit against some executive action/inaction, then the Legislature has no case in which to file an amicus brief. Using the Budget & Audit Committee's Kelley v. Hammond case as an example, the 1976 legislature enacted Ch. 26, SLA 1976 which prohibited transfers between appropriations. Then in the General Appropriations Act (Ch. 279, SLA 1976) the Legislature modified the prohibition to allow transfers when approved by the Governor and the Legislative Budget & Audit Committee. The Attorney General advised the Governor to proceed with transfers but not to submit them to the Budget & Audit Committee for their approval. A list of transfers so approved is contained in LR 67, SLA 1977, attached.

Putting yourself in the place of the then Budget & Audit Chairman, the time is August 1976, the beginning of the 1977 fiscal year, and the Governor is transferring between appropriations against the expressed will of the Legislature. The Budget & Audit Committee votes to bring suit to stop the transfers, but has to search for four months to find a "private citizen" to file the suit. By the time the suit is

filed in January, the fiscal year is one-half over, and $2,637,385 has been transferred outside the approval mechanism set up by the Legislature. In brief, the real argument in favor of this bill is as follows:

> If the Legislature creates interim committees, as the Constitution allows, to look after its interests during the interim, then it must grant those committees the power to act--in this case bring suit--against the executive branch when the expressed interests of the Legislature are ignored. Otherwise, the interim committees can only anguish, publicly and/or privately,

The amendment added by your committee would authorize the presiding officer of each house to appoint one alternate member to the Budget & Audit Committee. The sole purpose of this amendment is to make it easier to obtain the necessary six-member quorum to accomplish Budget & Audit Committee interim business (normally a full day's agenda <u>at least</u> once a month). The extreme travel distances and divergent interests of our legislators has made it very difficult to obtain a comfortable quorum throughout the history of the Budget & Audit Committee's existence (established 1971).

JHH:pw
Attachment

cc: Jim Duncan, Chairman
Budget & Audit Committee

SCHEDULE OF G.O. BOND SALE - APRIL 1979

CHAPTER	SLA	PURPOSE	AUTHORIZED BUT UNISSUED	ORIGINAL APRIL OFFERING	REVISED APRIL OFFERING	REMAINING AUTHORIZATION UNISSUED
194	1972	Airports	$ 1,000,000	$------	$------	$ 1,000,000
201	1972	Flood Control Facilities & Sm. Boat Harbors	1,000,000	------	------	1,000,000
202	1972	Water Supply and Sewerage Systems	6,900,000	------	------	6,900,000
86	1974	Port Facilities Development	4,500,000	------	------	4,500,000
116	1974	Library Facilities	2,900,000	------	------	2,900,000
118	1974	Trunk and Secondary Airports	2,100,000	------	------	2,100,000
132	1974	Health Care Facilities	2,000,000	------	------	2,000,000
124	1976	Regional Fire Fighter Training Center	3,800,000	500,000	------	3,800,000
131	1976	School Construction	11,840,000	------	500,000	11,340,000
214	1976	Fish Management & Development Facilities	13,805,000	3,000,000	3,000,000	10,805,000
239	1976	Senior Citizen Housing Development	1,400,000	------	------	1,400,000
247	1976	Highways, Ferries & Local Svc. Roads	12,785,000	------	------	12,785,000
248	1976	Airports	2,396,000	500,000	500,000	1,896,000
271	1976	Water Supply & Sewerage Systems	24,000,000	1,000,000	1,400,000	22,600,000
95	1978	Flood Control, Port Facilities & Sm. Boat Landing	33,290,000	1,600,000	2,600,000	30,690,000
96	1978	Parks and Recreational Facilities	5,850,000	700,000	1,500,000	4,350,000
122	1978	Health Facilities, Sr. Citizen Ctrs/Pioneers Homes	25,000,000	1,500,000	4,500,000	20,500,000
137	1978	Voc. Educational Facilities & U of A	33,656,000	9,400,000	10,900,000	22,756,000
138	1978	Highway, Ferry, Airport & Local Svc. Roads	88,450,000	20,000,000	29,000,000	59,450,000
139	1978	Correctional & Public Safety Facilities	30,504,000	------	------	30,504,000
140	1978	Fisheries Mgmt. & Development Facilities	26,965,000	4,100,000	4,100,000	22,865,000
145	1978	Water Supply and Sewerage Systems	27,640,000	1,200,000	2,000,000	25,640,000
			$361,781,000	$43,500,000	$60,000,000	$301,781,000

November 16, 1978

M E M O R A N D U M

TO: Chairman and Members
Budget & Audit Committee

FROM: J. H. Hogan, Director
Legislative Finance Division

The enclosed measure granting the Legislative Budget and Audit Committee and the Legislative Council power to sue in the name of the Legislature was passed during the 1978 session and vetoed by the Governor. I would suggest that the Committee officially request that the Legislative Council prefile for introduction a new bill incorporating the act as passed last year, and that the legislative leadership be requested to expedite passage of this measure early in the 1979 legislative session.

JHH:pw

Attachments

OPINIONS OF HB 45 Bob Mulcahy

ROD PEGUES - DEPARTMENT OF LAW

This bill is unconstitutional and violates the separation of powers. The legislative branch enacts laws, the executive branch executes the law and the judicial branch adjudicates. It is clearcut. This bill would in effect usurp, by the legislative branch, the powers of the executive branch. The governor's first obligation is to uphold the constitution. There are cases when the legislature could litigate when exercise of legislative powers is being thwarted (via amicus briefs). He feels that the legislature should have certain powers of sueing (see attached bill draft from law) but cannot and should not have the power to sue the governor. Please see attached article which gives the Dept. of Law's basic position.

BILL BARRIER - LEGISLATIVE AFFAIRS, LEGAL SERVICES

Although he feels that this is a separation of powers issue, Mr. Barrier does not believe that this bill is in violation of the separation of powers concept of American Democracy. In some instances the legislature must be allowed to sue the executive in order to defend their powers. If the legislature wants to give the Legislative Council the power to sue it should be made specific, by statute, if they do or do not have this power. Best example of this type of situation. A few years ago there was a ballot proposition on exchange of lands. The legislature said that the ballot title was misleading and couldn't wait for the next session to do something about it as the election would be over by then. So the Legislative Council sued the executive through the Legislative Affairs Division of Legal Services. The court ruled that constitutionally the legislature cannot sue and that the Legislative Council does not have statutory authority to bring suit.

PROPOSITION #2, A CONSTITUTIONAL AMENDMENT

In last election to voters failed to pass proposition #2. This proposed amendment would have given the legislature the ability to vest one of its interim committees the authority to approve or disapprove revisions to the budget. The amendment would also permit the legislature to delegate to the interim committee its power to appropriate federal or other monies received from non-state sources.

GARY PESCA SACKETT'S A.A.

Legislative Finance- This bill has been introduced to give the legislature the power to sue the Governor. The LB&A Committee and the Legislative Council tried to sue Hammond for transferring money between appropriations (revising programs) during the interim without the approval of the LB&A Committee. (Kelly vs. Hammond). The issue of the right to sue came up after the preliminary judgement. Governor said it was unconstitutional. Ramona Kelly was on the LB&A Committee at the time.* They tried to make it a personal suit but it didn't work. Hammond has pressed this point to a much further extent than other governors. But it is a problem that has been and will be faced with any governor. There will always be a difference of opinion between the Legislative and Executive branches as to their powers as equal but separate branches and how far beyond their powers each can step. LB&A was trying to get the 3rd branch (Judicial) involved as a referee. Buth without the power to sue the legislative branch has no power to ask for 3rd party involvement. When the legislature is in session the law is clear and the governor has the power to transfer between appropriations by going thru the budget process (supp. or special appropriations). During the interim he does not have this vehicle and just does it on his own. At this point he cannot legally be stopped during the

interim. So unless the legislature is physically here, the governor can do anything he wants with bills and appropriations Courts say the issue doesn't matter. The legislature does not have the authority to bring a suit against the Governor so even though she was a private party (who can sue) it was considered a suit by LB&A.

ROB C FOR HOHMAN

This bill is to insure that legislative intent is implemented. When the governor circumvents the intent of legislation the only alternative is to sue him. Last election Prop. 2 (shich would have given the legislature the power to sue) was voted down by the people.

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF–STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

March 19, 1979

M E M O R A N D U M

TO: Senator John Sackett, Chairman
Senate Finance Committee

FROM: J. H. Hogan, Director
Legislative Finance Division

SUBJECT: HB 45

HB 45 (current copy of Bill History attached) would grant the Legislative Council and the Legislative Budget and Audit Committee statutory authority to sue on behalf of the Legislature. The bill, as it currently stands, is the same bill that was vetoed by the Governor last year. Should it pass this year, I would assume it would suffer the same fate, thus an override of the Governor's veto appears to be necessary to put this law on the books.

If it is the intention of the legislative leadership to pass this measure and to have it effective this interim, I would suggest that the bill be moved quickly to a vote in the Senate in anticipation of a veto and subsequent need for a vote to override.

JHH:pw

Attachment

STATE AFFAIRS COMMITTEE

March 28, 1979

The meeting was brought to order by the Chairman, Bob Mulcahy.

Rick Lauber of the Pacific Seafood Processors testified first on HB 207. He said the bill does what "we" think the original act would do.

"We have no objection to the bill whatsoever, it seems it does only what it should do anyway."

Ziegler asked if anyone had received the letter from the University. He pointed out that the question had been raised that the university does not want to pay for return trips.

Lauber said that processors had had similar situtations where someone did not want to complete their contracts but that was covered by the department of labor. He said the only exceptions would be if the contract was really unreasonable.

Kelly said the president wants to bexcluded from the bill.

As there were questions and Sen. Ziegler's office was looking for a copy of the letter to share with the committee the chairman addressed the next bill on the agenda.

Jay Hogan, Director of Legislative Finance testified on behalf of HB 45.

Hogan passed out a document compiled by Budget & Audit. The first page contained the act passed in 1977. The second page contained the Governor's vetoe message. The bill was vetoed then overruled by a unanimous vote of the legislature and put on the books.

The Attorney General's office advised that governor that the act was unconstitutional and the Governor failed to comply with the act.

In January the Governor ceased making transfers but at that time the value of the transfers was about $2.5 million.

The up shoot is that Budget & Audit found themselves wishing to have no transfers or to have them in accordance to the law passed by the legislature. The legislature went to court knowing they had no power to sue. Without the power to sue the legislature has no power at all during the interim. If the legislature came in after Budget and Audit had filed a suit and said go ahead made Budget & Audit feel that the legal problems on power had been solved.

The committee realized the governor was ignoring the law in August and tried to get a private suit or former legislator but without success. Finally Ramona Kelly sued as a private citizen.

Kelly wanted to know how the legislature goes about suing - if it must be done during the session.

Hogan said there are limited rights. He said the legislature was trying to enforce the law and Budget & Audit was trying to get the law adhered to. It appears that a legislative resolve is necessary to continue the suit. The only other vehicle the legislature would have would be to anticipate problems ahead of time and instruct Budget & Audit what to do before they adjourn and that would be nearly impossible to do.

Rodger Pegues from the Attorney General's office testified next. He said that the AG's office opposes the legislation but does not oppose legislation on the subject. Congress resorts to resolution of the house or both houses and gets counsol to present their feelings. The U.S. Attorney General ruled it unconstitutional to bring actions to court. The United States Supreme Court ruled 9-0 that it was unconstitutional.

Surely the legislature could have representation when there is no legal interest at stake. Having house counsol with standing authority would bring in another body of expertise. I don't see a reason for both bodies to have counsol since most issues would be based on constitutional law. He said the bill brobably violates the constitution since ours is not that different from the United States Constitution. He also said that the law that the Governor is not complying with is not the transfer law. He described contests where this had been tested.

He said this program would allow any suit. "I think it is a bad idea - I would rather get issues resolved before committees like this. There is more sophistication than in the Supreme Court. I think the bill is an invitation to trouble."

Billy Berrier, Director of Legal Services testified next.

He again passed out copies of the Governor's vetoe.

He said that it is true that many of the questions that would be involved in this bill such as questions of ballot propositions, questions on a mandate to spend, etc. are resolved in other ways.

The ballot proposition for the constitutional amendment was worded such that the legislature felt it would change the outcome of the election. After the legislature adjourned they didn't want a special session to so the Legislative Council brought a suit. THe judge did not decide the constitutionality question. In Pennsylvania the legislature does have the power. The Attorney General has asked for the decision to be dismissed but there hasn't been a decision yet. Berrier said he hadn't attended the Budget and Audit meeting but both bodies felt it was an important piece of legislation.

Rodey said it was a complex legal problem. The question is when the Governor refuses to comply with the law who will carry it out - the legislature or the public.. Because of the checks and balances set up within our government he feels the legislature should. To require a private citizen seems undesirable.The Legislature being able to sue carries out the intent of the constitution.

Most cases wuld deal with constitutional issues and the court is the proper place to deal with constitutional issues.

Berrier said the type of questions that come up are constitutional, not dealing with something easy that can be solved politically.

Ziegler said he has great reservations but is inclined to vote "do pass".

Kelly wanted to know if the legislature could sue during session.

Berrier said if a resolution is passed.

There was discussion on the reapportionment case.

Ziegler received the letter from the University and said the statutes state that the University is exempt so that should solve his question.

Hogan requested an alternative membership to call on to make up a quorum during the interim for meetings and explained past prob= lems.

Ziegler said it was a worthwhile amendment.

Bradley made a motion it be accepted

Rodey made a motion the bill be moved out of commitee.

Representative Randolph testified on HJR 12. He said it was a very simple resolution making a request on Congress. He said it would be hard to pass in Washington but he felt it was worthwhile for the people of Alaska to ask. He said it would have no affect on the state income tax.

Mulcahy asked for a motion to move the bill out of committee. Bradley made the motion.

Mulcahy asked if SB 207 was resolved to everyones satisfaction.

Kelly made a motion to move the bill with individual recommendations.

Mulcahy said as a matter of housekeeping he would ask for acceptance of the substitute for HB 147.

Kelly made a motion to accept the substitute.

Vern Roberts from the Dept. of Motor Vehicles was present to answer questions.

Ziegler asked if the $20.00 fee was reasonable.

Roberts said the fee was best to be left in the hands of the legislature.

Rodey said the cost of plates today is $60.00 - he wasn't ad- vocating an increase but said down the road the cost could create a problem.

Rodey sais he didn't know if we should try to make money with the plates since there was other sources of state revenue.

Roberts said it didn't matter to him that it doesn't cost anymore to try to collect $50 or $150. He said the cost for plates hadn't risen for a number of years.

Mulcahy said an increase would touch most families these days two or three times.

Rodey said OPEC touches them a lot more.

MOre discussion arose concerning legislative license plates.

The chairman asked for a motion to move the bill.

Rodey moved that it be passed out for individual recommendation.

HOUSE JUDICIARY COMMITTEE MINUTES
February 8, 1979

Chairman PARR called the meeting to order at 3:09 and asked the Committee's indulgence in entertaining business on HJR 17, regarding ice fog research. He explained that, as this legislation is not likely to promote any controversy, it would be nice to get it out of Committee.

ANDERSON
Representative ~~BARNES~~ moved to consider HJR 17, there was no OBJECTION and so the motion passed unanimously.

Representative BARNES moved that the commitee report out HJR 17 and there being NO OBJECTION, the motion passed unanimously, and the Committee reported out HJR 17.

Chairman PARR then opened the meeting to testimony on HB 45, the bill of calendar, regarding the powers of the Legislative Council.

BILLY BERRIER, the Director of Legal Services, Legislative Affairs Agency, appeared to testify. He stated that this legislation passed both legislative houses last year and was vetoed by the Governor. He believes that this bill is not in violation of the separation of powers concept of American Democracy, and in some instances the Legislature must be allowed to sue the Executive in order to defend their powers.

ROD PEGUESE testified on behalf of the department of Law. The opinion expressed by Peguese is that this legislation is unconctitutional and violates the separation of powers. He feels that the legislature is ursurping the Executive Powers, but cannot answer how the legislature can compel the Executive the enforce their laws.

BILLY BERRIER appeared briefly again before the committee, explaining briefly that this legislation does not violate any separation of powers concenpts and that it only insures that the Legislature will, under this law, have the power to protect their authority.

Representative NELS ANDERSON moved that the Committee report out HB 45, there being NO OBJECTION, the motion passed unanimously and HB 45 was reported out of committee.

Chairman Parr adjourned the meeting at 4:30 p.m.

(9)

COMMITTEE REPORT

HOUSE

FURTHER:

1-24-79 Date: _____

Mr. Speaker:

The Committee on JUDICIARY has had HB 45

"An Act relating to powers of the Alaska Legislative Council and the Legislative Budget and Audit Committee; 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)

Gary Pesca-Legislative Finance

This bill has been introduced to give the legislature the power to sue the Governor. The only time the Leg. Council & Leg. B&A Committee have tried to sue was when Hammond was transferring money between apporpriations without authority. during ~~the~~ interim. LDA & L.C. both TRIED TO sued.

KELLY vs. HAMMOND - RAMONA KELLY sued in name as private citizen

Courts say the issue doesn't matter. Leg. does not have authority to bring a suit against Gov. This bill would give them the power.

Hammond has pressed this to a much greater point than other governors. But it is a problem that has been & would be faced w/ any Gov. There will always be a difference of opinion between the Leg & Exec branches as to their powers (as = branches.) and how far beyond each can step. CDA wanting to get the 3rd branch (Judicial) involved as a referee. But w/o power to sue, Leg. branch has no power to get 3rd party involvement

When the leg. is in session the laws are clear & the gov. has power to transfer between approp. by going thru the budget process = supp or special appropriations. During the interim he does not have this vehicle and just does it on his own. At this point he cannot legally be stopped during an interim. So unless leg. is physically there, the Gov. can do anything he wants. Until bills & appropriations

Sackett & other members of the ABA com & D.C.
feel very strongly about this issue & consider
it priority

Atty. gen. against it

ROD PEGUES - DEPT. OF LAW

Leg. is unconstitutional & violates the separation of powers:

Executive branch - executes laws
Legislative branch - enacts laws
Judicial branch - adjudicates

The governor's first obligation is to the constitution.

No objection to amendments

The bill would in effect usurp the leg. branch, the powers of the executive branch

Many times a legislature enacts a law & doesn't comply w/ laws.

There are cases where legislature could delegate rule making authority - examples - in the bill should have the ~~one~~ civil penalty ~~section~~ section & specify that ~~the~~ amounts should be for deducting leg. off from the legislature -

Rod Pegues – Dept. of Law

Leg. acting as a member
because of dep of power leg does not enforce
law
Dep of Powers
Jud - adjudicate
Exp - execute
Leg - enact

Allison — Gary Peska

Find out who the committee would most likely sue + for what reasons? I suspect it may be because of #30th in current powers. Also, get some from Attorney General's office to get some input from them

Does the Gov. Only have a appeal? Gov. then may be time appeal? Gov. then may be time appeal without the [illegible] Quad-I

BA/Eqn - appeal temporary stay appeal sent back - BA appeal time. [illegible] BMC. Nasa to Acc. [illegible]

Some applied to Leg. Council/ Gov can do anything w/ appeal Audits - unless physically [illegible]

PATRICK RODEY
SPENARD

601 W. 5TH AVE. SUITE 820
ANCHORAGE, ALASKA 99501

DURING SESSION

POUCH V
JUNEAU, ALASKA 99811

Alaska State Senate

JUNEAU, ALASKA 99811

March 19, 1979

MEMORANDUM

TO : Senator Bob Mulcahy, Chairman, Senate State Affairs

FROM: Senator Patrick Rodey

RE : Proposed Amendment to House Bill 45, "An act relating to powers of Legislative Council"

I would like to propose an amendment to House Bill 45 when it is considered in Senate State Affairs. The amendment would establish a student legislative internship program. Enclosed is a summary of the proposed amendment's effects. I hope you will be able to support it. Please let me know if you have any questions. Thanks.

Attachment

SUMMARY OF AMENDMENT TO ESTABLISH STUDENT LEGISLATIVE INTERNSHIP PROGRAM

This amendment to AS 24 would establish a legislative internship program designed to serve students who have at least reached their junior year in an accredited postsecondary institution.

As interns, students would earn both salary and credit, a concept which already has precedence in programs presently operating at the University of Alaska such as Cooperative Education and the University Year in Action (UYA). As the program is envisioned at this time, the credits (three for the internship and three for an independent study course taken at the same time) would be provided through and under the auspices of the University of Alaska, Juneau. The salary, which would be at least minimum wage, would come from the Legislative Council.

Interns would be assigned to standing committees of the legislature, and their period of service would last throughout the session. In addition to meeting the above mentioned criteria, interns would be chosen on the basis of experience and interest in subjects which are likely to be addressed during any particular session.

This legislation would not require a set number of interns per year, nor would it restrict the number of interns who could participate in any given year. Interns would be chosen by the Legislative Council in cooperation with representatives from the cooperating postsecondary institution.

HB

84

HB 84 An act relating to the refund of the unused balance of personal leave upon termination from state employment. McKinnon

SUMMARY

This bill amends existing statutes to allow state employees to receive unused personal leave payment upon termination of state employment in the form of a lump sum or in installments as he chooses.

FLOOR REPORT HB 84

This bill can be implemented at no measurable cost to the state and would allow state employees upon termination of employemnt, the option of receiving his unused personal leave payment in a lump sum or in installments over a period of time. Many employees would prefer to receive their accrued unused leave in installments rather than in one lump sum for financial reasons. The Department of Administration, Division of Finance forsees no implementation problems nor cost to their department.

(leave for State employees has been changed now only one category "personal leave" rather than Vacation leave - sick leave)

1. Effects State employees outside the various bargaining units

2. Has no limit to accrual of "personal leave" for these employees

3 Some "Old Timers" likely to have a lot of leave accrued

4. Data in year - recall Tax Burden —

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

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

Office: Legislative Finance PHONE 465-2240

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

copy + file in SB 84

P. O. Box 1260
Anchorage, AK 99510
November 12, 1978

Rep Joe McKinnon
3071 Lois Drive
Anchorage, AK 99503

Dear Mr. McKinnon:

Congratulations on your reelection. District 9 can certainly use your help. I hope you will lend your assistance in changing a provision of Chapter 136 SLA 1978. No significant cost is involved.

Chapter 136 affects only State employees outside of the various bargaining units. It caused 40% of their accrued sick leave to be added to their annual (now "personal") leave and the other 60% to be put in a sick leave bank. There is now no limit to the accrual of personal leave for these employees. The problem which I hope can be corrected is that the unused personal leave must be paid for in one payment at the time of termination or retirement. The Administration has followed up with regulations which include the same language, "....a lump sum payment....upon separation....".

With the addition of the former sick leave and no accrual limit, some of us older-timers are likely to have a lot of leave (like 6 or 8 months) accrued. Consider the huge loss in income taxes we will suffer if it should be necessary to quit or retire late in the year. For example, we might have to terminate in the 10th month and have 6 months of leave accrued. This would force us to pay taxes on 16 months' pay in one year. We would have to pay out 54 to 60% of the lump sum in federal and state taxes, compared to perhaps half that much in later years if we could collect it when on retirement pay only.

What I am asking you to do, please, is introduce and/or help pass a bill to allow for the lump sum terminal leave payment to be delayed or made in installments at the employee's discretion to allow maximum tax savings. This will require some extra bookkeeping by the state, of course, but it should cost very little considering the few employees affected. And, too, a precedent is set by the State's institution some years ago of a program of deferred compensation to allow employees to save on taxes.

An amendment as follows to the first sentence of Sec. 7 of Chapter 136 would probably accomplish the needed change: "Terminal leave for unused personal leave shall be allowed as a lump sum payment upon separation from service or in one or more later payments as agreed upon by the employee and the Department of Administration."

May I hear from you on this? Thanks very much.

Sincerely,

James A. Williams

James A. Williams

SENATE STATE AFFAIRS

March 21, 1979

The meeting was brought to order by chairman, Bob Mulcahy.

The first person to testify was Jay Hogan, Director of the Legislative Finance on SB 120.

He said several years ago the leadership of the legislature went to Denver to see the joint budget structure of the General Assembly in that state. The delegation was quite impressed with the concept.

Basically, what the bill would do is to create a joint subcommittee of the joint budget committee. Many legislatures have a similarly-fashioned structure.

This year the House finance committee is using the members-as-a-whole approach and the Senate Finance Committee is using the subcommittee approach. There are different methods at arriving at the budget figures and those figures differ depending on the approach. This bill would standardize the approach of creating the budget.

Acording to Hogan there are many advantages to the joint budget subcommittee.

1) It gets rid of duplicated effort
2) The budget would be better researched
3) Legislative budget would be more coherent since the legislature would follow certain guidelines
4) The staff would have more direction and more time to prepare recommendations for review
5) Because there would be more interest on the part of the members working with the budget there would be a greater possibility of adhering to the legislative intent. As the committee would be closely watched by a group of legislators they would comply more with the intent
6) The legislative budget currently produced is produced by six people - although they incorporate a great deal of input and numbers, the also put in a lot of new programs that were not included in either budget - expecially in the capital budget

Hogan said with the sub-committee there would be a streamlined approach throughout the budget process not just in the last few days.

Mulcahy said with an ongoing committee wouldn't it become a rather powerful arm.

Hogan said that was true and that that was the most strenuously objected aspect of the committee.

The thing has to be looked at in a trade off manner. If the body selects people with care they must keep tabs on what it is doing. My expertise with the free conference committee is that the members bend over backwards to select a wide legislative body.

Better members on the committee are are able to defend and hold against vetoe if they have have a better knowledge of the budget.

Because the committee would be ongoing and would have better equipment a better job would be done than if the budget goes to a large committee. That is what was found in Colorado.

Mulcahy wanted to know as far as detail how the budget could be better than now with the red-lining - what are the advantages.

Hogan said there were two advantages.

1) Budget and Audit could argure over the use of line-item vetoe. Since the budget and audit committe is not composed of the majority of the finance committee they haven't been involved in the thinking of the finance members. Under the existing system people haven't followed the budget all the way through so they don't have the same concerns for the items.

2) The other concern is the small committee. If the governor feels subjected to a tremendous amount of hassle over a vetoe he won't vetoe. In Colorado the committee has had a more persuasive force over vetoe.

Kelly wanted to know what happen to the rest of the members of the house and senate finance committees if they should ever bother to go to the finance meetings.

Hogan said this concept only deals with the budget and supplementals. All other bills would still be heard by the finance committee. It's not apparent but that's what is said on page 2, line 4 - so the authoirty of the committee is limited. The full-standing finance committee would hear the bulk of the bills, bond bills, special appropriations and bills with fiscal impact. The division of labor would mean that those on the finance committee would have more time to devote to the different bills assigned to them.

There would be a difference at the way the house and senate would look at this since the chairman on the senate side is often on other committees at present and there are often new members in the house on the finance commitee.

Kelly said it appears that the joint budget committee would lighten the load for three finance committee members on each side but double it for the other three members.

Hogan said yes, there is no doubt about it - it does take a good deal of time.

Kelly wanted to know what the status was of the house version.

Hogan said it was an identical bill, currently in the House finance committee.

Mulcahy said he wanted more time to look at the bill.

Bert Wagnon with the Department of Commerce and Economic Development testified first on SB 139.

He said he had reviewed the bill with the commissioner and they felt good with the bill - no problems with it.

They would prefer the original working on Page 1, line 19 after the word "facilities".

"The rest of the bill is in fine form. No problems."

The Alaska Industrial Development Authority is used primarily for tax exempt financing. I would not want to build false hopes. Section 103-C allows tax exempt financing for convention facilities.

No credit of the state is involved and there is no fical note. Each applicant comes through with his own financing.

Kelly said he wanted to see if he understood - does the private outfit come in to ask to borrow money.

Yes, said Wagnon, but if they have no credit they get not money. WE say we will issue bonds = they have to provide the people to purchase the bonds. The successful financing so far has been for larger firsm. We have not been successful with smaller firms. By smaller firms I mean the smallest project we've dealt with is $3 million. We will be doing one with Alaska Airlines but overall the authority does not lend itself to smaller firms.

Kelly asked if convention facilities are better if indirect or built directly as a convention center.

Waqnon said direclty - the IRS is very specific in saying "convention facility" - such as, if a hotel with a convention room were to build they must allocate the costs.

KElly asked if the amendment on page 3 was major.

Wagnon said no - it was suggested by council for clarification. If he would like he could get the written reason but it was just a minor oversight in drafting.

Bradley made a motion to move the bill out of committee for individual recommendations.

Representative Joe McKinnon testified on HB 84.

He said it was introduced at the request of a constituent. Since the leave for state employees had been changed there was now only one category of leave called "personal leave" rather than sick leave and vacation leave. Under the new leave system a person could accumulate an unlimited amount of leave with a large income upon leaving the government which is taxed as a whole. This would allow the leave to be paid in installments.

Mulcahy said he understood some departments were already distributing the leave income in installments.

McKinnon said yes this would just give all departments the freedom.

Mulcahy asked if there was a fiscal note.

McKinnon said no since all of the information was already on the computer.

Bradley made a motion to move the bill out of committee with individual recommendation.

Mr. Mullin from the Dept. of Administration said the department had no problems with the bill.

The meeting was adjourned.

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

STATE AFFAIRS COMMITTEE

March 21, 1979

HB 84 An Act Relating to the refund of the unused balance of personal leave upon termination from state employment.

By Representative McKinnon

SUMMARY

This legislation amends existing statutes to allow a state employee upon termination of employment the option of receiving his unused personal leave payment in the form of a lump sum or in installments over a period of time.

FISCAL

This bill can be implemented at no measurable cost to the state. See attached fiscal.

STATE AFFAIRS COMMITTEE

March 21, 1979

HB 84 An Act Relating to the refund of the unused balance of personal leave upon termination from state employment.

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SUMMARY

This legislation amends existing statutes to allow a state employee upon termination of employment the option of receiving his unused personal leave payment in the form of a lump sum or in installments over a period of time.

FISCAL

This bill can be implemented at no measurable cost to the state. See attached fiscal.

Yours only

NOTE: Bill Mullin, Department of Administration, Division of Finance said that they support this bill. Some agencies already pay personal leave in installments. Mr. Mullin said he foresees no administrative problems in implementing its intent.

STATE AFFAIRS

March 21, 1979

SB 139 An Act relating to the Alaska Industrial Development Authority

By Ray

SUMMARY

This bill amends Chapter 61, Alaska Industrial Development Authority to include development of facilities for tourism or the tourist industry, industrial parks and parking facilities. It also includes tourism or the tourist industry, industrial parks and parking facilities in the group of projects for which the local governing body in which a project is to be located, cannot appoint members to the Alaska Industrial Development Authority.

copy + file in SB 84

P. O. Box 1260
Anchorage, AK 99510
November 12, 1978

Rep Joe McKinnon
3071 Lois Drive
Anchorage, AK 99503

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An amendment as follows to the first sentence of Sec. 7 of Chapter 136 would probably accomplish the needed change: "Terminal leave for unused personal leave shall be allowed as a lump sum payment upon separation from service or in one or more later payments as agreed upon by the employee and the Department of Administration."

May I hear from you on this? Thanks very much.

Sincerely,

James A. Williams

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ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY

The Alaska Industrial Development Authority is a public corporation of the state and a subdivision within the Department of Commerce and Economic Development, with a separate and independent legal existance.

Membership includes the Commissioner of Commerce and Economic Development (Chairman), the Commissioner of Revenue and the Commissioner of Natural Resources (ex-officio). The local government of an area in which an authority project is located may appoint three members to the authority only for that project with the following exceptions: projects having to do with tourism, industrial parks, parking facilities, air pollution, waste control, air or water transportation or local furnishing of electric energy or gas.

The states purpose of the authority is to promote, develop and advance the general prosperity and economic welfare of the people of Alaska, to relieve problems of unemployment and to create additional employment by providing a means of financing industrial and manufacturing plant construction, conversion or expansion within the state, including the acquisition of real property for lease or sale to business enterprises for industrial or manufacturing purposes.

POWERS: Usual corporate powers

May acquire, improve and equip projects in the state

May lease acquired projects upon their own terms with provisions for options to purchase or renew

May issue bonds to pay the cost of acquiring or improving and equipping projects

May sell, exchange, donate, convey, encumber real or personal property owned by it if in best interest of corporation

May accept gifts, loans, federal grants or state or municipal agencies or private concerns

May deposit or invest funds subject to agreement of bondholders

May enter into contracts or agreements and do all things necessary to carry out corporate purpose

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 139
Title "An Act relating to the Alaska Industrial Development Authority"
Requested by Senator Ray Date March 12, 1979

II. FISCAL DETAIL
Agency Affected Commerce & Economic Development
Program Category Affected
Budget Request Unit(s) Affected

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	0	0	0	0		0
OTHER (Specify)	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)

IV. DATE March 12, 1979 PREPARED BY Bert Wagnon, Deputy Commissioner.
AGENCY Commerce & Economic Development
PHONE 465-2500

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

33 001 (Rev. 10/78)

HB

102

Sponsor's

CSHB 102 Pertaining to works of fine art { Eliason, Duncan, Miller, Parr.

Kelly was chairman when this passed with three "do passes" (Kelly, Zeigler, Bradely)

This bill will protect works of fine art from being confiscated by creditors of the art dealers.

Attached: 1) Bill
2) Back up
3) Minutes

House Vote 38 to 0 2 excused.

38 to 0

I [illegible] was sponsor of St.

Bob

You'll probably should ask the C.S.H.B. be adopted: the only difference in it than original is that definition of Fine Art includes photograph. Sponsor has thus added this because he received a letter from a Constituent who is a professional photographer

Original sponsors: Eliason, Duncan, Miller and Parr

Offered: 2/12/79
Referred: Rules

IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

CS FOR HOUSE BILL NO. 102

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to rights in works of fine art."

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

* Section 1. AS 45.05.120 is amended by adding a new subsection to read:

(e) Whenever an artist delivers or causes to be delivered a work of fine art of his own creation to an art dealer for the purpose of sale, or exhibition and sale to the public on a commission or fee or other basis of compensation, the work of fine art is not subject to the claims of the art dealer's creditors. For the purposes of this subsection

(1) "art dealer" means a person other than a public auctioneer engaged in the business of selling works of fine art;

(2) "artist" means the creator of a work of fine art;

(3) "fine art" includes a painting, sculpture, drawing, photograph, or work of graphic art.

that a bank or attorney would charge makes it scarcely worthwhile to set up a trust of less than $10,000. If you elect to establish one of these special personal trusts, your attorney must draw up a standard trust document and should review your will.

Currently only two institutions offer these special trusts, but more are expected to follow, and we'll keep you informed:

Home Federal Trust, P.O. Box 1401, San Diego, CA 92112 (714-238-7241).

City Trust Services, 1141 E. Jersey St., Elizabeth, NJ 07201 (201-527-8813).

Check with the institutions for the tax implications of setting up a trust in your state and what assets they will accept for inclusion.

Marketing

ARTISTS' AGENTS: WHO ARE THEY?

Not a week goes by that we don't get a letter from one of you asking for the names of artists' agents or representatives. We don't know of any, but we thought this might have something to do with the fact that artists' agents aren't a New York phenomenon. So we asked Calvin Goodman, West Los Angeles-based consultant to artists, if he knew who they were.

Said Goodman, **"The only artists' agents I know are either related to the artist or close friends.** They are in the business not for the money, but because they have a deep personal committment to the artist and his work."

The reason for this is economics, Goodman continues. Unlike agents who represent entertainers or writers, where there's a lot of money involved, artists' agents can't really make a living selling art after travel, entertainment, and other expenses have been deducted. An artist's agent's role is to build a reputation and find collectors for the artist. Once this has been accomplished, the artist will usually go with a gallery, at which time the agent must bow out. Or, if the artist wishes to be represented by many galleries in a wide geographic area, the agent can continue to represent the artist and make contacts across the country with various galleries. But look at the commission he will get. Most galleries take a 40% commission. This means that the agent's commission must come out of the other 60% that would ordinarily go to the artist, reducing the agent's commission to perhaps 10% to 25%, just not enough for a profitable business. Nor is it likely that the artist will want to give up this much of his income.

Therefore, the only people who go into the business, aside from those with a vested interest in the artist, are fools who haven't figured out the economics yet, or scoundrels who are out to fleece you. These are people who will represent you for a fee, usually paid in advance. So, Goodman concludes, if you should be contacted by an artist's representative and decide anyway to give him a try, never pay him until after he produces sales.

Galleries

WHEN A GALLERY GOES BANKRUPT, WHAT HAPPENS TO THE ART?

One of the questions on our readership survey was, "What kind of legal problems have you encountered?" A not insignificant number responded, *"Paintings held when a gallery went bankrupt,"* an all too familiar story to many artists who consign work to galleries. Just take the case of what happened in Omni, Florida, earlier this year, as reported in the *Miami Herald*.

Galeria Art Gallery opened its doors on June 8 with ambitious plans for showings, only to surprise suppliers and landlord alike by closing down on July 24. Gone was the owner, Richard Fox, a man described by most involved as a reputable businessman. His home phone was disconnected and he moved from his apartment, leaving no forwarding address. Few knew of his impending departure; even the Gallery Director was stunned.

But the Central National Bank in Miami knew. According to the bank's attorney, it had received a letter from Fox's corporation—Motif Gallery Art, Inc.—advising it of the shutdown. He added that the corporation owed the bank a "substantial sum."

Another bank attorney, when asked what was happening to the art consigned by artists to the gallery, explained: "It's my understanding that the inventory of the Galeria was pledged to the bank as collateral. Sure, we've been besieged by phone calls from artists and other interested parties. . . . But the bank is a lender and has to protect its interests." Bank officials went on to say that they were in the process of making an inventory and in due time the artists would get to see what it had. In the meantime, they were left wondering whether the bank had their work, whether Fox had taken it with them when he disappeared, or what had happened to it.

The problem here revolves around the issue of consignment. So let's take a closer look at the term and how you may be able to protect your work when you consign it. The following is taken from *This Business of Art*, by Diane Cochrane (Watson-Guptill Publications, 1515 Broadway, New York, NY 10036, $12.50. *AABL* subscribers may request a 20% discount on the book).

"What exactly does the term 'consignment' mean? When you consign work to a dealer, you set up an agency relationship with him. Under the law, as an agent, he must take care of your work and pay for any loss or damage suffered while work is in his possession if he hasn't exercised reasonable care to protect it. In other words, if work is stolen from an unattended, unlocked gallery, the dealer would have to repay you for the work.

"Consignment also means that while your dealer has the power to sell your work, you own it until you have been paid in full for it.

"Now, this sounds good, but in actuality a dealer-agency relationship is fraught with a certain amount of danger. If the dealer goes bankrupt, consigned work may be seized to satisfy the claims of his creditors.

"How can I prevent my work from being seized by creditors? It's difficult unless you live in New York or California (see below for what happens in these two states). About the **only recourse you have is to fill out UCC Form No. 1,** which guarantees your rights to your work under the Code.

What does a UCC Form No. 1 do? It prevents consigned work from being subject to the claims of creditors. In essence, it allows you to place a lien against the work. This means you have first claim on it and will get it back if and when creditors descend on the dealer.

What's wrong with filing this form? It's a cumbersome procedure and one which most dealers are reluctant to agree to. When you file UCC Form No. 1, your dealer cannot sell the work until the lien is removed by you. This means he has to contact you, and you have to remove the lien on the work in writing, a process not designed to expedite sales. Nevertheless, if you consign a number of works, each worth hundreds of dollars, you can't risk not asking your dealer to allow you to file a UCC form on the work.

Where do I get and file this form? Most legal stationery stores carry them or can get them for you. To file the form, check with either your County Clerk's office or the Secretary of State for the proper procedure (they'll tell you where to file the form and how much it will cost to file—usually a few dollars.

Why is it unnecessary to file this in New York or California? These two states have enacted laws automatically guaranteeing the rights the filed form provides, so you don't have to worry about work being claimed by creditors."

Contracts

MODEL CONTRACT FOR ILLUSTRATORS

by Tad Crawford

© Tad Crawford 1978

The new copyright law (effective January 1, 1978) requires the use of written contracts for the purchase of exclusive reproduction rights in artwork. For this reason, many publishers and other users of commercial art are now demanding that artists sign written contracts instead of following the more casual procedures that were often in effect prior to January 1, 1978. Commercial artists are having to learn more about what rights can be sold in their art and how contracts for the sale of reproduction rights can be negotiated. **The model contract shown here is intended to aid commercial artists by drawing their attention to the issues that are likely to become troublesome in selling reproduction rights in their art.** It is drafted as if written by the purchaser, but an artist can easily modify the contract and place the needed provisions on the artist's own stationery.

The most important points the contracts makes are:

- **The contract clearly shows that only limited rights of usage are transferred,** so that additional payments will have to be made for additional uses of material.
- It provides for the payment of **cancellation fees.**
- It calls for copyright notice to appear in the artist's name. This is desirable because **the copyright law allows a group registration for one $10 fee for all artwork appearing in magazines during a twelve month period, but only if copyright notice in the artist's name appeared with the artwork.** By letting the artist register inexpensively, the benefits of copyright registration can be obtained. Also, it's important to keep in mind that the magazine's registration does not register the artist's copyright in his or her contribution. This is explained in more detail in Copyright Office Circular R60a, which can be obtained free by writing to the Copyright Office, Library of Congress,

DONALD PLATT KOCH
P.O. BOX 2114
JUNEAU, ALASKA 99803

Res. 907.789-9497
Office 907.465.2515

February 6, 1979

The Honorable Richard I. Eliason
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Eliason

Re: HB 102
"An Act relating to rights in works of fine art"

Your proposal introduced on January 31, 1979 is most welcome and will hopefully receive favorable consideration by the Legislature.

I am and have been a professional photographer for about 6 years, albeit, on a part-time basis. I and others like me do place work on consignment and are thus exposed to the same problems HB 102 is intended to remedy. Photographers have for years been fighting to have their work viewed as an art form with varying degrees of sucess. Many have had their work on consignment with art dealers. I personally have had such on several occassions. I urge that you consider extension of the protection of this proposal to photographic works by inserting the word "photograph" on line 18 following the word "drawing,". Thank you.

Very truly yours,

Donald P. Koch

cc: Rep. Duncan
Rep. Miller
Rep. Parr
House State Affairs Committee

HB

147

COMMITTEE REPORT

SENATE

FURTHER: Finance

2/28/79

Date: 3/23/79

Mr. President:

The Committee on STATE AFFAIRS has had CSHB 147

registration fees for special request, personalized license plates

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

S 60 (Rev. 12/78)

SCS CSHB147 An act amending the motor vehicle code; and providing for an effective date. St. Aff.

SUMMARY

This bill amends statutes concerning the motor vehicle code.

SECTIONAL ANALYSIS

AS 28.10.011 VEHICLES SUBJECT TO REGISTRATION. This section is amended only by the addition of the words: every vehicle driven, moved or parked upon a highway or other parking place in the state shall be registered under this chapter. The statute goes on to list exceptions. FIN(S) CS JUST ADDS ONE NEW EXCEPTION TO LIST (PARKING) 11 EXCEPTIONS RATHER THAN 10. Existing statute states that with certain specific exceptions, every vehicle in this State is subject to registration and thus would be subject to title requirements. Under this law the way it currently reads places undue hardship upon a certain percentage of vehicle owners in the State, that is, owners of vehicles that have not been subject to vehicle registration in the past. Example: trail bikes, dune buggies, and other off highway type vehicles, etc. Also, vehicles owned or possessed by people in the bush and non-urban areas who have come by their vehicles in the past through methods that are neither legal or illegal but have no way to prove their ownership to the vehicles in a manner prescribed by law. When these people become subject to registration, that is, subject to title requirements, they will be forced by statute to provide the same documentation as any other vehicle owner in order for them to comply to the law. They will be unable to do so. They will also in most cases be unable to provide proper bonding procedures because of lack of insurance agencies in those areas.

AS 28.10.181 - REGISTRATION OF UNIQUE AND SPECIAL VEHICLES AND VEHICLES USED FOR SPECIAL PURPOSES.

This statute basically lists the kinds of vehicles that are considered by law to be "special" or "unique" (example-vehicles used by handicapped people, etc. historical vehicles). This bill would add to the list vehicles which are only occasionally used on the highway. It provides that the owner must show to the satisfaction of the department that the vehicle will travel upon state highways less than 5% of its total hours of operation. Provides that no more than two licenses of this kind may be issued to an individual.

AS 28.10 is further amended by adding new sections;

AS 28.10.216 - INADEQUATE EVIDENCE OF OWNERSHIP. This section provides for steps to be taken when the department is not satisfied as to the ownership of a vehicle or believes there may be undisclosed security interests in it. The department may withhold the certificate of title until the applicant presents documents proving ownership and that there are no undisclosed security interests in the vehicle. The department may require the applicant, as a condition of issuance of title certificate, to file a bond or a deposit of cash.. Provides for type and size of bond or deposit and also provides for return of bond or deposit upon certain conditions.

AS 28.10.493 - MISDEMEANORS RELATING TO TRANSFERS. Provides that a vehicle owner or dealer who transfers a vehicle and fails to comply with transfer requirements is guilty of a Class B Misdemeanor.

AS 28.10.421(d)(2)-SPECIAL REGISTRATION FEES. Special Request Plates. Existing statutes state that special registration fees are imposed annually unless otherwise specified and the fee for special request plates is $20.00; plus the fee required for that vehicle under (b)(1) or (2) of this section. This bill would amend this paragraph by adding that the $20.00 fee shall be collected only on the first issuance and on the replacement of special request plates.

Existing law for an annual payment of $20.00 in addition to regular registration fees for specialized plates is repugnent to the general public and has been mandated that it be repealed. The new law will now state, if passed, that the individual applicant for a specialized plate shall pay $20.00 initially for the application and privilege of using the personalized plate, the same as in prior years, and will pay $20.00 every time the plate is replaced due to loss, damage or replacement for a new license plate year.

AS 28,10.421(d) -SPECIAL REGISTRATION FEES. Sets fees for special registration vehicles and lists fee schedule as statute now reads. This bill would add a new paragraph (12) which includes occasional use vehicles and provides a $15.00 registration fee.

147

Minutes for Bob's file

STATE AFFAIRS COMMITTEE

March 19, 1979

The meeting was called to order by chairman, Bob Mulcahy.

The first bill to be considered was CSHB 34. Representative Rogers, bill sponsor, testified on its behalf. He said it was simple legislation that requires a summary of the budget for the public for the next three years. He noted that there was a sunset clause in the bill so that in three years it would again come before the legislature to see if it was a good idea - if not it would automatically die.

The bill would add six pages to the income tax booklet - it would entail printing costs only since the information is already being compiled.

Senator Kelly made a motion the bill be moved out of committee, no objections.

The second bill up for consideration was HB 207. Dale Chief, Director of the Wage and Hour Division of the Department of Labor testified.

He asked the committee to amend the bill to clarify the language and to more clearly define 1) family of employees - so family of employees could also be moved unless there is a written agreement 2) he asked that the per diem rate be the same as the state instead of the existing $35.00.

For the protection of the employer regulations under 20.010 sets out certain conditions in which employers would hot be entitled to pay.

Senator Mulcahy said he understood that the dept. had met with processors on the bill.

Chief said yes and that there had been no disagreement. He said he had no reason to believe that processors had not cleared up their problems and that they were complying.

Senator Kelly wanted to know if under any conditions the state paid transportation for employees.

Chief said yes, however there was no obligation to pay a return trip.

Rodey pointed out that several years ago there was a similar law called the Blue Ticket Law.

Chief said this bill does about the same. The original bill was in 1949, however, he had not researched its history. The new bill results from the problems from the oil industry, fast food industry, etc.

Rodey asked if the employer doesn't have money who pays? Under the Blue Ticket Law it was felt that a place ticket outside cost less than the taxpayers expenses of unemployment.

STATE AFFAIRS COMMITTEE

March 28, 1979

The meeting was brought to order by the Chairman, Bob Mulcahy.

Rick Lauber of the Pacific Seafood Processors testified first on HB 207. He said the bill does what "we" think the original act would do.

"We have no objection to the bill whatsoever, it seems it does only what it should do anyway."

Ziegler asked if anyone had received the letter from the University. He pointed out that the question had been raised that the university does not want to pay for return trips.

Lauber said that processors had had similar situtations where someone did not want to complete their contracts but that was covered by the department of labor. He said the only exceptions would be if the contract was really unreasonable.

Kelly said the president wants to bexcluded from the bill.

As there were questions and Sen. Ziegler's office was looking for a copy of the letter to share with the committee the chairman addressed the next bill on the agenda.

Jay Hogan, Director of Legislative Finance testified on behalf of HB 45.

Hogan passed out a document compiled by Budget & Audit. The first page contained the act passed in 1977. The second page contained the Governor's vetoe message. The bill was vetoed then overruled by a unanimous vote of the legislature and put on the books.

The Attorney General's office advised that governor that the act was unconstitutional and the Governor failed to comply with the act.

In January the Governor ceased making transfers but at that time the value of the transfers was about $2.5 million.

The up shoot is that Budget & Audit found themselves wishing to have no transfers or to have them in accordance to the law passed by the legislature. The legislature went to court knowing they had no power to sue. Without the power to sue the legislature has no power at all during the interim. If the legislature came in after Budget and Audit had filed a suit and said go ahead made Budget & Audit feel that the legal problems on power had been solved.

The committee realized the governor was ignoring the law in August and tried to get a private suit or former legislator but without success. Finally Ramona Kelly sued as a private citizen.

Kelly wanted to know how the legislature goes about suing - if it must be done during the session.

Hogan said there are limited rights. He said the legislature was trying to enforce the law and Budget & Audit was trying to get the law adhered to. It appears that a legislative resolve is necessary to continue the suit. The only other vehicle the legislature would have would be to anticipate problems ahead of time and instruct Budget & Audit what to do before they adjourn and that would be nearly impossible to do.

Rodger Pegues from the Attorney General's office testified next. He said that the AG's office opposes the legislation but does not oppose legislation on the subject. Congress resorts to resolution of the house or both houses and gets counsol to present their feelings. The U.S. Attorney General ruled it unconstitutional to bring actions to court. The United States Supreme Court ruled 9-0 that it was unconstitutional.

Surely the legislature could have representation when there is no legal interest at stake. Having house counsol with standing authority would bring in another body of expertise. I don't see a reason for both bodies to have counsol since most issues would be based on constitutional law. He said the bill brobably violates the constitution since ours is not that different from the United States Constitution. He also said that the law that the Governor is not complying with is not the transfer law. He described contests where this had been tested.

He said this program would allow any suit. "I think it is a bad idea - I would rather get issues resolved before committees like this. There is more sophistication than in the Supreme Court. I think the bill is an invitation to trouble."

Billy Berrier, Director of Legal Services testified next.

He again passed out copies of the Governor's vetoe.

He said that it is true that many of the questions that would be involved in this bill such as questions of ballot propositions, questions on a mandate to spend, etc. are resolved in other ways.

The ballot proposition for the constitutional amendment was worded such that the legislature felt it would change the outcome of the election. After the legislature adjourned they didn't want a special session to so the Legislative Council brought a suit. The judge did not decide the constitutionality question. In Pennsylvania the legislature does have the power. The Attorney General has asked for the decision to be dismissed but there hasn't been a decision yet. Berrier said he hadn't attended the Budget and Audit meeting but both bodies felt it was an important piece of legislation.

Rodey said it was a complex legal problem. The question is when the Governor refuses to comply with the law who will carry it out - the legislature or the public.. Because of the checks and balances set up within our government he feels the legislature should. To require a private citizen seems undesirable.The Legislature being able to sue carries out the intent of the constitution.

Most cases wuld deal with constitutional issues and the court is the proper place to deal with constitutional issues.

Berrier said the type of questions that come up are constitutional, not dealing with something easy that can be solved politically.

Ziegler said he has great reservations but is inclined to vote "do pass".

Kelly wanted to know if the legislature could sue during session.

Berrier said if a resolution is passed.

There was discussion on the reapportionment case.

Ziegler received the letter from the University and said the statutes state that the University is exempt so that should solve his question.

Hogan requested an alternative membership to call on to make up a quorum during the interim for meetings and explained past prob= lems.

Ziegler said it was a worthwhile amendment.

Bradley made a motion it be accepted.

Rodey made a motion the bill be moved out of commitee.

Representative Randolph testified on HJR 12. He said it was a very simple resolution making a request on Congress. He said it would be hard to pass in Washington but he felt it was worthwhile for the people of Alaska to ask. He said it would have no affect on the state income tax.

Mulcahy asked for a motion to move the bill out of committee. Bradley made the motion.

Mulcahy asked if SB 207 was resolved to everyones satisfaction.

Kelly made a motion to move the bill with individual recommendations.

Mulcahy said as a matter of housekeeping he would ask for acceptance of the substitute for HB 147.

Kelly made a motion to accept the substitute.

Vern Roberts from the Dept. of Motor Vehicles was present to answer questions.

Ziegler asked if the $20.00 fee was reasonable.

Roberts said the fee was best to be left in the hands of the legislature.

Rodey said the cost of plates today is $60.00 - he wasn't ad- vocating an increase but said down the road the cost could create a problem.

Rodey sais he didn't know if we should try tc make money with the plates s. ice there was other sources of state revenue.

Roberts said it didn't matter to him that it doesn't cost anymore to tr/ to collect $50 or $150. He said the cost fo. plates hadn't risen for a number of years.

Mulcahy said an increase would touch most families these days two or three time-.

Rodey said OPEC touches them a lot more.

MOre discussion arose concerning legislative license plates.

The chairman asked for a motion to move the bill.

Rodey moved that it be passed out for individual recommendation.

HB 147

Original sponsors: Malone, Cotten, Phillips, et al

Offered: 4/12/79
Referred: Rules

IN THE HOUSE BY THE FINANCE COMMITTEE

SENATE CS FOR CS FOR HOUSE BILL NO. 147 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act amending the motor vehicle code; and providing for an effective date."

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

* Section 1. AS 28.10.011 is amended to read:

Sec. 28.10.011. VEHICLES SUBJECT TO REGISTRATION. Every vehicle <u>driven, moved, or parked upon a highway or other public parking place</u> in the state shall be registered under this chapter except when the vehicle is

(1) driven or moved on a highway only for the purpose of crossing the highway from one private property to another, including an implement of husbandry as defined by regulation;

(2) driven or moved on a highway under a dealer's plate or temporary permit as provided for in AS 28.10.031 and 28.10.181(j);

(3) special mobile equipment as defined by regulation;

(4) owned by the United States;

(5) moved by human or animal power;

(6) exempt under the Soldier's and Sailor's Civil Relief Act (50 <u>U.S.C. App.</u> [U.S.C.A. APPR.] 501 et seq.);

(7) driven or parked only on private property;

(8) the vehicle of a nonresident as provided under AS 28.10.-121;

(9) a commercial interstate vehicle under AS 28.10.141; or

(10) transported under a special permit under AS 28.10.151; <u>or</u>

<u>(11) driven or moved on a highway or vehicular way not</u>

+ Sec 2. AS 28.10.182 is amended by adding a new subsection to read

connected to the state highway system established under AS 19.10.020.

(k) Occasional users of highways. The department may issue a license to the owner of a vehicle which is only occasionally used on a highway. The applicant must show to the satisfaction of the department that the vehicle to be licensed under this subsection will travel upon state highways less than five per cent of its total hours of operation. The department may not issue more than two licenses under this subsection to a single person.

* Sec. 3. AS 28.10 is amended by adding new sections to read:

Sec. 28.10.216. INADEQUATE EVIDENCE OF OWNERSHIP. (a) When the department is not satisfied as to the ownership of a vehicle or believes that there may be undisclosed security interests in it, the department may register the vehicle but shall either

(1) withhold issuance of a certificate of title until the applicant presents documents sufficient to satisfy the department

(A) as to the ownership of the vehicle by applicant, and

(B) that there are no undisclosed security interests in the vehicle; or

(2) require the applicant, as a condition of the issuance of a certificate of title, to file with the department either

(A) a bond in the form prescribed by the department and executed by the applicant, or

(B) a deposit of cash.

(b) A bond or cash deposit filed under (a)(2) of this section shall be equal in amount to one and one-half times the value of the vehicle as determined by the department and be conditioned to indemnify former owners, secured parties, and subsequent purchasers of the vehicle and their successors against loss resulting from a defect in or undisclosed security interest on the title of the applicant. An injured

party may sue on the bond for a breach of its conditions, but the liability of the surety or the department may not exceed the amount of the bond or deposit.

(c) The bond or deposit shall be returned (A) at the end of three years from its filing, or (B) when the vehicle is no longer registered in the state, if (b) is earlier and if the certificate of title is surrendered to the department. Service on the department of notice that action is pending to recover on the bond or the deposit extends the periods established in this subsection until 45 days after a final decision in the action on the bond or on the deposit.

Sec. 28.10.493. MISDEMEANORS RELATING TO TRANSFERS. (a) The owner of a vehicle who transfers a vehicle and fails to comply with the requirements of AS 28.10.271 is guilty of a class B misdemeanor.

(b) A vehicle dealer who transfers a vehicle and fails to comply with the requirements of AS 28.10.291 is guilty of a class B misdemeanor.

* Sec. 4. AS 28.10.421(d)(2) is amended to read:

(2) special request plates.....$20;

plus the fee required for that vehicle under (b)(1) or (2) of this section; the fee required by this paragraph shall be collected only on the first issuance and on the replacement of special request plates;

* Sec. 5. AS 28.10.421(d) is amended by adding a new paragraph to read:

(12) an occasional use vehicle under AS 28.10.181(k)...$15.

* Sec. 6. AS 28.10.491(a) is amended by adding a new paragraph to read:

(9) makes a false statement or otherwise conceals or withholds a material fact in an application for registration or certificate of title or falsely affirms with respect to a matter required to be sworn to, affirmed, or furnished under AS 28.10 or regulations adopted under AS 28.10.

* Sec. 7. AS 28.35.225 is amended to read:

Sec. 28.35.225. ENFORCEMENT. All law enforcement officers in this state <u>and employees of the department designated by the commissioner</u> shall enforce this title and regulations promulgated under this title. The state troopers shall advise and instruct all other law enforcement officers in the state concerning the requirements of this title and regulations promulgated under this title.

* Sec. 8. Section 1 of this Act takes effect immediately in accordance with AS 01.10.070(c) and is retroactive to October 18, 1978. Sections 2 - 7 of this Act take effect January 1, 1980.

SENATE STATE AFFAIRS

March 19, 1979

CSHB 147 An Act relating to Registration fees for Special request, personalized license plates; and providing for an effective date:"

Original Sponsor: Malone, Cotten, Phillips
By the Finance Committee

SUMMARY

This bill will state that the current special request plate fee may be collected only when plates are issued or replaced by the department. Sec. 2 states that a person who paid the fee in 1979 for special request plates, where plates were not issued or replaced are entitled to a refund.

FISCAL

A fiscal note is attached. Approximately $80,000 (4,000 plates times $20.00 fee) will be lost in all years except when plates are issued or replaced. The department of public safety estimates that $80,000 will have to be refunded according to Section 2 this year.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 147
Title An act relative to motor vehicle registration fees
Requested by Malone Date 02/08/79

II. FISCAL DETAIL
Agency Affected Public Safety
Program Category Affected Public Protection
Budget Request Unit(s) Affected Driver/Vehicle Services

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						
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This bill will create a decrease in revenue in all years except those years when new license plates are issued. The next scheduled new plate year is 1981. The decrease in revenue for FY80 is approximately 80.0.

4000 plates X 20 = 80.0 (decrease in revenue in all years except plate years)

IV. DATE 02/08/79 PREPARED BY Robert J. Stickles AGS
AGENCY Public Safety
PHONE 465-4330

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

83-501 (Rev. 10/78)

CSHB 147

Penelope J. Cornelius
P. O. Box 2668
Fairbanks, Alaska 99707
(907) 488-2912

March 13, 1979

Representative Sally Smith
Alaska State Legislature
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Smith:

Thank you so much for your recent correspondence of February , 1979 concerning the Senate Bill 471, or SLA 178 and its recent passage in the House.

It is my understanding that this bill is now sitting in the Senate sub-committee because of the Galena residents not wishing to pay for vehicle licenses and registrations. According the the Fairbanks Daily News Miner these residents feel that they should not be required to purchase licenses and registrations because their roads are not State maintained. Under Alaska Statute 28.20.011 it says:

> Vehicles subject to registration. Every vehicle in the state shall be registered under this chapter except when the vehicle is . . . .

No where in that statute does it say that the roads must be maintained by the State to be exempt under subsection (7) "driven or parked only on private property". From the article in the News Miner I gathered that the Galena residents were up in arms because the roads are maintained by the FAA in Galena and they apparently feel subsection 7 should apply.

My question to you is this, why should this bill be held up in the Senate because of these residents? Are the Galena residents trying to ask the State to change the Statute governing vehicle registration with this SLA 178?

Please let me know who I may write to for more information and/or to urge them to pass this bill before May 31, 1979.

I would like to save my $20.00 special request plate fee under AS 28.10.421 (d)(2) and I cannot do this unless this bill passes before May 31, 1979. It is not the money that bothers me, but I am sure that you are aware, the principle of the entire thing.

Again, my sincere thanks in all of your efforts toward this and especially your continued correspondence with me.

Sincerely yours,

Penelope J. Cornelius

Penelope J. Cornelius

PJC

P.S.: The Legislative Affairs Office telephoned me on March 12, 1979 to inform me of the passage of the bill in the House, per your instructions. Apparently they did not have my work telephone number and had a terrible time trying to reach me. In case the need arises again, my work telephone is 452-1305.

PJC

Mulcahy asked if the word "persons" meant that people could come up in a group at the expense of the employer.

Chief said no "persons" refers to families.

Rodey said he didn't want to delay the passage of the bill out of committee but he would like to look at past legislation.

The bill was held over until it could be more thoroughly reviewed.

The last bill was CSHB 147.

Ziegler explained that Bradley had constructed the original bill but the HB passed the House first so it was being considered.
"The bill before you is $20.00 for the special license plate. Senator Kelly and I have misgivings about that figure but if the public says it an O.K. fee."

Bradely's bill, SB 96 and Dankworth's bill SB 117 should be looked at and possibly combined. I suggest a substitute bill be put together.

Mulcahy said he would hold the bill and resolve the problem.

Kelly said he didn't think $20.00 was enough - it should cost more.

Ziegler said he didn't disagree but he had asked for a departmental viewpoint and the department said it was happy with the figure.

Kelly said he'd seen the fiscal note and there was a possiblity of losing $80,000.

Ziegler said he'd gladly work with Mike and give him all of the stuff he had.

Bradley said he would also be willing to work with Mike.

Jim Rhodes, from Representative Malones office said he was concerned about the date for the refunds. He said there was an understanding with the dept. to have the refunds out by May 31. The department said they would make a good faith effort if given until May 21 to get the refunds out.

Kelly said he'd like the staff to look into the cost in other states.

The meeting was adjourned.

AS 28.10.491(a)-FELONIES RELATING TO TITLE, REGISTRATION, IDENTIFI_ CATION NUMBER AND REMOVAL AND REPRESENTATION OF VEHICLE.

This statute, as it now reads, lists under what conditions a person is guilty of this type of felony. This bill would add a new papagraph to include a person who makes a false statement or otherwise conceals or withholds material fact in an application for registration or certificate of title or falsely affirms with respect to a matter required to be sworn to, affirmed, or furnished under AS 28.10 or regulations adopted under AS 28.10., as guilty of a felony.

AS 28.35.225-MISCELLANEOUS PROVISIONS-Enforcement. Statute now states that all law enforcement officers in thi state shall enforce this title and regulations promulgated under this title. The state troopers shall advise and instruct all other law enforcement officers in the state concerning the requirements of this title and regulations promulgated under this title. The bill would add to this section employees of the department designated by the commissioner as also eligible to enforce this title (Motor Vehicle Regulations.

AS 28.10.181 - REGISTRATION OF UNIQUE AND SPECIAL VEHICLES AND VEHICLES USED FOR SPECIAL PURPOSES.

(4) This statute basically lists the kinds of vehicles that are considered by law to be "special" or "unique" (example-vehicles used by handicapped people, etc. historical vehicles). This bill would add to the list vehicles which are only occasionally used on the highway. It provides that the owner must show to the satisfaction of the department that the vehicle will travel upon state highways less than 5% of its total hours of operation. Provides that no more than two licenses of this kind may be issued to an individual.

K

AS 28.10 is further amended by adding new sections;

AS 28 10.216 - INADEQUATE EVIDENCE OF OWNERSHIP. This section provides for steps to be taken when the department is not satisfied as to the ownership of a vehicle or believes there may be undisclosed security interests in it. The department may withhold the certificate of title until the applicant presents documents proving ownership and that there are no undisclosed security interests in the vehicle. (5) The department may require the applicant, as a condition of issuance of title certificate, to file a bond or a deposit of cash.. Provides for type and size of bond or deposit and also provides for return of bond or deposit upon certain conditions.

AS 28.10.493 - MISDEMEANORS RELATING TO TRANSFERS. Provides that a vehicle owner or dealer who transfers a vehicle and fails to comply with transfer requirements is guilty of a Class B Misdemeanor.

AS 28.10.421(d)(2)-SPECIAL REGISTRATION FEES. Special Request Plates. Existing statutes state that special registration fees are imposed annually unless otherwise specified and the fee for special request plates is $20.00; plus the fee required for that vehicle under (b)(1) or (2) of this section. This bill would amend this paragraph by adding that the $20.00 fee shall be collected only on the first issuance and on the replacement of special request plates.

Existing law for an annual payment of $20.00 in addition to regular registration fees for specialized plates is repugnent to the general public and has been mandated that it be repealed. The new law will now state, if passed, that the individual applicant for a specialized plate shall pay $20.00 initially for the application and privilege of using the personalized plate, the same as in prior years, and will pay $20.00 every time the plate is replaced due to loss, damage or replacement for a new license plate year.

AS 28.10.421(d) -SPECIAL REGISTRATION FEES. Sets fees for special registration vehicles and lists fee schedule as statute now reads. This bill would add a new paragraph (12) which includes occasional use vehicles and provides a $15.00 registration fee.

SCS CSHB147 An act amending the motor vehicle code; and providing for an effective date. St. Aff.

SUMMARY

This bill amends statutes concerning the motor vehicle code.

SECTIONAL ANALYSIS

AS 28.10.011 VEHICLES SUBJECT TO REGISTRATION. This section is amended only by the addition of the words: every vehicle driven, moved or parked upon a highway or other parking place in the state shall be registered under this chapter. The statute goes on to list exceptions. F(S) H CS JUST ADDS ONE NEW EXCEPTION TO LIST (PARKING) 11 EXCEPTIONS RATHER THAN 10. Existing statute states that with certain specific exceptions, every vehicle in this State is subject to registration and thus would be subject to title requirements. Under this law the way it currently reads places undue hardship upon a certain percentage of vehicle owners in the State, that is, owners of vehicles that have not been subject to vehicle registration in the past. Example: trail bikes, dune buggies, and other off highway type vehicles, etc. Also, vehicles owned or possessed by people in the bush and non-urban areas who have come by their vehicles in the past through methods that are neither legal or illegal but have no way to prove their ownership to the vehicles in a manner prescribed by law. When these people become subject to registration, that is, subject to title requirements, they will be forced by statute to provide the same documentation as any other vehicle owner in order for them to comply to the law. They will be unable to do so. They will also in most cases be unable to provide proper bonding procedures because of lack of insurance agencies in these areas.

Work Draft

Original sponsors: Malone, Cotten, Phillips, et al

IN THE HOUSE BY THE FINANCE COMMITTEE

SENATE CS FOR CS FOR HOUSE BILL NO. 147 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act amending the motor vehicle code; and providing for an effective date."

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

* Section 1. AS 28.10.011 is amended to read:

Sec. 28.10.011. VEHICLES SUBJECT TO REGISTRATION. Every vehicle driven, moved, or parked upon a highway or other public parking place in the state shall be registered under this chapter except when the vehicle is

(1) driven or moved on a highway only for the purpose of crossing the highway from one private property to another, including an implement of husbandry as defined by regulation;

(2) driven or moved on a highway under a dealer's plate or temporary permit as provided for in AS 28.10.031 and 28.10.181(j);

(3) special mobile equipment as defined by regulation;

(4) owned by the United States;

(5) moved by human or animal power;

(6) exempt under the Soldier's and Sailor's Civil Relief Act (50 U.S.C. App. [U.S.C.A. APPX.] 501 et seq.);

(7) driven or parked only on private property;

(8) the vehicle of a nonresident as provided under AS 28.10.-121;

(9) a commercial interstate vehicle under AS 28.10.141; or

(10) transported under a special permit under AS 28.10.151; or

(11) driven or moved on a highway or vehicular way not

AS 28.10.181 IS AMENDED BY ADDING NEW SUB TO READ

28.10.181

connected to the state highway system established under AS 19.10.020.

(f) Occasional users of highways. The department may issue a license to the owner of a vehicle which is only occasionally used on a highway. The applicant must show to the satisfaction of the department that the vehicle to be licensed under this subsection will travel upon state highways less than five per cent of its total hours of operation. The department may not issue more than two licenses under this subsection to a single person.

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(1) withhold issuance of a certificate of title until the applicant presents documents sufficient to satisfy the department

(A) as to the ownership of the vehicle by applicant, and

(B) that there are no undisclosed security interests in the vehicle; or

(2) require the applicant, as a condition of the issuance of a certificate of title, to file with the department either

(A) a bond in the form prescribed by the department and executed by the applicant, or

(B) a deposit of cash.

(b) A bond or cash deposit filed under (a)(2) of this section shall be equal in amount to one and one-half times the value of the vehicle as determined by the department and be conditioned to indemnify former owners, secured parties, and subsequent purchasers of the vehicle and their successors against loss resulting from a defect in or undisclosed security interest on the title of the applicant. An injured

party may sue on the bond for a breach of its conditions, but the liability of the surety or the department may not exceed the amount of the bond or deposit.

(c) The bond or deposit shall be returned (A) at the end of three years from its filing, or (B) when the vehicle is no longer registered in the state, if (B) is earlier and if the certificate of title is surrendered to the department. Service on the department of notice that action is pending to recover on the bond or the deposit extends the periods established in this subsection until 45 days after a final decision in the action on the bond or on the deposit.

Sec. 28.10.493. MISDEMEANORS RELATING TO TRANSFERS. (a) The owner of a vehicle who transfers a vehicle and fails to comply with the requirements of AS 28.10.271 is guilty of a class B misdemeanor.

(b) A vehicle dealer who transfers a vehicle and fails to comply with the requirements of AS 28.10.291 is guilty of a class B misdemeanor

* Sec. 4. AS 28.10.421(d)(2) is amended to read:

(2) special request plates.....$20; plus the fee required for that vehicle under (b)(1) or (2) of this section; the fee required by this paragraph shall be collected only on the first issuance and on the replacement of special request plates;

* Sec. 5. AS 28.10.421(d) is amended by adding a new paragraph to read:

(12) an occasional use vehicle under AS 28.10.181(k)...$15.

* Sec. 6. AS 28.10.491(e) is amended by adding a new paragraph to read:

(9) makes a false statement or otherwise conceals or withholds a material fact in an application for registration or certificate of title or falsely affirms with respect to a matter required to be sworn to, affirmed, or furnished under AS 28.10 or regulations adopted under AS 28.10.

* Sec. 7. AS 28.35.225 is amended to read:

Sec. 28.35.225. ENFORCEMENT. All law enforcement officers in this state and employees of the department designated by the commissioner shall enforce this title and regulations promulgated under this title. The state troopers shall advise and instruct all other law enforcement officers in the state concerning the requirements of this title and regulations promulgated under this title.

* Sec. 8. Section 1 of this Act takes effect immediately in accordance with AS 01.10.070(c) and is retroactive to October 18, 1978. Sections 2 - 7 of this Act take effect January 1, 1980.

bar, suspend, or otherwise affect any right to or liability for damages, penalty, forfeiture, or other remedy authorized by law to be recovered or enforced in a civil action, regardless of whether the conduct involved in the proceeding constitutes an offense defined in this title.

Sec. 11.81.220. ALL OFFENSES DEFINED BY STATUTE. No conduct constitutes an offense unless it is made an offense

(1) by this title;

(2) by a statute outside this title; or

(3) by a regulation authorized by and lawfully adopted under a statute.

ARTICLE 3. CLASSIFICATION OF OFFENSES.

Sec. 11.81.250. CLASSIFICATION OF OFFENSES. (a) For purposes of sentencing under AS 12.55, all offenses defined in this title, except murder in the first and second degree and kidnapping, are classified on the basis of their seriousness, according to the type of injury characteristically caused or risked by commission of the offense and the culpability of the offender. Except for murder in the first and second degree and kidnapping, the offenses in this title are classified into the following categories:

(1) class A felonies, which characteristically involve conduct resulting in serious physical injury or a substantial risk of serious physical injury to a person;

(2) class B felonies, which characteristically involve conduct resulting in less severe violence against a person than class A felonies, aggravated offenses against property interests, or aggravated offenses against public administration or order;

(3) class C felonies, which characteristically involve conduct serious enough to deserve felony classification but not serious enough to be classified as A or B felonies;

(4) class A misdemeanors, which characteristically involve less severe violence against a person, less serious offenses against property interests, less serious offenses against public administration or order, or less serious offenses against public health and decency than felonies;

(5) class B misdemeanors, which characteristically involve a minor risk of physical injury to a person, minor offenses against property interests, minor offenses against public administration or order, or minor offenses against public health and decency;

(6) violations, which characteristically involve conduct inappropriate to an orderly society but which do not denote criminality in their commission.

(b) The classification of each felony defined in this title, except murder in the first and second degree and kidnapping, is designated in the section defining it. A felony under Alaska law defined outside this title for which no penalty is specifically provided is a class C felony.

(c) The classification of each misdemeanor defined in this title is designated in the section defining it. A misdemeanor under Alaska law defined outside this title for which no penalty is provided is a class A misdemeanor.

ARTICLE 4. GENERAL PRINCIPLES OF JUSTIFICATION.

Sec. 11.81.300. JUSTIFICATION: DEFENSE. In any prosecution for an offense, justification as provided in secs. 320 - 430 of this chapter is a defense.

Sec. 11.81.320. JUSTIFICATION: NECESSITY. Conduct which would otherwise be an offense is justified by reason of necessity to the extent permitted by common law when

(1) neither this title nor any other statute defining the

LICENSE PLATES

Section 28.10.011 is amended to read VEHICLES SUBJECT TO REGISTRATION. Every vehicle [in the State] <u>when driven or moved or parked upon a highway or in a public parking place in the State</u> shall be registered under this chapter except when the vehicle is

(1) driven or moved on a highway only for the purpose of crossing the highway from one private property to another, including an implement of husbandry as defined by regulations;

(2) driven or moved on a highway under a dealer's plate or temporary permit as provided in Sec. 31 and 181 (k) of this chapter;

(3) special mobile equipment as defined by regulation;

(4) owned by the United States;

(5) moved by human or animal power;

(6) exempt under the Soldiers and Sailors Civil Release Act (50 U.S.C.A. Appr. 501 et seq.);

(7) driven or parked only on private property;

(8) a vehicle of a nonresident as provided under Section 121 of this chapter;

(9) a commercial inter-state vehicle under Sec. 141 of this chapter; or

(10) transported under a special permit under Sec. 151 of this chapter.

REASON

AS 28.10 is amended by adding a new section to read:

WHEN NO SUPPORTING EVIDENCE OF OWNERSHIP.

(a) In addition to the other requirements of this chapter, an applicant for title and registration who has no supporting evidence of ownership, as stipulated in this chapter must:

(1) submit an affidavit affirming that he is the owner of the vehicle and that no liens or encumbrances exist on it;

(2) submit a surety bond, executed by a corporate surety, approved by the Department, posted with the State and held by it for at least two years, in the amount of the retail value of the vehicle as determined from a departmental listing, and

(3) submit a statement signed by the applicant holding the State harmless in all suits concerning questions of title and ownership to the vehicle and promising to indemnify the State for all judgements against it arising out of these actions.

(b) The applicant, in lieu of a surety bond, may file suit in district or magistrate court to mandate the Department to issue title in his name. The court may accept evidence including but not limited to affidavits, bills of sale, and oral testimony. The court, when satisfied that

the applicant is the rightful possessor and that there are no liens or encumbrances on the vehicle, may order the Department to issue title showing that the applicant is the registered and legal owner of vehicle title.

Section 28.10.491 (a) is amended by adding a new sub-section

(9) makes a false statement or who otherwise conceals or withholds a material fact in an application for registration or certificate of title or who affirms falsely with respect to a matter required to be sworn to, affirmed or furnished under this chapter, or regulations adopted under this chapter.

Section 28.10 is amended by adding a new section Failure to Deliver Title.

(a) A seller of a vehicle who fails to comply to Secs. 271 and 291 of this chapter is guilty of a misdemeanor.

(b) A seller of a vehicle who with intent to defraud fails to comply to Secs. 271 and 291 of this chapter is guilty of a felony, and upon conviction is punishable by imprisonment of not less than 1 year nor more than 2 years or by a fine of not more than $2,000 or both.

Section 28.10 is amended by adding a new section, Unlawful To Park or Operate Unregistered Vehicle. No person may

drive or move or park upon a highway or in a public parking place, nor may an owner permit to be driven or parked, upon a highway or in a public parking place a vehicle which has not been registered under this chapter.

Section 28.05 is amended by adding a new section. Enforcement of Title. Peace officers and employees of the Department designated by the Commissioner shall enforce this title.

Section 28.10 is amended by adding the new section LICENSES FOR OCCASIONAL USERS OF HIGHWAYS.

(a) Upon application by the owner and under regulations adopted by the Commissioner of Public Safety, the Department shall issue a license to the owner of a vehicle used in relation to the operation of commercial fishing, mining, hunting, or farming operations and used only occasionally on the highway.

(b) In addition to the other requirements in this chapter, an applicant for occcasional use registration must submit an affidavit affirming that the vehicle is used in relation to commercial fishing, mining, hunting or farming operations and travels upon the State highways are less than 5% of its total hours of operation.

(c) No person may transfer an occasional use registration license plate to another vehicle. Upon tranfer or assignment of title to an occasional use vehicle, the registration plates remain with the vehicle if it continues to be an occasional use vehicle or must otherwise be returned to the Department by the new owner.

(d) The license shall be valid for 12 months.

(e) No person or company may possess more than 2 licenses at one time.

(f) The Department shall charge the owner an annual registration fee of $15.00.

SENATE STATE AFFAIRS

March 19, 1979

CSHB 147 An Act relating to Registration fees for Special request, personalized license plates; and providing for an effective date:"

Original Sponsor: Malone, Cotten, Phillips
By the Finance Committee

SUMMARY

This bill will state that the current special request plate fee may be collected only when plates are issued or replaced by the department. Sec. 2 states that a person who paid the fee in 1979 for special request plates, where plates were not issued or replaced are entitled to a refund.

FISCAL

A fiscal note is attached. Approximately $80,000 (4,000 plates times $20.00 fee) will be lost in all years except when plates are issued or replaced. The department of public safety estimates that $80,000 will have to be refunded according to Section 2 this year.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 147
Title An act relative to motor vehicle registration fees
Requested by Malone Date 02/08/79

II. FISCAL DETAIL
Agency Affected Public Safety
Program Category Affected Public Protection
Budget Request Unit(s) Affected Driver/Vehicle Services

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						
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This bill will create a decrease in revenue in all years except those years when new license plates are issued. The next scheduled new plate year is 1981. The decrease in revenue for FY80 is approximately 80.0.

4000 plates X 20 = 80.0 (decrease in revenue in all years except plate years)

IV. DATE 02/08/79 PREPARED BY Robert J. Stickles RJS
AGENCY Public Safety
PHONE 465-4330

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

33-001 (Rev. 10/78)

Original sponsors: Malone, Cotten, Phillips, et al

Offered: 2/26/79
Referred; Rules

IN THE HOUSE BY THE FINANCE COMMITTEE

CS FOR HOUSE BILL NO. 147

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to registration fees for special request, personalized license plates; and providing for an effective date."

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

* Section 1. AS 28.10.421(d)(2) is amended to read:

(2) special request plates..... .... $20; plus the fee required for that vehicle under (b)(1) or (2) of this section; the special request plate fee established under this paragraph may be collected only when plates are issued or replaced by the department;

* Sec. 2. A person who paid a fee in 1979 for special request plates other than the fee authorized under AS 28.10.42(d)(2) in sec. 1 of this Act is entitled to a refund of the amount collected in excess of the fee authorized under that section.

* Sec. 3. Refunds due under sec. 2 of this Act shall be paid on or before May 31, 1979.

* Sec. 4. This Act is retroactive to January 1, 1979.

* Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-070(c).

SENATE STATE AFFAIRS

March 19, 1979

CSHB 147 An Act relating to Registration fees for Special request, personalized license plates; and providing for an effective date:"

Original Sponsor: Malone, Cotten, Phillips

By the Finance Committee

SUMMARY

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FISCAL

A fiscal note is attached. Approximately $80,000 (4,000 plates times $20.00 fee) will be lost in all years except when plates are issued or replaced. The department of public safety estimates that $80,000 will have to be refunded according to Section 2 this year.

QUESTION (For Senator Mulcahy)

1. Would the committee consider completely deleting Sec. 2 entitling a refund for those who paid the fee in 1979?

2. Changing fee to $35.00 plus fee required for that vehicle if collected only when plates are issued or replaced?

what is cost of special plate to the state? special handling? Loss $240.0 m Revenue pm 7 IV

NOTE: Related Legislation

There is SB 95 in Rules with similar addressal of special license plates.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

HB 147

I. REQUEST
Bill/Resolution No. HB 147
Title An act relative to motor vehicle registration fees
Requested by Malone Date 02/08/79

II. FISCAL DETAIL
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Program Category Affected Public Protection
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700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

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FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

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

This bill will create a decrease in revenue in all years except those years when new license plates are issued. The next scheduled new plate year is 1981. The decrease in revenue for FY80 is approximately 80.0.

4000 plates X 20 = 80.0 (decrease in revenue in all years except plate year.)

IV. DATE 02/08/79 PREPARED BY Robert J. Stickles AQS
AGENCY Public Safety
PHONE 465-4330

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

33-001 (Rev. 10/78)

good Backup Supporting case

Section 28.10.181 (c) is amended to read Special Request Plates. Upon application and payment of $20.00 by the owner of a passenger vehicle, non-commercial van or pick-up truck, or motor home the Department may design and issue registration plates containing a series of not more than six letters or numbers or combination of letters and numbers as requested by the owner. The Department may in its discretion, disapprove the issuance of registration plates under this sub-section when the requested symbols are a duplication of an existing registration or when the symbols are considered unacceptable by the Department. An additional payment of $20.00 shall be paid for each replacement of such plates.

Section 28.10.421 (d)(2) is repealed.

REASON

Existing law for an annual payment of $20.00 in addition to regular registration fees for specialized plates is repugnent to the general public and has been mandated that it be repealed. The new law will now state, if passed, that the individual applicant for a specialized plate shall pay $20.00 initially for the application and privilege of using the personalized plate, the same as in prior years, and will pay $20.00 every time the plate is replaced due to loss, damage or replacement for a new license plate year.

Section 28.10.011 is amended to read VEHICLES SUBJECT TO REGISTRATION. Every vehicle [in the State] when driven or moved or parked upon a highway or in a public parking place in the State shall be registered under this chapter except when the vehicle is

(1) driven or moved on a highway only for the purpose of crossing the highway from one private property to another, including an implement of husbandry as defined by regulations;

(2) driven or moved on a highway under a dealer's plate or temporary permit as provided in Sec. 31 and 181 (k) of this chapter;

(3) special mobile equipment as defined by regulation;

(4) owned by the United States;

(5) moved by human or animal power;

(6) exempt under the Soldiers and Sailers Civil Release Act (50 U.S.C.A. Appr. 501 et seq.);

(7) driven or parked only on private property;

(8) a vehicle of a nonresident as provided under Section 121 of this chapter;

(9) a commercial inter-state vehicle under Sec. 141 of this chapter; or

(10) transported under a special permit under Sec. 151 of this chapter.

REASON

Existing statute states that with certain specific exceptions, every vehicle in this State is subject to registration and thus would be subject to title requirements. Under this law the way it currently reads places undue hardship upon a certain percentage of vehicle owners in the State, that is, owners of vehicles that have not been subject to vehicle registration in the past. Example: trail bikes, dune buggies, and other off highway type vehicles, etc. Also, vehicles owned or possessed by people in the bush and non-urban areas who have come by their vehicles in the past through methods that are neither legal or illegal but have no way to prove their ownership to the vehicles in a manner prescribed by law. When these people become subject to registration, that is, subject to title requirements, they will be forced by statute to provide the same documentation as any other vehicle owner in order for them to comply to the law. They will be unable to do so. They will also in most cases be unable to provide proper bonding procedures because of lack of insurance agencies in these areas.

AS 28.10 is amended by adding a new section to read:
WHEN NO SUPPORTING EVIDENCE OF OWNERSHIP.

(a) In addition to the other requirements of this chapter, an applicant for title and registration who has no supporting evidence of ownership, as stipulated in this chapter must:

(1) submit an affidavit affirming that he is the owner of the vehicle and that no liens or encumbrances exist on it;

(2) submit a surety bond, executed by a corporate surety, approved by the Department, posted with the State and held by it for at least two years, in the amount of the retail value of the vehicle as determined from a departmental listing, and

(3) submit a statement signed by the applicant holding the State harmless in all suits concerning questions of title and ownership to the vehicle and promising to indemnify the State for all judgements against it arising out of these actions.

(b) The applicant, in lieu of a surety bond, may file suit in district or magistrate court to mandate the Department to issue title in his name. The court may accept evidence including but not limited to affidavits, bills of sale, and oral testimony. The court, when satisfied that

the applicant is the rightful possessor and that there are no liens or encumbrances on the vehicle, may order the Department to issue title showing that the applicant is the registered and legal owner of vehicle title.

Section 28.10.491 (a) is amended by adding a new sub-section

( ) makes a false statement or who otherwise conceals or withholds a material fact in an application for registration or certificate of title or who affirms falsely with respect to a matter required to be sworn to, affirmed or furnished under this chapter, or regulations adopted under this chapter.

Section 28.10 is amended by adding a new section Failure to Deliver Title.

(a) A seller of a vehicle who fails to comply to Secs. 271 and 291 of this chapter is guilty of a misdemeanor.

(b) A seller of a vehicle who with intent to defraud fails to comply to Secs. 271 and 291 of this chapter is guilty of a felony, and upon conviction is punishable by imprisonment of not less than 1 year nor more than 2 years or by a fine of not more than $2,000 or both.

Section 28.10 is amended by adding a new section, Unlawful To Park or Operate Unregistered Vehicle. No person may

drive or move or park upon a highway or in a public parking place, nor may an owner permit to be driven or parked, upon a highway or in a public parking place a vehicle which has not been registered under this chapter.

Section 28.05 is amended by adding a new section. Enforcement of Title. Peace officers and employees of the Department designated by the Commissioner shall enforce this title.

Section 28.10 is amended by adding the new section LICENSES FOR OCCASIONAL USERS OF HIGHWAYS.

(a) Upon application by the owner and under regulations adopted by the Commissioner of Public Safety, the Department shall issue a license to the owner of a vehicle used in relation to the operation of commercial fishing, mining, hunting, or farming operations and used only occasionally on the highway.

(b) In addition to the other requirements in this chapter, an applicant for occcasional use registration must submit an affidavit affirming that the vehicle is used in relation to commercial fishing, mining, hunting or farming operations and travels upon the State highways are less than 5% of its total hours of operation.

(c) No person may transfer an occasional use registration license plate to another vehicle. Upon tranfer or assignment of title to an occasional use vehicle, the registration plates remain with the vehicle if it continues to be an occasional use vehicle or must otherwise be returned to the Department by the new owner.

(d) The license shall be valid for 12 months.

(e) No person or company may possess more than 2 licenses at one time.

(f) The Department shall charge the owner an annual registration fee of $15.00.

SCS CSHB147 An act amending the motor vehicle code; and providing for an effective date. St. Aff.

SUMMARY

This bill amends statutes concerning the motor vehicle code. Amends the section entitled VEHICLES SUBJECT TO REGISTRATION by providing that every vehicle driven, moved or parked upon a highway or other public parking place in the state shall be registered and further provides for exceptions to this regulation.

Amends statutes concerning REGISTRATION OF UNIQUE AND SPECIAL VEHICLES AND VEHICLES USED FOR SPECIAL PURPOSES by adding a new subsection to include vehicles which are only occasionally used on a highway. Provides that owner must show to the satisfaction of the department that the vehicle will travel upon state highways less than 5% of its total hours of operation. No more than two licenses of this kind will be issued to a person.

Amends by adding new sections:
INADEQUATE EVIDENCE OF OWNERSHIP. This section provides for steps to be taken when the department is not satisfied as to the ownership of a vehicle or believes there may be undisclosed security interests in it.
MISDEMEANORS RELATING TO TRANSFERS. Provides that a vehicle owner or dealer who transfers a vehicle and fails to comply with transfer requirements is guilty of a Class B misdemenaor.

Amends section relating to registration fee rates to add that the fee required for special request plates ($20) shall be collected only on the first issuance and on the replacement of special request plates. Provides a $15.00 registration fee for occasional use vehicles.

Adds a new paragraph to the section relating to vehicle felonies to include persons upon conviction guilty of a felony if they have provided false statements or have withheld facts concerning application for registration or certificate of title.

Amends section concerning ENFORCEMENT to add those employees of the department designated by the commissioner as eligible to enforce motor vehicle regulations.

Bob- This is INFO that Holly requested
If he asks for it we have - I made extra copies.

Charles Hosack-Division of Motor Vehicles, Anch. (264-5565)

Special plates were first issued in Alaska in 1964 with the same $20.00 fee as today.

47 states now issue personalized lates

36 of these states charge an ann fee averaging $16.46 with a low of $5.00 and a high of $50.00.

The other 11 states charge an initial fee only with an average of $34.26. The low is $3.00 and the high is $100.00

[only once] no charge when new plates are issued

Section 28.10.181 (c) is amended to read Special Request Plates. Upon application and payment of $20.00 by the owner of a passenger vehicle, non-commercial van or pick-up truck, or motor home the Department may design and issue registration plates containing a series of not more than six letters or numbers or combination of letters and numbers as requested by the owner. The Department may in its discretion, disapprove the issuance of registration plates under this sub-section when the requested symbols are a duplication of an existing registration or when the symbols are considered unacceptable by the Department. An additional payment of $20.00 shall be paid for each replacement of such plates.

Section 28.10.421 (d)(2) is repealed.

REASON

Existing law for an annual payment of $20.00 in addition to regular registration fees for specialized plates is repugnent to the general public and has been mandated that it be repealed. The new law will now state, if passed, that the individual applicant for a specialized plate shall pay $20.00 initially for the application and privilege of using the personalized plate, the same as in prior years, and will pay $20.00 every time the plate is replaced due to loss, damage or replacement for a new license plate, or.

Section 28.10.011 is amended to read VEHICLES SUBJECT TO REGISTRATION. Every vehicle [in the State] <u>when driven or moved or parked upon a highway or in a public parking place in the State</u> shall be registered under this chapter except when the vehicle is

(1) driven or moved on a highway only for the purpose of crossing the highway from one private property to another, including an implement of husbandry as defined by regulations;

(2) driven or moved on a highway under a dealer's plate or temporary permit as provided in Sec. 31 and 181 (k) of this chapter;

(3) special mobile equipment as defined by regulation;

(4) owned by the United States;

(5) moved by human or animal power;

(6) exempt under the Soldiers and Sailers Civil Release Act (50 U.S.C.A. Appr. 501 et seq.);

(7) driven or parked only on private property;

(8) a vehicle of a nonresident as provided under Section 121 of this chapter;

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REASON

Existing statute states that with certain specific exceptions, every vehicle in this State is subject to registration and thus would be subject to title requirements. Under this law the way it currently reads places undue hardship upon a certain percentage of vehicle owners in the State, that is, owners of vehicles that have not been subject to vehicle registration in the past. Example: trail bikes, dune buggies, and other off highway type vehicles, etc. Also, vehicles owned or possessed by people in the bush and non-urban areas who have come by their vehicles in the past through methods that are neither legal or illegal but have no way to prove their ownership to the vehicles in a manner prescribed by law. When these people become subject to registration, that is, subject to title requirements, they will be forced by statute to provide the same documentation as any other vehicle owner in order for them to comply to the law. They will be unable to do so. They will also in most cases be unable to provide proper bonding procedures because of lack of insurance agencies in these areas.

AS 28.10 is amended by adding a new section to read:

WHEN NO SUPPORTING EVIDENCE OF OWNERSHIP.

(a) In addition to the other requirements of this chapter, an applicant for title and registration who has no supporting evidence of ownership, as stipulated in this chapter must:

(1) submit an affidavit affirming that he is the owner of the vehicle and that no liens or encumbrances exist on it;

(2) submit a surety bond, executed by a corporate surety, approved by the Department, posted with the State and held by it for at least two years, in the amount of the retail value of the vehicle as determined from a departmental listing, and

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Section 28.10 is amended by adding a new section Failure to Deliver Title.

(a) A seller of a vehicle who fails to comply to Secs. 271 and 291 of this chapter is guilty of a misdemeanor.

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Section 28.10 is amended by adding a new section, Unlawful To Park or Operate Unregistered Vehicle. No person may

drive or move or park upon a highway or in a public parking place, nor may an owner permit to be driven or parked, upon a highway or in a public parking place a vehicle which has not been registered under this chapter.

Section 28.05 is amended by adding a new section. Enforcement of Title. Peace officers and employees of the Department designated by the Commissioner shall enforce this title.

Section 28.10 is amended by adding the new section LICENSES FOR OCCASIONAL USERS OF HIGHWAYS.

(a) Upon application by the owner and under regulations adopted by the Commissioner of Public Safety, the Department shall issue a license to the owner of a vehicle used in relation to the operation of commercial fishing, mining, hunting, or farming operations and used only occasionally on the highway.

(b) In addition to the other requirements in this chapter, an applicant for occcasional use registration must submit an affidavit affirming that the vehicle is used in relation to commercial fishing, mining, hunting or farming operations and travels upon the State highways are less than 5% of its total hours of operation.

(c) No person may transfer an occasional use registration license plate to another vehicle. Upon tranfer or assignment of title to an occasional use vehicle, the registration plates remain with the vehicle if it continues to be an occasional use vehicle or must otherwise be returned to the Department by the new owner.

(d) The license shall be valid for 12 months.

(e) No person or company may possess more than 2 licenses at one time.

(f) The Department shall charge the owner an annual registration fee of $15.00.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

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Bill/Resolution No. HB 147
Title An act relative to motor vehicle registration fees
Requested by Malone Date 02/08/79

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Program Category Affected Public Protection
Budget Request Unit(s) Affected Driver/Vehicle Services

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TOTAL						

FUNDING (Thousands of Dollars)

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POSITIONS

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

This bill will create a decrease in revenue in all years except those years when new license plates are issued. The next scheduled new plate year is 1981. The decrease in revenue for FY80 is approximately 80.0.

4000 plates X 20 = 80.0 (decrease in revenue in all years except plate years)

0

IV. DATE 02/08/79 PREPARED BY Robert J. Stickles RJS
AGENCY Public Safety
PHONE 465-4330

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

33-001 (Rev. 10/78)

HB

1935

COMMITTEE REPORT

SENATE

FURTHER: Finance

3/14/79

Date: _____

Mr. President:

The Committee on STATE AFFAIRS has had HB 195 am

providing for an adivsory committee on judcial sentencing practices

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

S 60 (Rev. 12/78)

COMMITTEE REPORT

SENATE

FURTHER: State Affairs and Finance

3/8/79

Date: 3/13/79

Mr. President:

The Committee on JUDICIARY has had HB 19[illegible] am providing for an advisory committee on judicial sentencing practices

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

/ Weiland

/ Connell

MEMBERS HAVING OTHER RECOMMENDATIONS:

2 Bill Ray NO REC

/ 3

CHAIRMAN

S 60 (Rev. 12/78)

HJR 13

Bob's file.

The $5,000 was ~~not~~ deleted addressed in HB 196 because finance committee thought that it was foolish to make appropriations for a bill that might not make it even to their committee.

According to Finance A. A. Gary Peska when HB 195 reaches thier committee they will tack a $5,000 fiscal note to it.

— 1. Changes in recent years
74-76

→ 2. Courts have appointed a sentencing guidelines Comm.

H 760.5 U5
H13 396

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
195 SOUTH FRANKLIN STREET
JUNEAU, ALASKA 99801
TELEPHONE 586-6425

M E M O R A N D U M

TO: Representative Anderson

FROM: Don Clocksin

DATE: February 16, 1979

SUBJECT: Sentencing Studies

1. Summary of Findings

In April, 1977, the Alaska Judicial Council issued a Preliminary Report analyzing felony sentencing patterns in Alaska from 1974 to 1976. On September 6, 1978, the Council issued a follow-up report documenting one finding from their studies - that race affected the length of a sentence. In October, the Alaska Court System prepared their own analysisof the Judicial Council data, and on October 30, the Judicial Council submitted a response to the Court System critique.

Though the statistical battle rages, a couple facts seem to be accepted by both the Council and the Court System. This memo addresses only the questions regarding Natives, not Blacks.

a. Particularly in Fairbanks, Natives convicted of felonies receive jail time much more often than whites.

b. Natives convicted of misdemeanors receive longer sentences than whites.

2. Discussion

The Court System has rejected the Judicial Council study as incomplete and inaccurate.

> If racial disparity in sentencing does indeed exist in Alaska, the Judicial Council study has not proven it to what we would consider an acceptable degree.

However, when one reads the Court System analysis and compares it with the study, it is clear that both agree a disparity exists and that it is based on race. This general rejection of the Judicial Council's efforts is contradicted by the following, quoted from the Court System analysis.

> "The Black and Native races have significantly lower probation rates."
>
> "Natives receive higher sentences across the board . . ."
>
> ". . . the finding of potential racial disparity appears probable for Natives on misdemeanor sentences . . ."

Once we conclude that a disparity exists, the next step is to look at all other explanations for the disparity. A number are mentioned in the two reports, while some others are not adequately considered. First, the findings indicate that a greater percentage of Natives are unemployed. The Court System concludes from that fact that more Natives get jail time because more of them are unemployed and thus cannot be put on probation.

Second, a substantially larger percentage of crimes by Natives are alcohol-related. The implication is that a greater sentence was imposed because alcohol was involved, not because a Native was involved.

Third, indications are that Natives have fewer ties to the community (Anchorage or Fairbanks) and that it is this "instability" which results in no probation, not the fact a Native is involved.

Fourth, a factor which seems to have been missed by all parties to this dispute is what kind of lawyer was available. Natives are much more likely to be represented by the Public Defender and much more likely to get jail time and longer sentences. The data seems to indicate that representation by appointed counsel has much more effect on length of sentence than most other factors. Since Public Defender defendants get longer sentences, and Natives more often must use the P.D., this factor should be looked at more carefully.

Fifth, another factor all but ignored by the studies is the demeanor of the defendant in open court. We may hypothesize that bush Natives, with different language and cultural backgrounds, handle themselves poorly when talking with the judge. We may also assume that, despite all the talk of objective sentencing criteria, the way a person behaves in front of a judge substantially affects the judge's sentence.

The important point to make about all these other "explanations" for the disparity in sentencing is that they tend to prove the racism rather than disprove it. Natives who 1) come from the bush; 2) cannot find jobs there; 3) have alcohol problems because of dramatic socio-cultural changes; 4) are poorer; 5) have no choice as to their lawyer; and 6) are forced into a foreign justice system, are suffering from those characteristics. Since they are uniquely Native characteristics in Alaska, heavier sentences based upon those characteristics are racist.

The difficulty with the Court System response is that it agrees with the data but rejects the hypothesis. Their attitude does not seem particularly constructive. A few examples: 1) Neither the Court System nor the Judicial Council lend any significance to the greater presence of alcohol in Native crimes or the almost non-existent role of drugs in Native crimes; 2) The Court System spends 10 pages

critiquing the findings on felony sentencing but only 3 pages on the misdemeanor sentences, when the latter clearly shows a racial disparity; and 3) The Court System discusses variables which absolve them of responsibility (e.g., unemployment) but do not discuss other explanations which place more responsibility on the justice system (e.g., demeanor in court; the pre-sentence report). By arguing that racial disparity has not been proven, the Court System unnecessarily delays any study of solutions.

3. Recommended Actions

Further study is clearly needed. The resolutions and bills on the subject are correct in their assumption that the disparity exists and methods for addressing it must be looked at. The study should look at the following:

a. comparison of alcohol-related crimes by Natives with alcohol-related crimes by whites;
b. comparison of crimes by unemployed Natives with crimes by unemployed whites;
c. comparison of sentencing patterns of rural courts with those of urban courts;
d. comparison of pre-sentencing reports on Natives with those on whites;
e. the importance of demeanor and visual and oral communication between probation officer and defendant and between judge and defendant in sentencing decisions;
f. the correlation between representation by a public defender and by private counsel and whether lower quality representation, if it occurs, affects Natives more than whites; and
g. the effect of alcohol on charges filed by the police and prosecutor and whether any such variable affects Natives more than whites.

Two general points to be made: First, it is likely, based upon any comparison between rural and urban courts, that Natives receive fairer sentences if they are sentenced close to home. If the lack of ties to the community is relevant to the sentencing decision, then sentencing by a court closer to the defendant's home is likely to be less harsh. We should consider making an effort of getting community-based correction facilities in rural areas and more effort at returning the defendant to his or her home for sentencing.

A second but related point is that, if a person is sentenced to jail time, he or she often is sent outside the state to do time. This hurts Natives particularly since their language and cultural differences make them an oddity in the lower 48. Rehabilitation is very difficult the further a person is taken from their home and relatives. Without family contact and assistance in finding

jobs, the ability to readjust to society becomes overwhelmingly difficult. If you are interested in the state's practice of shipping prisoners out of the state to serve their time, you may want to look at SB 32 which makes it easier to do so. It would adopt the Interstate Corrections Compact to facilitate out-of-state transfers and allow the Division of Corrections to avoid its obligation to encourage rehabilitation.

DC:vtb

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

LAY MEMBERS
KENNETH L. BRADY
JOHN E. LONGWORTH
ROBERT H. MOSS

LAW MEMBERS
MARCUS R. CLAPP
MICHAEL M. HOLMES
JOSEPH L. YOUNG

CHAIRMAN EX OFFICIO
JAY A. RABINOWITZ
CHIEF JUSTICE
SUPREME COURT

Alaska Judicial Council

303 K STREET
ANCHORAGE ALASKA
99501

EXECUTIVE DIRECTOR
MICHAEL L. RUBINSTEIN

February 13, 1979

Pat Berck
House Judiciary Committee
Pouch V
Juneau, Alaska 99811

Dear Pat:

Enclosed are copies of additional materials on race disparities in sentencing. Sorry for the delay--printing took awhile.

Please let me know if you'd like more explanation or other information.

Sincerely,

Teri White

Teresa J. White
Research Supervisor

Enclosure

BAR MEMBERS
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Alaska Judicial Council

303 K STREET
ANCHORAGE ALASKA
99501

EXECUTIVE DIRECTOR
MICHAEL L. RUBINSTEIN

October 30, 1978

M E M O R A N D U M

TO: MICHAEL L. RUBINSTEIN

FROM: STEVENS H. CLARKE

RE: RELATIONSHIP BETWEEN RACE AND SENTENCING

In this memo I want to summarize the statistical findings of the Judicial Council's plea bargaining study with respect to race and sentencing, and also to reply to the report of Merle P. Martin (October 1978). What I have to say here draws not only from my own thinking, but also from discussions with your consultant Professor Gary Koch of the UNC Biostatistics Department (a professional statistician). I would like to begin with some general comments on the controversy surrounding our study.

Scope of the plea bargaining study: As you know, the purpose of the Judicial Council's plea bargaining study was to measure the effects of the official prohibition of plea bargaining; more specifically, the Council's study sought to compare criminal case dispositions in Year One (the year before the prohibition went into effect) with those in Year

Two (the first year when the prohibition was in force), adjusting for other important factors that might change from one year to the next. In analyzing sentencing patterns to compare Year One and Year Two, we felt compelled to take into account a number of factors, including race, that might affect sentencing, in order to compare Year One and Year Two validly. Thus, in a sense, our findings on race and sentencing were a by-product of the plea bargaining study; we did not set out to analyze race as such.

However, I fee. that our findings are quite reliable to establish certain facts about the relationship between race and sentencing. The main thing we have established is that the study data show a relationship between race and sentencing that should not be ignored. It suggests that further study may be needed as well as efforts to improve the sentencing process. (I have some ideas about future research in this area but will discuss them with you separately.) It is interesting that Merle Martin, although he disagrees with our methods (and we with his), seems to agree with our general conclusion that the evidence of possible race discrimination should not be ignored.

Sentencing must be placed in context. Writers on sentencing reform sometimes give the impression that sentencing is an independent judicial decision, from which it follows that if anything is wrong with the sentence, the judge is to blame. In fact, we know that this is untrue. The sentence is the result of a number of decisions by the police, prosecutor, defense counsel, and others, as well as the sentencing judge. Being a minority group member may mean a disadvantage

: at each of these decision points. I
lata you have recently been collecting will
)oint.

n the blame on certain judges. I would
hat the Judicial Council's plea bargaining
: used to try to confine the race-sentence
rtain individual judges. One reason is
not the only actor in the process that
ence. Another reason is that the plea
was not designed for an analysis of indi-
titudes and practices; that sort of analysis
ery different design.

of Analysis in Plea Bargaining Study

bargaining study, we chose as the unit of
e"--a single charge against a single de-
the relevant information on both the
t charge. This was a logical choice and
our findings regarding race and sentencing.
had several charges, we chose to analyze
information plus defendant information)
e we were interested in the response of the
lleged criminal acts and in the effect of
he evidence, which could be different for
) we were concerned not only with sentencing
entire spectrum of court processing of
luding post-arrest screening, court dispo-
, plea to reduced charge, plea to original
nd the overall probability that a felony

charge would lead to conviction plus an active sentence. This concern also dictated that we start with the smallest available "atom" of information. Initially we had no basis for grouping multiple charges together. In the analysis, we took pains to find out how the handling of a case was affected by the number and type of its "companion cases" (other cases involving the same defendant). Should the occasion arise for future research, we now have a basis for grouping multiple charges together and analyzing the processing of felonies on a defendant as well as a case basis.

The use of the case as a unit of computation has not prevented our sentencing analysis from being meaningful. When we reach the conclusion that, for example, being black is associated with more severe sentencing in drug cases, it should be remembered that this means that a person charged with a drug felony and convicted tends to get a more severe sentence on that charge if he is black. If he was charged with or convicted of more than one offense, this fact will also tend to exacerbate the sentence, as our analysis shows, but the contribution of race and other factors is estimated separately from the contribution of companion cases.

II. Findings of Plea Bargaining Study Regarding Race and Sentencing

I would like to summarize here the methodology and findings of the Judicial Council's study with regard to the relationship between race and sentencing. In doing this, I will be making reference to the preliminary draft of the report by Gary Koch and myself on the felony statistical study ("The Effect of the Prohibition of Plea Bargaining on

the Disposition of Felony Cases in Alaska Criminal Courts", September 1978), especially Section VII and Tables VII-1 through VII-10, and also to my memo to you of July 30, 1978, entitled "Relationship of Race to Sentencing."

In analyzing sentencing, our main objective was to compare sentences in Year One and Year Two, before and after the plea bargaining ban went into effect. We identified factors that had an important relationship to sentencing in both years (other than the new policy against plea bargaining) and took these factors into account statistically in estimating the impact of the plea bargaining ban. In other words, we sought to estimate the effect of the plea bargaining ban on sentencing independently of the effects of other factors.

In doing this, we used two very different statistical techniques--not one, as Merle Martin says. Each technique had its strengths and weaknesses, but because the strengths and weaknesses were different, each technique could be used as a check on the other. In general, the results obtained from the two techniques agreed with each other; this gave us more confidence in the results of each. (Compare Table VII-8 of the draft report with Tables VII-3, -4, 6, and -7.) We concluded that our findings on sentencing were not an "artifact" (accidental result) of using a single statistical technique.

All cases were included in our sentencing study where the original charge was a felony and the defendant was eventually convicted, even though the charge may have been reduced to a misdemeanor. The reduction would, of course, have affected the sentence. We took into account not only the nature of the original felony charge but also the actual

offense of which the defendant was finally convicted, so that the impact of reduction would be measured.

A. Multiple Regression (Sentence Length)

1. Methodology

Our multiple regression analysis estimated the effects of a number of factors on the length of the active sentence received in a case. A probationary sentence with no active imprisonment was treated as a sentence of length zero. In order to reduce the possible distortion of our analysis by a few extremely long sentences, we performed the multiple regression calculations on the logarithm of the sentence.

Because the type or "class" of the original felony charged was strongly related to variations in sentence length, and because we believed that other factors might affect the sentence quite differently depending on the class of the original felony charge, we performed the multiple regression separately within the four major classes of cases: Class 2 (violent felonies other than murder and kidnapping); Class 3 (burglary, larceny, receiving, etc.); Class 4 (fraud, forgery, embezzlement, worthless checks), and Class 5 (drug felonies). We left out Class 1 (murder and kidnapping) and Class 6 (morals felonies) because they contained too few cases for detailed analysis.

The multiple regression approach offered the advantage of estimating the simultaneous effects on sentence length of a number of factors. We included as factors such things as the specific offense of conviction, companion charges and convictions (if any), record of convictions, whether the defendant was on probation or parole, the defendant's age,

sex, race, income, employment, occupation, marital status, and family ties, and others. Some of these factors were "screened out" in a preliminary one-way analysis of variance that preceded our multiple regression computations, because they displayed no clear relationship to sentence length. Other factors were shown by the multiple regression to have no important relationship to sentence length. Tables VII-3 through VII-7 in the draft report show the estimated contribution to sentence length only of those factors that survived the initial screening and were shown to be significantly related to sentence length by the multiple regression runs.

I want to emphasize that we had to examine all these factors in the multiple regression in order to properly compare sentence lengths before and after the plea bargaining ban. If any turned out to be significantly related to sentence length, the multiple regression computer program adjusted for them in estimating the effect of a case being filed in Year Two (after the plea bargaining ban) rather than in Year One. The same can be said of the multiple regression estimate of each factor's importance: <u>the contribution of each factor was estimated independently of the contribution of all other important factors</u>.

<u>2. Multiple regression results</u>

The multiple regression analysis showed that, along with a number of other factors, race was significantly related to sentence length in Class 3 (burglary, larceny, and receiving), Class 4 (fraud, forgery, embezzlement, etc.), and Class 5 (drug) cases. Specifically, being black

or native rather than "other" (i.e. white) was estimated to increase sentence length by the following percentages, exclusive of the effects of other factors, in the following classes: Class 2--no race effect; Class 3--black 277 per cent, native 94 per cent; Class 4--black 452 per cent, native 441 per cent; Class 5--black 467 per cent, native no effect. (See Tables VII-3 through VII-7 of draft statistical report.)

Why was no race effect found in Class 2 cases--those where the initial charge was a violent felony other than murder or kidnapping? We do not know, but can speculate that the inherent seriousness of a violent crime overshadowed the effect of the defendant's race.

How complete was the description of variation in sentence length provided by the multiple regression? The regression "explained" 51 per cent of the variance in the logarithm of sentence length in Class 2 cases, 27 per cent in Class 3 cases, 58 per cent in Class 4 cases, and 49 per cent in Class 5 cases. (These figures are incorrectly stated on p. 11 of Merle Martin's report.) These estimates of percent of variance explained ("R^2") indicate that we have not explained all the variation in sentence length in our study; however, they are fairly typical of research of this kind. The fact that we have not statistically explained all of the variance in sentence length indicates that we have left out factors that affected sentence length. These may have been subjective factors that we could not have included in our study data, such as the defendant's demeanor or physical appearance in court, or his attitude toward

court personnel. Note that these missing factors could have "explained" the apparent relationship of race to sentence length. In other words, information that we did not or could not capture in the sentencing study might explain why blacks and natives received longer sentences.

3. Median sentences for nonwhites if they had been white

The multiple regression results provided a way of estimating what the nonwhite defendants' sentences would have been if they had been white, as explained in my July 30 memo to you. In computing these, we included all relevant factors in each nonwhite defendant's cases except that we changed his race to "other". We then compared the estimated "white" medians with the actual medians, as shown below.

		Actual Median Sentence	Estimated Median Sentence if White
Class 3 (burglary, larceny, etc.)	Black	3.0 months	0.3 months
	Native	0.4	0.2
Class 4 (fraud, forgery, etc.)	Black	0.0	0.0
	Native	14.0	0.6
Class 5 (drugs)	Black	24.0	1.0
	Native	1.0	0.2

This comparison shows medians higher for blacks than whites in Classes 3 and 5, and medians higher for natives than whites in Classes 3, 4, and 5. (The comparison of medians is somewhat different that the multiple regression results stated in the previous subsection. This is because the estimate of contribution to sentence length in multiple regression was based not on the median but on the mean of

the log of the sentence length considering the full distribution of sentence lengths, including those above and below the median.)

II. Cluster Analysis (Probability of Active Sentence of 30 Days or More)

1. Methodology

We regard the cluster analysis method as more rigorous, given the purpose it was used for, than multiple regression. Multiple regression has certain weaknesses, including the problems that may be caused by multicollinearity and interaction effects. (I will not explain these in detail here.) Cluster analysis is practically immune to both of these possible problems (multicollinearity and interaction effects) because it involves looking at the effect of a given factor (such as race) over a number of discrete groups ("clusters") of cases defined in terms of other factors identified as important.

The cluster technique involved several steps. First, sentence had to be defined in terms of discrete categories. We chose to divide sentences into two groups: (a) active sentences of 30 days or more, and (b) active sentences of less than 30 days plus probation sentences not involving any active imprisonment. Our task then became one of analyzing the probability that a convicted case would result in an active sentence of 30 days or more.

The next step was to select the factors most importantly related to the probability that the sentence would be 30 days or more. We first chose the class of the initial (felony) charge, which proved to have a very strong relation-

ship to the probability of 30 days or more. As in multiple regression, the cluster analysis was done separately in each of the four major classes of cases (Classes 2, 3, 4, and 5). Within each of these four classes, factors of major importance were selected: (a) the seriousness of the specific offense of conviction; (b) the defendant's felony conviction record; and (c) whether there were companion felony cases. (The companion case factor was not important in Class 4 cases.) This selection was done by selecting the most important factor based on chi-square per degrees of freedom and then by selecting the others by using our Mantel-Haenszel statistic (explained below) over successively defined groups. The selection was also influenced by the fact that these three factors had been responsible for much of the variation in sentence length explained in the multiple regression analysis.

The last step was to group cases, within each class, into clusters based on all combinations of the most important sentence-related factors, and to look for the effects of all remaining factors--including race--over all the clusters.

2. Results of cluster analysis

The results of the cluster analysis regarding race are given in Tables A, B, C, and D at the end of this memo. I would like to re-emphasize that the factors identified as important correlates of a sentence of 30 days or more--including race--were just about the same as those identified as important correlates of sentence length in the multiple regression analysis. This gives us added confidence in all the sentence findings, including those regarding race.

In each table, the proportion of cases in which sentences of 30 days or more were received are shown within a specific class, for each of six or eight clusters of cases, broken down by race. Figures for cases involving black or native defendants are shown separately and also combined; the figures for "other" are of course primarily for white defendants. At the bottom of each table, the value of the Mantel-Haenszel statistic (which has a chi-square distribution) is given. The value of the statistic for "DF=2" is the value for the three-way comparison of black, native, and white; the value for "DF=1" is for the two-day comparison of nonwhite (black and native combined with white).

In Class 2 convicted cases (Table A), we can see that race did not have an overall relationship to the probability of an active sentence of 30 days or more. The Mantel-Haenszel statistic is not significant. Looking at the separate clusters of Class 2 cases (the top eight rows of Table A), we can see that the percentages receiving 30 days or more are not markedly different for nonwhites (blacks plus natives) and whites ("other") in four clusters; in two clusters, nonwhites have higher rates, and in two other clusters, nonwhites have lower rates. Also, the total rates (bottom row) are not very different. Thus, our common sense here tells us what the statistic is telling us: there is no consistent race relationship.

In Class 3 convicted cases (Table B), we find significant overall race differences, both in terms of the three-way comparison (black-native-white) and the two-way comparison (nonwhite-white). This can be seen by inspection.

In seven of eight clusters (rows of Table B), nonwhites have a higher rate than whites; sometimes blacks have a higher rate than whites, sometimes natives have a higher rate than whites, and sometimes both do. The total rates (bottom row) are much higher for blacks and natives than for whites. The Mantel-Haenszel statistic indicates that these observed differences are very unlikely to have been accidental.

In Class 4 convicted cases (Table C), significant race differences also appear. The nonwhite rate is noticeably larger than the white rate in four of six clusters, smaller in one cluster, and about the same in one cluster. The total rates (bottom row) are higher for blacks and natives.

In Class 5 convicted cases, involving drug felonies as the initial charge (Table D), a significant race difference was also found. The nonwhite rate is higher than the white rate in five of eight clusters. The data are very "thin" in the first four clusters (top four rows of Table D), and our conclusions about Class 5 are thus more influenced by the last four clusters, where more cases are concentrated. The total rates (bottom row) are much higher for blacks and natives than for whites.

III. Comments on Merle Martin's Report

I want to reply to Merle Martin's criticism of the Judicial Council's sentencing study and comment on his own sentencing analysis based on a restructuring of our data. Page references are to "An Analysis of the Alaska Judicial Council's Interim Report on Sentencing Disparity", Merle P. Martin, October 1978.

A. Martin (p. 2): The Judicial Council's plea bargaining was not initially designed to analyze disparities in sentencing.

Reply: Wrong. We had to analyze variation in sentencing in order to estimate properly the impact of the plea bargaining ban. In particular, we had to check for possible race effects. The plea bargaining study was not solely a sentencing study, but sentencing was an important part of it.

B. Martin (p. 2): The Judicial Council's study is invalid because it mixed misdemeanor sentences with felony sentences.

Reply: Wrong. We did include cases where the original felony charge was reduced to a misdemeanor before conviction. Realistically, one must acknowledge that such misdemeanor convictions are treated differently than those where the original charge was a misdemeanor. The Judicial Council took the final offense of conviction into account by controlling for it statistically. This was done in multiple regression by treating a number of specific conviction offenses as "dummy variables", and in the separate cluster analysis by controlling for a two-category seriousness of conviction offense, which distinguished misdemeanors from felonies. Thus, race effects were measured independently of the effect of the specific offense of conviction, and over all categories of such offenses.

C. Martin (p.2): The Judicial Council study is defective because it did not distinguish between consecutive and concurrent sentences where multiple charges were involved.

Reply: Wrong. It is true that we did not attempt to analyze the total sentence length where the defendant was convicted of multiple charges, nor did we attempt to analyze

the decision to make sentences run consecutively. (Neither did Martin.) However, this does not make our analysis defective. Our analysis dealt with the effect of race (and other factors) on the sentence received for individual crimes. We did not have the time to make a separate study of the total sentence or the decision to impose consecutive sentences. This may be a good subject for further research.

D. Martin (p.2): The Judicial Council left variables out of its study.

Reply: We could not include data on every possible factor; there were limitations on our time and resources. We did include a number of demographic factors, such as income, sex, marital status, length of residence in Alaska, family ties, occupation, employment, etc., along with variables such as offense, record, and the like. It is worth noting that Martin included very few of these in his own analysis. Contrary to what Martin says (p. 9), we found a number of correlations between demographic factors and sentencing. We did not include pre-sentence report data in our study, because we knew it would be available routinely only for cases where felony convictions occurred, and also because I regarded pre-sentence report information as more a result than a cause and as somewhat unreliable because of its subjective nature.

E. Martin (p. 2): The Judicial Council study relied primarily on multiple regression, and "there appeared to be some question" as to its validity.

Reply: Martin seems to have been unaware of our separate cluster analysis, described above, which confirmed what the multiple regression showed and is not subject to the same weaknesses as that method. His statement (p. 9) that "the

primary technique used was Stepwise Multiple Regression" is false. Martin correctly notes that multicollinearity can distort multiple regression results; however, our cluster analysis strengthens our conclusion that it was not any distortion due to multicollinearity that caused race to show up as a factor related to sentencing.

F. Martin (p. 7): The Judicial Council's analysis of the race effect is invalid because blacks and natives had somewhat more convicted charges than whites.

Reply: Wrong. We considered each sentence for each conviction of an offense separately, and the effect on that sentence of the defendant's race. We controlled statistically for (a) the number of companion felony charges filed initially, and (b) in multiple regression, the number of companion charges resulting in conviction. (We found that the existence of companion convictions meant a higher sentence for each conviction, but only in Class 5 (drug) cases; see Table VII-7 of draft report.)

G. Martin's Own Analysis of Sentencing

1. Unit.

Martin (p. 7) chose the defendant rather than the charge as his unit of analysis. We do not disagree that it is worthwhile doing a sentencing study on a defendant level; this may bring out facts that a charge-focussed analysis misses. However, there is a problem with Martin's approach. In a multiple-charge situation, Martin simply selects the charge receiving the highest active sentence and ignores the others. In so doing, he throws away the data on all but one charge; this may have the effect of obscuring the relationship of race to sentencing.

2. Separation of felony from misdemeanor sentences (p. 7)

I see nothing wrong with this. Bear in mind that the Judicial Council's analysis looked for independent effects of race entirely apart from whether the initial felony was reduced to a misdemeanor.

3. Grouping of all offense classes together (p. 13)

Rather than analyzing sentencing separately according to the type of the felony originally charged, as the Judicial Council's study did, Martin groups all types of offenses together, and distinguishes only between felony convictions and misdemeanor convictions. His reason for this is that the three race groups differ little (p. 13) in the proportion of their cases in the various offense classes. He says that race disparity, if it exists, "should be a rather consistent phenomenon rather than being isolated to specific offense classes."

The obvious reply to this is that there may be good reasons why race will have an effect on sentencing in one type of offense and not in another. We found no race effect where the initial charge was a violent felony; the reason may be that such charges are so serious that whites cease to receive preferential treatment in sentencing. Our findings were not "isolated to specific offense classes", as Martin implies; we found race effects in three out of four major offense classes.

4. Martin's data (p. 14)

Martin has done his study based on a rearrangement of the Judicial Council's data. I cannot vouch for this because I do not know how it was done. On p. 14, his counts of

felony and misdemeanor convicted charges add up to 1,445. There is an error here; the correct count is 1,453.

5. Choice of control variables (pp. 14, 15)

Martin selected, without justification, prior felony convictions and companion felony charges as control variables. I do not disagree with this choice, but I do believe it is important to consider the type of offense to a greater extent than he does.

6. Martin's results with regard to felony convictions (pp. 24, 25)

Controlling for companion felony charges and prior felony convictions, and looking at all defendants convicted of felonies without distinguishing between types of felonies, Martin finds that mean sentence lengths for natives were not higher than those for whites, and that black sentences were higher but that the black-white differences were more pronounced among defendants with no companion felonies and prior convictions. This of course disagrees with our multiple regression analysis of sentence length. I have more confidence in our analysis, for two reasons: (a) it took into consideration a number of important factors simultaneously, which Martin did not, including the type of offense charged and the type of which the defendant was convicted; and (b) it was based on more data than Martin's, including all the cases he in effect threw away when a defendant was convicted of more than one offense.

Martin concludes blacks and natives had lower overall probation rates. Here he agrees with the Judicial Council study.

Martin attempts to explain away the lower probation rate for natives by showing that natives have a higher unemployment rate. Here his logic is flawed. He presents tables on pp. 20 and 21 showing that whether or not they received probation, natives had higher unemployment rates than whites (which is no doubt true). This does not, however, prove that the higher unemployment caused the less frequent probation; to prove this, Martin would do better to compare the probation rates of employed natives and employed whites. In our multiple regression analysis of sentence length we controlled for unemployment and a great many other factors and still found that natives received longer sentences.

Martin concludes that the lower probation rate for blacks and natives with no felony record and no companion felony charges is "largely isolated to Fairbanks" (p. 23). This may be true but I do not think he has proven it. He does not compare probation rates in Anchorage and Fairbanks for the other defendants--those who had prior convictions or companion felonies or both. Also, of course, he does not take into account a great many other factors that may explain the apparent differences between the two cities.

Martin also concludes that the higher active sentence length for blacks is more pronounced in Anchorage than in Fairbanks. Again, this may be true, but for the reasons just mentioned, I do not think he has proven it.

7. Martin's results with regard to misdemeanor convictions (pp. 28, 29).

Martin finds disparities in misdemeanor sentences between nonwhites and whites, both in terms of the percent receiving "no jail time" (probation?) and mean active sentences.

Even though his conclusions agree with ours here, I think his conclusions are not well supported, for reasons mentioned in connection with his felony analysis.

Table A. Relationship of Race to Probability of Receiving Active Sentence of 30 Days or More: Class 2 Convicted Cases (Ns in Parentheses)

Companion Felonies	Offense Seriousness	Prior Convictions	Percent Receiving 30 Days or More: Black	Native	Black Plus Native	Other	Total
0	Low**	0	33.3% (3)	20.0% (10)	23.1% (13)	19.5% (41)	20.4% (54)
0	Low	1+	0.0 (4)	36.4 (33)	32.4 (37)	12.9 (31)	23.5 (68)
0	High	0	90.9 (11)	66.7 (6)	82.4 (17)	58.8 (34)	66.7 (51)
0	High	1+	100.0 (6)	70.6 (17)	78.3 (23)	81.5 (27)	80.0 (50)
1+	Low	0	0.0 (4)	33.3 (3)	14.3 (7)	14.3 (14)	14.3 (21)
1+	Low	1+	75.0 (4)	0.0 (5)	33.3 (9)	41.7 (12)	38.1 (21)
1+	High	0	44.4 (9)	80.0 (5)	57.1 (14)	80.0 (40)	74.1 (54)
1+	High	1+	83.3 (6)	81.0 (21)	81.5 (27)	83.3 (60)	86.2 (87)
Total			61.7 (47)	52.0 (100)	55.1 (147)	55.8 (267)	54.8 (414)*

Mantel-Haenszel Statistic = 0.31 (DF = 2) (Not sig.)

= 0.22 (DF = 1) (Not sig.)

*Six cases missing in this table due to unclassified specific offenses of conviction.

**Offense seriousness: "Low" includes felony hit & run, misd. assault, misd. careless use of firearms, and misd. disorderly conduct; "high" includes neg. homicide, rape, robbery, armed robbery, attempted robbery, assault with intent to kill, assault with deadly weapon, and felonious escape.

ANALYSIS OF JUDICIAL COUNCIL'S INTERIM REPORT

ALASKA COURT SYSTEM
OFFICE OF THE ADMINISTRATIVE DIRECTOR

October 1978

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A. Summary and Conclusions

1. Objectives of this Study: At the direction of the Alaska Supreme Court, we analyzed the findings of potential race disparity in sentencing included in the Alaska Judicial Council's interim report on the abolition of plea bargaining in Alaska. The specific pages of that report pertaining to the race/sentence issue are included in Appendix one. The objectives of our analysis were to:

   a. assess the appropriateness of the research methodology used to report potential racial disparity in sentencing;
   b. assess the validity of such findings;
   c. if such racial disparity appeared to exist, determine in more detail just where in the judicial process it was prevalent; and
   d. increase our understanding of the study in order to better explain it to those less conversant with statistical methodology.

2. Approach: We obtained a copy of the Judicial Council's data in a medium compatible with computer processing. We put the data on the State of Alaska's IBM 370 computer in Anchorage, and using in-house programming resources, produced a series of computer listings with which to perform the ensuing analysis. We received considerable assistance from Judicial Council personnel in learning just what the study was about and how it was designed.

3. Summary of Findings:

   a. Study Design (Section B). Our most pertinent finding was that the plea bargaining study was not initially designed to analyze disparity in sentencing. It looks at charges rather than defendants. Given

this, it is not surprising that we discovered several problems in the design of the study to include:

(1) Misdemeanor sentences were mixed with felony sentences. This caused apparent sentence disparities to be exaggerated for Blacks and understated for Natives.

(2) No data was collected as to whether sentences on multiple charges were to be served consecutively or concurrently. Thus 'real' prison time cannot be determined. The Judicial Council's study was equivalent to assuming that all sentences on multiple charges were served consecutively.

(3) Variables intuitively related to sentance length (and particularly to the probation decision) lacked specificity.

(4) There appeared to be some question as to the interpretation of the statistical techniques used in the Judicial Council study.

We adjusted the data base so as to minimize the above design problems and subsequently arrived at the remainder of the findings.

b. Felony Convictions (Section C).

(1) In no instance is the sentence for Natives greater than in the Other (predominately Caucasian) race group.

(2) In every instance, the Black sentence is higher than Other, but it is the Black defendant with no companion felony charges and no prior felony convictions that receives the most significant disparity in sentence length.

(3) The Black and Native race groups have significantly lower probation rates.

(4) For those defendants in the Native and Other race groups, there is a significant relationship between employment status and the probation decision. For those receiving probation there is a significantly lower unemployment rate than for those not receiving probation.

(5) For the group receiving probation Natives have significantly higher unemployment rates than those in the Other race group. Thus the lower Native probation rate can be at least partly explained by higher unemployment rates.

(6) There are so few defendants in Juneau that we can summarily exclude that location from any significant contribution to sentencing disparity.

(7) The significantly lower probation rate for Blacks and Natives with no compan on felony charges and no prior felony convictions seems largely isolated to Fairbanks.

(8) For those defendants with no companion felony charges and no prior felony conviction, Fairbanks Native defendants receive a significantly lower sentence length than do those in the Other group.

(9) There is disparity in sentence length between Black and Other race groups for those defendants with no companion felony charges and no prior convictions for both Anchorage and Fairbanks. However, the disparity is significantly greater in Anchorage.

c. Sentences for Defendants Whose Felony Charges Were Reduced to a Misdemeanor (Section D).

(a) There appears to be some disparity in misdemeanor sentences between race groups. Natives receive higher sentences across the board while the higher sentences for Blacks are restricted to those defendants with no companion felony charges and no prior felony convictions.

(b) Natives have a lower percent of defendants sentenced to no jail time in almost every category, but the difference is only statistically significant for those defendants with no companion felony charges and no prior felony convictions.

(c) Blacks have a significantly lower percent sentenced to no jail time for those defendants with no companion felony charges and no prior felony convictions.

(d) Even when those receiving no jail time are eliminated from the calculation, the sentencing disparity described above remains.

4. Conclusions:

a. Despite problems in the design of the Judicial Council's (as pertains to sentencing) the finding of potential racial disparity appears probable for Natives on misdemeanor sentences or for Blacks on both misdemeanor and felony sentences. However, this disparity may be due to other factors that accompany the fact that the defendant is Black or Native. As State University of New York's Professor Leslie Wilkins points out in his letter included as Appendix 2, "it is probable that 'race' is a proxy variable for others which are not included in the analysis. I can think of no proxies which would not reveal an equally

undesirable state of affairs with regard to the dispositions of offenders."

b. Given our ensuing analysis, we cannot accept the finding of felony sentencing disparity between Natives and Caucasians (Other) without a more careful study. Indeed our data indicates that, if disparity does exist in felonies, it is to the benefit of Natives.

c The probation decision keeps surfacing as a major contributor to any racial disparity in sentencing that may appear. We suggest that unquestioning acceptance of racial disparity in the probation decision is premature until further study is conducted on the probation decision.

d. If racial disparity in sentencing does indeed exist in Alaska, the Judicial Council study has not proven it to what we would consider an acceptable degree. Nor has our study rejected its existence. This appears too crucial an area to be evaluated by anything but the most comprehensive and carefully planned study.

5. Recommendation: We suggest that the interested parties to this issue meet to determine what more comprehensive study would be required to ascertain whether or not there is racial disparity in sentencing in Alaska, where such disparity may exist, and, if found, how to correct it. While the delay inherent in such an approach may be bothersome, we believe it to be absolutely necessary given the design problems of the Judicial Council study and the importance of the potential problems.

B. Methodology

1. Problems with Judicial Council Study: The study was not originally intended to be used as a sentencing study. As a result, it has numerous problems to include the following:

a. Mix of felonies and misdemeanors. Sentences for felonies reduced to misdemeanors were averaged with sentences for felony convictions. This only would have been proper had the percent of felonies reduced to misdemeanor charges been relatively even between race classes. As we can see in Table 1, the percent of reduced charges varied considerably among races.

Table 1

Percent Defendants Whose Cases Were Reduced to Misdemeanors - All Offense Categories

	Category	Black	Native	Other
1.	No Companion Charges and no Prior Felony Convictions	53%	58%	46%
2.	No Companion Felony Charges and One or More Prior Felony Convictions	0% (1)	65% (2)	35%
3.	One or More Companion Felony Charges and No Prior Felony Convictions	17%	26%	21%
4.	One or More Companion Felony Charges and One or More Prior Felony Convictions	5%	13%	16%

(1) Black significantly lower than Native or Other
(2) Native significantly higher than Black or Other

Overall, Natives had a higher percentage of felony charges reduced to misdemeanors. Blacks had a lower percentage. Mixing felony and misdemeanor sentences

tended to understate any sentence disparity between the Native and Other categories and to overstate any sentence disparity between the Black and Other categories.

b. Concurrent or consecutive charges. The Judicial Counsel study evaluated charges rather than defendants. Sentencing data was gathered on each convicted charge, but data was not gathered as to whether the sentence was to be served concurrently or consecutively with other charges. Computing sentences on all charges was equivalent to assuming that a defendant's sentences on multiple charges were all to be served consecutively. I shall cite two of numerous examples where this lack of distinction appears.

- Offense category two (violent crimes), 'Other' defendant number 1110; nine convicted charges for which he was sentenced to 120 months on eight of the charges and 60 months on the other. If these were to be served concurrently the defendant would have spent 120 months in prison (a little over 13 months per charge). If these were to be served consecutively, the defendant would have spent 1020 months (85 years) in prison (a little over 111 months per charge.

- Offense category four (burglary), 'Other' defendant number 888; 14 charges to which the defendant was sentenced to zero months (probation) on each charge. All fourteen 'zeroes' were used to compute average sentence length for category four, 'Other' race category.

This design omission would not have been fatal had the ratio of charges to defendants been insignificantly different. However, as seen in Table 2, this ratio is different between the race groups.

Table 2

Ratio of Convicted Charges to
Convicted Defendants

Race Group	Ratio
Black	1.49
Native	1.37
Other	1.29

The result of this fault is that any sentence disparity between 'Black' and 'Other' or 'Native' and 'Other' was exaggerated because sentences were counted more times.

c. Missing Variables: There does not appear to have been enough detailed demographic variables collected to effectively correlate such variables to sentence length (particularly the probation decision). For example, the Judicial Council study collected two variables: Marital Status in which the categories were single, divorced and married; and Family Ties, in which the categories were parents, other relatives, and none. Appendix 2 contains sentencing recommendation guidelines published by the Vera Institute of Justice Bronx Sentencing Project. The section dealing with family ties is reproduced below:

SENTENCING GUIDELINES

FAMILY TIES

+3 Lives with spouse

+2 Lives with children, with or without another family memb r.

+2 Supports spouse or children, with or without supporting another family member.

+2 Supports one or more family members voluntarily.

+1 Supports a non-family person voluntarily.

+1 Has been living with a family member other than spouse or children.

+1 Has been living with a non-family person for the past six months.

0 None of the above.

NOTE: "Spouse" includes a legal spouse, or any person of the opposite sex with whom the defendant has lived in a conjugal relationship continuously for at least six months.

"Family member" includes any person related to the defendant by blood or adoption, including half and step relatives.

Note that the Vera Variables related to sentencing are much more detailed than those in the Judicial Council study. In addition, note that Vera guidelines rely upon combinations of factors. A defendant's marital status taken alone may not show a significant relationship to sentencing length and whether or not he receives probation. But that status taken in combination with employment status and other demographic variables may well be highly correlated. Thus, the general lack of correlation of demographic variables in the Judicial Council study may well result from a lack of specificity of these variables. This is an extremely important point. As State University of New York's Professor Leslie Wilkins points out in his

letter included as Appendix 2, "it is probable that 'race' is a proxy variable for others which are not included in the analysis. I can think of no proxies which would not reveal an equally undesirable state of affairs with regard to the dispositions of offenders."

d. Statistical Interpretation: Aside from the above problems, there are certain statistical points to be made about the Judicial Council study. To begin with, the primary technique used was Stepwise Multiple Regression. There are many documented problems with this technique, but the most bothersome is called multicolinearity. This occurs when one or more variables used to explain the dependent variable (e.g., sentence length), are highly correlated with each other. Thus if there is a strong relationship between race and, for example, prior felony convictions or number of comparison felony charges, multicolinearity problems may occur. (Table 2 above suggests just such a positive relationship between race and the number of companion charges.)

Multicolinearity will not only affect the variable coefficients (in this case, for example, the percent sentence increase associated with being Black) but may well change the sign of the variable. In other words, a variable may be shown to be positively correlated to sentence length (e.g., being Black increases sentence length) when it is in fact negatively correlated.

The most common method for addressing multicolinearity problems is to eliminate one of the related variables from the study. For example, if companion felony charges are highly correlated to race, then one of the two variables should be eliminated. The dilemma is in deciding which one should go.

Multicolinearity considerations aside, the Judicial Council data reveals a statistic which has not been sufficiently emphasized. This statistic is called

the Coefficient of Determination (often referred to as r squared). This statistic states what percent of the variation in the dependent variable (in this case sentence length) can be explained by variation of the independent variables (prior felony convictions, race, number of companion felonies, etc.). Table 3 shows coefficients of determination from the Judicial Council study.

Table 3

Coefficients of Determination

Offense Class	Proportion of Total Variance in Sentencing Length Explained by Study
3	51%
4	27%
5	49%
1,2 and 6	less than 27%

For category two, for example, 27 percent of the variations in sentencing length could be explained by variations among the variables included in the study. Seventy-three percent of the variations in sentencing length were the result of factors not included in the study. One may well question whether the percent variation explained by the study is sufficiently high to conclude with comfort the existence of racial disparity in sentencing.

We do not believe that all of the design problems discussed above taken in combination 'disprove' study results. However, these problems do suggest that no prima facie evidence of racial disparity in sentencing has yet been shown.

2. Our Methodology: Given any less volatile conclusions presented by the Judicial Council study, we would be tempted to halt here. However, we considered the subject of such importance that we attempted to alleviate the design flaws and seek patterns in the data. Our methodology for doing so includes:

a. Separating misdemeanors from felony sentences.

b. For defendants with multiple charges, including only the one charge with the highest sentence. This is equivalent to assuming that sentences on multiple charges were to be served concurrently. While this assumption may be bothersome to some, it seems intuitively closer to reality than assuming all sentences were to be served consecutively. Those bothered by our approach may well wish to gather additional data to ascertain "real prison time".

c. Rather than looking at individual offense categories, computing statistics on total defendants. This would seem to be mixing apples and oranges, but it is no less so than the study's mix of specific offenses within offense category. For example, in the Fraud category sentences for Issuing a Check With Insufficient Funds (10 year maximum sentence) were averaged with sentences for Forgery (20 year maximum sentence)./1 In addition, it appeals to our intuition that racial disparity in sentencing, if it exists, should be a rather consistent phenomenon rather than being isolated to specific offense classes. Let us test our consolidation with the data in Table 4.

/1 We suggest in future studies that each sentence be divided by the maximum sentence, thereby producing a 'normalized' variable (percent of maximum sentence served?) In this way, all offenses (including misdemeanors) could be studied as a group. Since 'maximum sentence' is one of the variables included in the Judicial Council data base, this may have been done but we have no knowledge that it was.

Table 4

Percent Felony Defendants by Offense Category

Offense Class	Black	Native	Other
1	4	4	3
2	34	43 (1)	28
3	29	31	33
4	12	9	11
5	2 (1)	8 (2)	22
6	1	5	2
Total	100	100	100

(1) significantly higher than Other
(2) significantly lower than Black or Other

There is no statistically significant difference in the percent of those in the Black and Other categories receiving sentences in the six offense categories. Thus combining these categories would not bias any sentence disparities that may exist between these two groups. The Native category has a significantly higher percentage of defendants sentenced in offense category 2 (violent crimes) and a significantly lower percentage of defendants sentenced in offense category 5 (drugs). Since violent crime sentences are generally higher than drug crime sentences, this means that Native sentences in our combined computations will tend to be overstated. But it will be seen that this bias will not affect the ensuing analysis.

d. Differences in the figures shown in the ensuing charts were tested for statistical significance using

the Chi Square statistic. The use of the terms 'significance' or 'significant' applies to the results of those tests./2

3. Study Numbers: Since there has been some confusion as to the relevant numbers involved in the Judicial Council study, we have prepared Table 5 to clarify this issue:

Table 5

Fallout of Felony Defendants (Charges)

Race Category	Original Charges *(1) Defts	Charges	Indictments Defts	Charges	Felony Convictions Defts	Charges	Misdemeanors Convictions (2) Defts	Charges
Black	338	520	202	334	94	140	35	37
Native	466	628	271	362	123	147	127	129
Other	1665	2438	1055	1613	518	691	284	301
Total	2469	3586	1528	2309	735	978	446	467

(1) Arrest, Complaint, or Indictment with Arrest or Complaint
(2) Including some with no indictments

Thus while there were 3586 original charges in the study, we will only be looking at 735 (20%) convicted felony defendants in Section C and 446 (12%) convicted misdemeanor defendants in Section D of our analysis. Finally, most of the data we subsequently analyze will be stratified into the following defendant control groups.

/2 In tests of statistical significance, the relative amount of the difference between two values is tested to see if it is large enough to be significant. For example, in Table 4 in offense category 2, there were 34 percent of Blacks and 29 percent of the 'Other' category. The difference of 5 percent is not significant given the magnitude of the numbers '34' and '29'.

a. Those with no companion felony charges and no prior felony convictions.

b. Those with no companion felony charges and one or more prior felony convictions.

c. Those with one or more companion felony charges and no prior felony convictions.

d. Those with one or more companuion felony charges and one or more prior felony convictions.

You will remember from the Judicial Council study that the number of companion felony charges and number of prior felony convictions were both significantly correlated to sentence length. The above four categories represent the four possible combinations of these two factors.

C. Felony Sentence

1. Sentence Length

Average felony sentence lengths, controlled by companion felony charges and prior felony conviction, are shown in Table 6.

Table 6

Average Felony Sentence Length - All Offense Categories
(in months)

Category	Black (#)	Native (#)	Other (#)
1. No Companion Felony Charges and No Prior Felony Convictions	40.5 (23)	13.7 (45)	13.7 (229)
2. No Companion Felony Charges and One or More Prior Felony Convictions	56.3 (a)	22.7 (17)	34.7 (50)
3. One or More Companion Felony Charges and No Prior Felony Convictions	17.7 (44)	15.9 (45)	17.2 (165)
4. One or More Companion Felony Charges and One or More Prior Felony Convictions	54.7 (18)	44.7 (16)	52.5 (74)
Total	34.9 (94)	19.6 (123)	22.4 (518)

In no category is the sentence length for Native higher than that for Other. In every case the Black sentence is higher than Other, but the disparity is quite small when the defendant has one or more companion felony charges. It is the Black defendant with no companion charges who appears to receive higher sentences, particularly those with no prior felony convictions.

Disparity in sentence length can occur in both the probation decision or, for those not receiving probation, in the sentence length decision. Table 7 shows that, in at least two categories, the Black and Native race groups have significantly lower probation rates than the Other group.

Table 7

Percent probation - All Offense Categories

	Category	Black	Native	Other
1.	No Companion Felony Charges and No Prior Felony Convictions	22% (1)	34% (1)	57%
2.	No Companion Felony Charges and One or More Prior Felony Convictions	11% (2)	41%	34%
3.	One or More Companion Felony Charges and No Prior Felony Convictions	27% (1)	31% (1)	48%
4.	One or More Companion Felony Charges and One or More Prior Felony Convictions	17%	13%	15%

(1) significantly lower than Other
(2) not enough numbers to compute significance

Only in the [illegible]st cases (where the defendant has one or more companion felo[illegible]y charges and one or more prior convictions) is the probation rate equivalent. The largest disparity (from a statistical point of view) is for those defendants with no companion felony charges and no prior felony convictions. You will recall from Table 7 above that it was in this category that the greatest sentencing disparity occurred between Black and Other.

The question then is, if we eliminate those defendants who received probation, what is the resulting sentence length for those who were sentenced? Or, more pertinently, does disparity in probation rates account for all the disparity in sentencing length. Table 8 (derived from only those defendants who did not receive probation) shows that the disparity does not entirely disappear.

Table 8

Average Sentence Length for Those Who Were Sentenced (Those Given Probation Excluded) - All Offense Categories (in months)

	Category	Black	Native	Other
1.	No Companion Felony Charges and No Prior Felony Convictions	51.7	20.7	32.3
2.	No Companion Felony Charges and One or More Prior Felony Convictions	63.4	38.5	52.5
3.	One or More Companion Felony Charges and No Prior Felony Convictions	24.3	23.1	31.2
4.	One or More Companion Felony Charges and One or More Prior Felony Convictions	65.6	51.1	61.7

Two points surface. Natives receive significantly smaller sentences than those in the Other group in every category. Thus the disparity shown in the Judicial Council study is reversed here. The second point is that, after eliminating the probation decision, sentencing disparity between the Black and Other categories still exists, but it is generally isolated to those defendants with no companion felony charges and no prior felony convictions.

A final illustration of this finding is shown in Table 9.

Table 9

Percent of Defendants with Sentences More Than One Year For Those Who Wwere Sentenced - All Offense Categories

	Category	Black	Native	Other
1.	No Companion Felony Charges and No Prior Felony Convictions	61% (1)	24%	36%
2.	No Companion Felony Charges and One or More Prior Felony Convictions	63%	60%	73%
3.	One or More Companion Felony Charges and No Prior Felony Convictions	50%	39%	38%
4.	One or More Companion Felony Charges and One or More Prior Felony Convictions	87%	79%	63%

(1) significantly higher than Native and Other

Here again, the only relationship of statistical significance is that Blacks with no companion felonies and no prior felony convictions have a higher percent of sentences over one year. This is the same pattern as seen in Tables 7 and 8.

2. The Probation Decision: We saw from Table 7 that Blacks and Natives had significantly lower probation rates than did those in the Other category. We found a relationship between unemployment and probation that partially explained this disparity for Natives, but not for Blacks. TAbles 10 and 11 show that, for some of the categories of compansion felony charges and prior felony convictions, those given probation in the Native and Other classes had significantly lower unemployment rates than those not receiving probation.

Table 10

Percent of Natives Who Were Unemployed (1)

	Category	Given Probation	Not Given Probation
1.	No Companion Felony Charges and No Prior Felony Convictions	80%	79%
2.	No Companion Felony Charges and One or More Prior Felony Convictions	29% (2)	100%
3.	One or More Companion Felony Charges and No Prior Felony Convictions	57% (2)	77%
4.	One or More Companion Felony Charges and One or More Prior Felony Convictions	50%*(2)	79%

* only two defendants

(1) Native significantly higher probation rate than Other for those receiving and those not receiving probation

(2) Significantly lower unemployment rate for those given probation for categories two through four combined

Table 11

Percent of Other Category Defendants Who Were Unemployed

	Category	Given Probation	Not Given Probation
1.	No Companion Felony Charges and No Prior Felony Convictions	34% (1)	53%
2.	No Companion Felony Charges and One or More Prior Felony Convictions	18%	42%
3.	One or More Companion Felony Charges and No Prior Felony Convictions	31% (1)	53%
4.	One or More Companion Felony Charges and One or More Prior Felony Convictions	55%	59%

(1) significantly lower unemployment rate for those given probation

In addition, for both those receiving and those not receiving probation, Natives had a significantly higher unemployment rate than did those in the Other group. We discovered above that, probation aside, Natives received lower sentences than those in the Other group. Only in the probation decision did there appear to be racial disparity. Now we find one plausible reason for that disparity - unemployment. One may argue that disparity based upon unemployment is just another form of bias, but we have only to look at the Vera sentencing guidelines (Appendix 1) to see that employment status is a nationally accepted criterion for sentencing. Therefore we suggest that, given the above findings, the Judicial Council's findings of alleging disparity in sentencing in favor of Whites over Natives cannot be supported with the evidence of this study. This same evidence does support the Judicial Council's findings that disparity in sentencing may exist in disfavor of Blacks

3. Analysis by Location: We have seen above that Blacks and Natives receive a significantly lower probation rate than those in the Other race category. This is particularly so for those defendants with no prior felony convictions and no companion felony charges. In addition, Blacks in this same category receive significantly higher sentences than those in the Other race group. Let us focus our attention on those defendants with no companion felony charges and no prior felony convictions to see if we can find differences between the court locations included in the study.

To begin with, there are so few defendants in Juneau that we can summarily exclude that location from any significant contribution to sentencing disparity. Table 12 compares average sentence length for Anchorage and Fairbanks.

Table 12

Average Sentence Length (in months)

Those Defendants with No Companion Felony Charges and No Prior Felony Convictions

Location	Black	Native	Other
Anchorage	39.5	19.5	14.6
Fairbanks	41.2	11.7	14.2

Except for somewhat higher sentence length for Natives in Anhorage, the figures are remarkably similar for both locations. However, this similarity disappears when we look at the percent of defendants receiving probation (Table 13).

Table 13

Percent of Defendants Receiving Probation

(Those Defendants with No Companion Felony Charges and No Prior Felony Convictions)

Location	Black	Native	Other
Anchorage	40	35	54
Fairbanks	8	17	64

The disparity in Anchorage is not significant; that in Fairbanks is. Thus, the significantly lower probation rate for Blacks and Natives with no companion felony charges and no prior felony convictions seems largely isolated to Fairbanks.

Now let us eliminate those receiving probation and see what the average sentence length is for those receiving some sentence (Table 14).

Table 14

Average Sentence Length for Those Defendants Not Receiving Probation

(Those Defendants With No Companion Felony Charges and No prior Felony Convictions)

Location	Black	Native	Other
Anchorage	65.8	30.0	31.5
Fairbanks	44.7	14.1	38.8

In Anchorage, Natives receive about the same length of sentence as those in the Other group. However, in Fairbanks Natives receive a significantly lower sentence length than do those in the Other group. There is disparity in sentence length between Blacks and "Other", but this disparity is greater in Anchorage than in Fairbanks.

4. Summary: The major findings of the section follows:

a. In no category of companion felony charges and prior felony convictions is the sentence for Natives greater than for those in the Other race group.

b. In every category, the Black sentence is higher than Other, but it is the Black defendant with no companion felony charge and no prior felony convictions that receives the most significant disparity in sentence length.

c. The Black and Native race groups have significantly lower probation rates.

d. A significantly greater proportion of those defendants not given probation were unemployed. This was only true for the Native and Other race groups.

e. For the group receiving probation Natives have a significantly higher unemployment rate than those in the Other race group. Thus, the lower Native probation rate can be at least partly explained by their higher unemployment rate.

f. There are so few defendants in Juneau that we can summarily exclude that location from any significant contributions to sentencing disparity.

g. The significantly lower probation rate for Blacks and Natives with no companion felony charges and no prior felony convictions seems largely isolated to Fairbanks.

h. Fairbanks Native defendants receive a significantly lower sentence length than do those in the Other group for those defendants with no companion felony charges and no prior felony convictions.

i. There is disparity in sentence length between Black and Other race groups for those defendants with no companion felony charges and no prior felony convictions for both Anchorage and Fairbanks. However, the disparity is significantly greater in Anchorage.

D. Misdemeanors

1. Sentence Length: There appears to be some disparity in sentencing between race groups for those convicted defendants whose original felony was reduced to a misdemeanors (Table 15).

Table 15

Average Misdemeanor Sentence Length
All Offense Categories (In Months)

	Category	Black	Native	Other
1.	No Companion Felony Charges and No Prior Felony Convictions	0.6	0.8	0.2
2.	No Companion Felony Charges and One or More Prior Felony Convictions	-	1.4	0.8
3.	One or more Companion Felony Charges and No Prior Felony Convictions	0.9	2.5	0.9
4.	One or More Companion Felony Charges and One or More Felony Convictions	0.2*	2.7	1.7

* Only one defendant.

The disparity between Blacks and Other is restricted to those defendants with no companion felony charges and no prior felony convictions. The disparity between Native and Other is across all categories. Table 16 shows the percent of defendants sentenced to no jail.

Table 16

Percent of Misdemeanor Defendants Sentenced to No Jail Time

All Offense Categories

	Category	Black	Native	Other
1.	No Companion Felony Charges and No Prior Felony Convictions	50%	39%(1)	72%
2.	No Companion Felony Charges and One or More Prior Felony Convictions	-	22%	50%
3.	One or More Companion Felony Charges and No Prior Felony Convictions	57%	25%	49%
4.	One or More Companion Felony Charges and One or More Prior Felony Convictions	0%*	38%	29%

* Only one defendant

(1) Significantly lower than Other.

Natives show a lower rate in three of the four categories, but in only the first category is this lower rate statistically significant. While differences show up in other categories, the Chi Square statistic shows that there is not enough data to label those differences statistically significant. In the same category, the percent of Blacks receiving no jail time is also significantly lower than for those defendants in the Other race category. But even if we eliminate those defendants who received no jail time and compute sentences for those sentenced to jail time, the disparity in sentence length shown in Table 15 remains (Table 17).

Table 17

Average Misdemeanor Sentence Length for
Those Defendants Sentenced to Some Jail Time

All Offense Categories

	Category	Black	Native	Other
1.	No Companion Felony Charges and No Prior Felony Convictions	1.2	1.3	0.5
2.	No Companion Felony Charges and One or More Prior Felony Convictions	-	1.7	1.7
3.	One or More Companion Felony Charges and No Prior Felony Convictions	2.0	3.3	1.8
4	One or More Companion Felony Charges and One or More Prior Convictions	2.0*	4.2	2.7

* Only one defendant.

2. Summary:

a. There appears to be some disparity in misdemeanor sentences between race groups. Natives receive higher sentences across the board while the higher sentences for Blacks was restricted to those defendants with no companion felony charges and no prior felony convictions.

b. Natives have a lower precent of defendants sentenced to no jail time in almost every category, but the difference is only statistically significant for those defendants with no companion felony charges and no prior felony convictions.

c. Blacks have a significantly lower percent of defendants sentenced to no jail time for those defendants with no companion felony charges and no prior felony convictions.

d. Even when those receiving no jail time are eliminated from the calculation, the sentencing disparity described in D2a above remains.

APPENDIX I

EXTRACTED CHARTS FROM JUDICIAL COUNSEL'S INTERIM REPORT

Table VII-1. Class 2 Felonies [1] (Violent Felonies Other Than Murder and Kidnapping): Estimated Effect on Prison Sentence Length [2] of Various Factors

Factor	Effect: Presence of Factor Estimated to Increase (+) or Reduce (-) Sentence Length by Percentage Shown
1. Specific Offense of Conviction [3]	
Rape	+415%
Robbery	+67%
Assault with intent to kill, etc.	+158%
Use of firearms to commit robbery, etc.	+166%
Attempted robbery	+48%
Careless use of firearms (misd.)	-8%
Disorderly conduct (misd.)	-9%
Assault & battery (misd.)	-7%
Felony hit and run	-8%
2. Defendant's Criminal Record	
For each prior felony conviction	+1%
3. Defendant's Characteristics	
Age: if age is 17 to 20	-6%
Marital status: if divorced or separated	-14%
Estimated monthly income: for each additional $100 per month	-6.3%
4. Victim-Offender Relationship	
If offender is spouse, relative, acquaintance, or employee or employer of victim	-5%
5. Type of Counsel	
If private or pre-paid	-5%
6. Plea Bargaining Policy	
(1974-75 compared with 1975-76)	(None)

Number of cases: 430

Proportion of total variance explained (R^2): 51%

1. Cases in which defendant initially charged with Class 2 felony; offense of conviction may have been misdemeanor.

2. Length of probation sentence treated as zero if no active prison imposed.

3. Increase or decrease for offenses listed is in comparison with sentence for other Class 2 offenses not listed, including assault with deadly weapon, escape, and negligent homicide; the combined mean sentence of the unlisted offenses was 11.9 months.

Table VII-4. Class 3 Felonies [1] (Burglary, Larceny, and Receiving): Estimated Effect on Prison Sentence Length [2] of Various Factors

Factor	Effect: Presence of Factor Estimated to Increase (+) or Reduce (-) Sentence Length by Percentage Shown
1. Specific Offense of Conviction [3]	
Burglary in occupied dwelling	+523%
Unauthorized entry (misd.)	-52
2. Companion Felony Case	
For each companion case	+34
3. Defendant's Criminal Record	
For each prior felony conviction	+57
If on probation or parole at time of offense	+169
4. Defendant's Characteristics	
If unemployed	+58
If black	+277
If native [4]	+94
5. Type of Counsel	
If private or pre-paid	-44
6. Sentencing Judge	
If "lenient"	-59
7. New Plea Bargaining Policy	
(1974-75 compared with 1975-76)	(None)

Number of cases (N): 439

Proportion of total variance explained (R^2): 27%

1. Cases in which defendant initially charged with Class 3 felony; offense of conviction may have been misdemeanor.

2. Probation treated as zero if no active imprisonment imposed.

3. Increase or decrease is in comparison with sentence for other Class 3 offenses not listed, including other burglary, larceny, receiving stolen property, and malicious mischief, whose combined mean sentence was 3.7 months.

4. Effects are as compared with "white" (non-native, non-black) defendants.

Table VII-3. Class 4 Felonies [1] (Fraud, Forgery, Embezzlement): Estimated Effect on Prison Sentence Length [2] of Various Factors

Factor	Effect: Presence of Factor Estimated to Increase (+) or Reduce (-) Sentence Length by Percentage Shown
1. Specific Offense of Conviction [3]	
Felonious bad check	-65%
2. Companion Conviction	
For each companion conviction	-11
3. Defendant's Criminal Record	
For each prior felony conviction	+27
If on probation or parole at time of offense	+232
4. Defendant's Characteristics	
If female	-76
If age 21 to 26 (as compared with older and younger)	+136
If black	+432
If native [4]	+441
5. Type of Counsel	
If appointed	+633
6. Sentencing Judge	
If "lenient"	-90
If "strict"	+1336
7. New Plea Bargaining Policy	
(1974-75 compared with 1975-76)	+117

Number of cases (N): 194

Proportion of total variance explained (R^2): 58%

1. Cases in which defendant initially charged with Class 4 felony; offense of conviction may have been misdemeanor.

2. Probation counted as zero if no active imprisonment imposed.

3. Increase or decrease is in comparison with sentence for other Class 4 offenses listed, including forgery, false pretenses, embezzlement, credit card fraud, and related misdemeanors, unless otherwise noted in remarks column.

4. Effects are as compared with "whites" defendants.

Table VII-6. Class 5 Felonies [1] (Drug Offenses): Estimated Effect on Prison Sentence Length [2] of Various Factors

Factor	Effect: Presence of Factor Estimated to Increase (+) or Reduce (-) Sentence Length by Percentage Shown
1. Specific Offense of Conviction [3]	
Sale of narcotics to person age 21 or older	+130%
2. Companion Felony Cases	
For each companion felony case	+51
For each companion conviction	+76
For each companion conviction of a co-defendant	+57
3. Defendant's Criminal Record	
For each prior felony conviction	+134
If on probation or parole at time of offense	+183
4. Defendant's Characteristics	
If black	+467
5. City Where Court Located	
If Fairbanks (as compared with Anchorage and Juneau)	-49
6. New Plea Bargaining Policy	
(1974-75 compared with 1975-76)	+233

Number of cases (N): 255

Proportion of total variance explained (R^2): 49%

1. Cases in which defendant initially charged with Class 5 felony; offense of conviction may have been misdemeanor.

2. Probation treated as zero if no active imprisonment imposed.

3. Omitted is comparison with sentence for other Class 5 offenses not listed, including possession of narcotics, sale and possession of "MDA" drugs, and related misdemeanors, whose combined mean sentence was 3.9 months.

Table VII-7. Factors Having Significant [1] Association [2] with Likelihood of Active Sentence of Thirty Days or More, in Offense Classes 2, 3, 4, and 5.

A. Class 2 Cases (Violent Felonies Other Than Murder and Kidnapping)

1. Companion felony case (+)
2. Specific offense of conviction was Rape, Robbery, Assault with Intent to Kill, Assault with Dangerous Weapon, or Felonious Escape (+)
3. Prior convictions (+)

Controlling for Factors 1, 2, and 3:

4. Companion convictions (+)
5. Defendant unemployed (+)
6. Defendant and victim had family, acquaintance, or employment relationship (-)
7. Defendant's counsel was appointed (+) or privately paid (-)

B. Class 3 Cases (Burglary, Larceny, and Receiving)

1. Companion felony case (+)
2. Specific offense of conviction was burglary or felonious larceny (+)
3. Prior convictions (+)

Controlling for Factors 1, 2, and 3:

4. Defendant was on probation or parole (+)
5. Defendant was black or native (+)
6. Defendant was unemployed (+)
7. Defendant's counsel was appointed (+), public defender (+), or private (-); defendant had no counsel (-)
8. Sentencing judge was "strict" (+) or "lenient" (-)
9. [New plea bargaining policy (+) - only in "low risk" cases; see text of report]

C. Class 4 Cases (Fraud, Forgery, Embezzlement, Bad Checks)

1. Prior convictions (+)
2. Specific offense was forgery of deb: (+)

Controlling for Factors 1 and 2:

3. Defendant was black or native (+)
4. Defendant was female (-)
5. Defendant had no counsel (-)
6. Sentencing judge was "strict" (+) or "lenient" (-)
7. New plea bargaining policy (+)

---

1. All factors shown have association significant at .05 or less, unless otherwise indicated.

2. If factor is associated with increased likelihood of active sentence, it is marked (+); association with decreased likelihood is shown by (-).

D. Class 5 Cases (Drug Offenses)

1. Companion felony case (+)
2. Specific offense was sale or possession of narcotics (+)
3. Prior convictions (+)

Controlling for Factors 1, 2, and 3:

4. Defendant was on probation or parole (+)
5. Defendant was black or native (+) [Significant at .07]
6. New plea bargaining policy (+) [Significant at .12]

APPENDIX II

SENTENCING RECOMMENDATION GUIDELINES
BY THE VERA INSTITUTE OF JUSTICE
BRONX SENTENCING PROJECT

APPENDIX H. SENTENCING RECOMMENDATION GUIDELINES

VERA INSTITUTE OF JUSTICE

BRONX SENTENCING PROJECT

SENTENCING GUIDELINES

FAMILY TIES

+3 Lives with spouse.

+2 Lives with children, with or without another family member.

+2 Supports spouse or children, with or without supporting another family member.

+2 Supports one or more family members voluntarily.

+1 Supports a non-family person voluntarily.

+1 Has been living with a family member other than spouse or children.

+1 Has been living with a non-family person for the past six months.

0 None of the above.

NOTE: "Spouse" includes a legal spouse, or any person of the opposite sex with whom the defendant has lived in a conjugal relationship continuously for at least six months.

"Family member" includes any person related to the defendant by blood or adoption, including half and step relatives.

EMPLOYMENT

+4 Present job three months or more.

+3 Present and prior jobs six months or more.

+3 Person at home caring for children.

+2 Present and prior jobs three months or more.

+2 Present job less than three months.

+2 Attending school, or receiving a pension or social security, or unemployed due to a medical disability.

+2 Prior job three months or more which terminated upon arrest.

+1 Receiving unemployment, or woman supported by husband.

-1 Job commitment.

0 None of the above.

NOTE: In order to be able to add present and prior jobs, there must be no more than a two-week hiatus between each job.

"Present job" means one to which the defendant's employer has stated he can return if he is in custody during the pendency of the case.

PRIOR RECORD

+4 No arrests ever.

+2 No convictions within 8 years.

If at least one felony or misdemeanor conviction occurred within the last eight years, use the following chart:

Number of felonies in total prior record	Number of misdemeanors in total prior record					
	0	1	2	3	4 or more	At least 4, all within 12 years
0		0	-1	-2	-3	-4
1	-1	-1	-2	-3	-4	-4
2 or more	-3	-3	-4	-4	-4	-4
At least 2, both within 12 years	-4	-4	-4	-4	-4	-4

NOTE: If the arrest date of the last prior case occurred within 6 months of the conviction date of the present case, deduct 1 point from whatever score appears in the chart.

APPENDIX III

LETTERS FROM PROFESSOR LESLIE T. WILKINS,

SCHOOL OF CRIMINAL JUSTICE, STATE UNIVERSITY OF NEW YORK AT ALBANY

RELATING SENTENCING DISPARITY

THE UNIVERSITY AT ALBANY

18th September 1978

Dr. Mel Martin,
Alaska Court System,
303, K St.,
Anchorage,
Alaska 99501

Dear Mr. Martin,

As I remarked in our telephone discussion of this afternoon, I see no reason why I should not advise you of the views which I have expressed to the U.C.L.U. (Prison Project).

In my first letter to them I suggested that any attempt to seek "redress" in the courts might be ill-advised. While it seemed to me that the research was conducted quite carefully by people who knew what they were about, there were many difficulties. Furthermore, I noted that whoever had conducted the study seemed to be very honest and that they too were clearly seeking the same goals as the U.C.L.U. (or nearly so), thus the best move might be to seek cooperation rather than go for a court battle.

I moved further in this direction in my letter of the 15th September (copy enclosed). In this I specifically suggest negotiation between the "interested parties" and volunteer my services if this would seem helpful.

You will appreciate that this does not mean that under certain circumstances I would refuse to give "expert testimony" -- I do not reject litigation in principle. It is not usually my preferred strategy.

May I assume that you have disclosed to the U.C.L.U. the results of any further findings, and that there is "disclosure" on all main issues ?

sincerely yours

THE UNIVERSITY AT ALBANY

15th September 1978

Dr. Ralph I. Knowles Jr.,
National Prison Project,
1346, Connecticut Ave.,
Suite 1031,
Washington, D.C 20036

Dear Mr. Knowles,

re: Alaska Sentencing Study

This is a follow-up of my letter of the 4th September and relates to discussions with you since that date and further information from your Alaska office.

I was requested to consider further information which I might require in order to be able to testify to the validity of the findings of the "study", and to suggest kinds of analyses which might be useful in court.

It would be helpful to see the correlation matrix, and to know the precise (n) values for the several analyses, as well as the levels of significance (or preferably "estimation") and the tests used.

In particular it would be helpful to know precisely what endeavours were made to test the power of the equations with "race" factors removed. Is it possible to take "race" (rather than sentence) as the "criterion", and to see what kinds of equations and what weights are required to predict "race" of the accused ?

It is probable that "race" is a proxy variable for others which are not included in the analysis. I can think of no proxies which would not reveal an equally undesirable state of affairs with regard to dispositions of offenders. However, the point will have to be considered and perhaps argued. For example, the judge might well take into account the demeanour of the accused, particularly if he were to go into the witness box on his own behalf. If the judge thought that the accused was not a credible witness, he might give an added penalty for this -- rather like a consideration of perjury. Of course, I agree that a penalty should not be given in unproven offence, but this is, I believe, often done, often justified as a reasonable sentencing practice.

There are many other ways in which cultural background can influence behaviour in court, and it is, perhaps, the behaviour in court which is taken into consideration, not

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STATE UNIVERSITY OF NEW YORK AT ALBANY • 1400 WASHINGTON AVENUE • ALBANY, NEW YORK 12222

the social background. However, no less an organization than the WEBA regard it as reasonable to take social factors into account in the granting of bail. Job and residence stability are argued as relevant factors. We know that detention may prejudice the obtaining of evidence by the accused, but this is not the point in this case. I would only note that being of a particular racial group is not independant of social class, income, education, job stability and many other social, economic and cultural factors. Thus "race" (as such) may not be the factor which influenced the decisions which seem biassed when we take note of "race". Race is a good proxy for many factors.

As an example from another field of statistical analysis. It is well-known in medical research (particularly in epidemiological research) that the infant mortality rate is one of the better, if not the best, proxy for a whole collection of social class and cultural factors. For purposes of epidemiological research, this is a useful fact. No one would claim that the information was collected unethically, nor that infant mortality rates were influencing death from lung cancer -- but the rates correlate highly (or used to when I was working in this field). It is not possible to disentangle the different factors in such epidemiological research, and for similar statistical methodological reasons, it is equally difficult in this kind of research also.

However, this uncertainty does not, I think, mean that a case cannot be made out along the lines you have in mind. If it is claimed that the operative factor was not "race" but "something else", is it not up to those who claim that it is "something else" at least to come forward with half an idea as to what it might be ? As I say, I cannot think of any factor which would be defensible and yet which could account for the observed correlations.

It would be necessary to try to meet possible suggestions as to factors for which "race" was acting as a proxy in order to be able to respond to such suggestions. Furthermore, it would seem essential for such analyses to be made from the statistical professional viewpoint.

If the additional analyses come up with the same patterns, then it should be possible to provide a demonstration for non-statisticians of the nature of the effects involved. A case disposed of by judge (a) should be carefully "profiled" and mapped against a case which modelled the same profile with judge (b); this should be done for a number of cases. The "national" sentence each offender would have received on the assumption that another judge had disposed of his case could be calculated. (In statistical terms, this would be the "expected value" of the sentence).

It is my understanding, however, that many offenders sentenced in Alaska are passed over to the Federal system after the hearings. If this is so, then the sentences given would be of no consequence, since the Federal Parole Board would use the guidelines (which were developed by a project under my direction), and any disparities would be ironed out. Certainly "race" (nor any surrogate factors for race) would not weigh in the two factors which are the basis of the guideline tables. (The two dimensions are "seriousness of offence" and "salient factor score", which is mainly prior record). It would be difficult to sustain the argument that prior criminal record is a "proxy" variable for "race", and that it should therefore be ignored. This is, of course, the extreme radical viewpoint, but the courts are unlikely to find this convincing.

It would seem unsatisfactory to attack "sentence" if it were purely notional, having no effect upon the punishment actually suffered. I am not aware of the proportions of offenders who are passed over to the Federal system. But if there are any, particularly, any among the cases which form the main stem of the current argument, then these should be examined separately.

Another factor may be the plea negotiation practice. Judges may be reflecting the prosecutorial patterns through plea bargaining rather than themselves the biassing agents. It would be interesting to examine the P.S.I. prepared by the probation officers, with special regard to their recommendations for disposition. We know from prior research (Carter and Wilkins) that judges tend to ratify the probation officer's recommendations for sentence. Perhaps it is the probation officers who do not wish to have certain "clients" allocated to them which is a major factor in the apparent bias of the judges. This thought cannot be dismissed -- social case workers have their prejudices too ! So, who should be "in the dock?" -- the judge; the prosecutor; the probation officer; or who else ? Of course, the judge is "responsible" for the determination of disposition, but the allocation of blame will not solve the problem, especially if the problem lies elsewhere !

I am much more interested in developing remedial measures for the disparity which I can accept as "a given", than I am at trying to place blame on any of the actors in the system.

Perhaps rather than act as "expert witness" for the prosecution (or other) I might be more useful as a mediator between the interested parties ? Clearly something has to be done, but it may be that negotiation rather than litigation would pay off better ?

It was an Alaskan who dug up the bodies in a certain Southern prison -- you will remember the case perhaps? I was Dean of the School of Criminology to which the main actor retreated. I think that a repeat form of strategy would not be in the interests of offenders, accused, inmates or the underprivileged.

I will join your enterprise with enthusiasm if the cause we wish to further will, in fact, be served by my action. It is the ultimate goal which concerns me most. An interesting legal battle won, but a lost "war" is not a net gain, as I see it. We must think of the total "war" not the individual "battles". A poor analogy, but I can think of none other which fits. *

I regret that I have no secretarial assistance, and since I must type all letters myself, I cannot prepare a lengthy brief without some financial compensation to cover costs of typing assistance.

I look forward to receiving your views on how we might proceed.

I am going to Japan for three/four weeks, departing on the 15th September. My address there

Visiting Professor
United Nations Asia and Far East Institute
26 - 1, Harumi-cho
Fuchu
Tokyo: Japan

sincerely yours



Leslie T. Wilkins

* It is a poor analogy because I am not sure we have identified the enemy correctly.

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

STATE OF ALASKA

OFFICE OF THE GOVERNOR

JAY S. HAMMOND, GOVERNOR

CRIMINAL JUSTICE PLANNING AGENCY

POUCH AJ – JUNEAU 99811
PHONE 465 3530

March 20, 1979

Senator John Sackett
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Sackett:

A member of your staff recently requested information concerning available funds for a project submitted by the Alaska Judicial Council to examine racial bias and discrimination in the justice system. The Governor's Commission on the Administration of Justice has tenatively allocated $55,000 from supplemental funds to such a project. It will be necessary, however, for the Judicial Council to present the application in the proper form before it can be considered.

It is my understanding from the proposal submitted to our agency that more than $55,000 would be necessary in order to carry out the project. If the Governor's Commission were to make additional monies available for the Judicial Council Study, such funds would have to come from other projects and programs which have been identified for funding.

Sincerely,

Charles C. Adams, Jr.
Executive Director

Introduced: 2/14/79
Referred: Judiciary and Finance

BY ANDERSON, FULLER, HURLBERT, MARTIN, MILLER, MUNSON, OSTERBACK, PARR AND SCHAEFFER

IN THE HOUSE

HOUSE BILL NO. 195 am

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act providing for an advisory committee on judicial sentencing practices; and providing for an effective date."

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

* Section 1. ADVISORY COMMITTEE ON JUDICIAL SENTENCING PRACTICES. There is established the Advisory Committee on Judicial Sentencing Practices as a temporary committee to assist the Judicial Council in its review, investigation, and formulation of responses to problems and concerns arising out of the Judicial Council's findings of apparent discrimination in the sentencing of minority persons convicted of crimes in the courts of the state.

* Sec. 2. MEMBERSHIP. (a) The Advisory Committee on Judicial Sentencing Practices is composed of nine members, selected as follows:

(1) three members, appointed by the Judicial Council, who shall be broadly representative of criminal justice agencies;

(2) three Alaska Natives, one appointed by the governor, and one by the presiding officer of each house of the legislature;

(3) two Blacks, one appointed by the presiding officer of each house of the legislature; and

(4) one member from another minority, appointed by the governor.

(b) Appointments shall be made with due consideration to the availability and willingness of an appointee to devote the time and efforts necessary to permit the committee to function effectively, and with regard to the degree of commitment of an appointee to the principle of equal justice under law for all people. Appointments shall be without regard to political affil-

iation, and shall be made, if possible, within 20 days of the effective date of this Act, or of the effective date of any vacancy in the membership of the committee.

(c) Vacancies in office shall be appointed in the manner provided in (a) of this section.

* Sec. 3. COMPENSATION. The members of the Advisory Committee on Judicial Sentencing Practices do not receive compensation for their services, but they are entitled to the same travel pay and per diem as state officials and employees.

* Sec. 4. CHAIRMAN AND VICE-CHAIRMAN. The members of the Advisory Committee on Judicial Sentencing Practices shall elect a chairman and vice-chairman from the members of the committee.

* Sec. 5. MEETINGS. The Advisory Committee on Judicial Sentencing Practices shall meet at least once every two months to carry out its duties under this Act. The first meeting of the committee shall be convened at the call of the chairman of the Alaska Judicial Council not later than 20 days following appointment of the nine members of the committee.

* Sec. 6. DUTIES. The Advisory Committee on Judicial Sentencing Practices shall

(1) receive and review reports concerning sentencing, correction, probation, and parole practices and procedures, with particular regard to the treatment of individuals who are members of racial or cultural minorities;

(2) hold public hearings and meetings to determine whether racial or cultural minorities are being unfairly disadvantaged in their involvement with the criminal justice system; and

(3) complete a report with recommendations for the correction of abuses and violations of the civil rights of racial or cultural minorities that may be found to exist in the criminal justice system, furnishing copies to the Judicial Council, the governor and the presiding officer of each house

of the legislature not later than February 1, 1980.

* Sec. 7. TERMINATION. The Advisory Committee on Judicial Sentencing Practices terminates February 29, 1980.

* Sec. 8. EFFECTIVE DATE. This Act takes effect immediately in accordance with AS 01.10.070(c).

STATE AFFAIRS COMMITTEE

April 2, 1979

SUMMARY

This legislation establishes a temporary advisory committee on the Judicial Council to review apparent discrimination in mino.ity sentencing.

It terminates February 29, 1980.

RELATED LEGISLATION

HB 195 is one of three bills submitted as a package by Representative Anderson. The status of the other bills is: HCR 5 has passed the House and Senate; HB 196 is in the Senate Rules Committee.

STATE AFFAIRS COMMITTEE

April 2, 1979

SUMMARY

This legislation establishes a temporary advisory committee on the Judicial Council to review apparent discrimination in minority sentencing.

It terminates February 29, 1980.

RELATED LEGISLATION

HB 195 is one of three bills submitted as a package by Representative Anderson. The status of the other bills is: HCR 5 has passed the House and Senate; HB 196 is in the Senate Rules Committee.

funding for HB 195 has been

? what good will it do to move 195 if there is no funding for it.

IN(S) FINANCE
TO CULLS

Introduced: 2/14/79
Referred: Judiciary and Finance

Funding Information
General Fund $90,000
Other Funds -0-
$90,000

IN THE HOUSE

BY ANDERSON, FULLER, HURLBERT, MARTIN, MILLER, MUNSON, OSTERBACK, PARR AND SCHAEFFER

HOUSE BILL NO. 196

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 Judicial Council; and providing for an effective date."

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

* Section 1. The sum of $85,000 is appropriated from the general fund to the Judicial Council to provide for the expenses of persons temporarily employed as statisticians and investigators in conjunction with review and analysis of judicial sentencing practices.

deleted

* Sec. 2. The sum of $5,000 is appropriated from the general fund to the Judicial Council for transportation of the members of the Advisory Committee on Judicial Sentencing Practices.

* Sec. 3. The unexpended and unobligated portion of the appropriations made in this Act lapses into the general fund March 31, 1980.

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

BUDGET: Alaska Judicial Council, Investigation of Judicial Sentencing Practices

February 13. 1979

I. Investigators

a)	Coders: 5, at $937.50/month + 9% benefits, x 6.4 months	=	$32,700
b)	Evaluation Methodologist, part-time, $958.40/mo. x 9 months + benefits	=	9,108
c)	Statistical Advisor, 50 hours at $16.88/hr.	=	844
d)	Computer Programmer, $500/month x 8 months	=	4,000
e)	Data Analyst, 5.5 months	=	8,053
	Subtotal, Investigators	=	$56,955

II. Staff Travel

	5 Coders, coding supervisor and evaluation methodologist based in Anchorage. Travel costs and per diem to Barrow, Bethel, Fairbanks, Juneau, Kenai, Ketchikan, Kodiak, Nome, and Sitka.	=	$15,850

III. Contractual and Other

a)	Keypunch charges, estimated, for 1700 defendants, 3-4 cards per defendant	=	$ 1,500
b)	Computer charges, average per month, $1166.67	=	10,500
c)	Supplies	=	195
	Subtotal, Contractual	=	$12,195
	Total, Investigative Expenses	=	$85,000

Advisory Board Travel — [illegible]

	Transportation of members of the Advisory Committee on Judicial Sentencing Practices to meetings:	=	$ 5,000
	Total, State General Funds	=	$90,000

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 196 - HB 196
Title Special Appropriation to the Judicial Council
Requested by House Judiciary Committee Date 2/23/79

II. FISCAL DETAIL
Agency Affected Judicial Council
Program Category Affected Administration of Justice
BRU, Program, or Subprogram(s) Affected Judicial Council
(Note: If more than one budg component is affected, separate line-item amounts and fundi g 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	57					
200 TRAVEL	21					
300 CONTRACTUAL	12					
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	90,000					

FUNDING (Th ds of Dollars)

GENERAL FUND	90,000					
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-					
PART TIME	-0-					
TEMPORARY	9					

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

IV. DATE 2/23/79 PREPARED BY Michael Rubenstein
AGENCY Judicial Council
PHONE 274-8942

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

(Rev. 12/78)

(1) SUD: pp 3, UE-2
(2) Rules other 4

Introduced: 2/14/79
Referred. Judiciary and Finance

BY ANDERSON, FULLER, HURLBERT, MARTIN, MILLER, MUNSON, OSTERBACK, PARR AND SCHAEFFER

IN THE HOUSE

HOUSE CONCURRENT RESOLUTION NO. 5 am

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

Urging the Judicial Council to complete its review and make recommendations in the matter of judicial sentencing practices.

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

WHEREAS the Alaska Judicial Council conducted a study including 1,433 sentences in felony cases rendered in the Superior Courts at Anchorage, Fairbanks and Juneau between 1974 and 1976; and

WHEREAS it was the conclusion of that report that Alaska Natives and Blacks apparently received longer sentences and were denied probation more often than other defendants who had been convicted of the same crimes under similar circumstances, and who had substantially similar criminal records;

BE IT RESOLVED by the Alaska State Legislature that it respectfully requests the Alaska Judicial Council to extend and complete its report on the sentencing practices of Alaska courts by

(1) compiling and analyzing data on all felony sentences rendered between August, 1976 and the present date, including sentences for convictions in the superior courts sitting in communities which were not covered in the earlier study, including rural Alaska, to determine whether the present findings of apparent racial disparity of sentencing also obtain in other locations and in the years since August, 1976;

(2) expanding the data collected and analyzed to include sentencing practices of the district courts;

(3) examining sentencing records of the superior and district courts to determine whether there is a pattern to sentencing based on race;

(4) modifying and expanding upon the research methods, when necessary, in order to determine whether the apparent disadvantages suffered by Alaska Natives and Blacks as evidenced in the Judicial Council's findings may be attributable, wholly or partially, to decisions of other criminal justice agencies which advise or inform the courts and which may help shape the ultimate sentence;

(5) identifying all points within the criminal justice system at which a defendant may be disadvantaged on account of his race; and

(6) working closely with representatives of the minorities affected as well as with criminal justice agency representatives and personnel, making recommendations for positive remedies to correct inequities which may be suffered by Alaska Natives, Blacks and minority members in the administration of criminal justice.

OUT

HB 195 am - Providing for an Advisory Committee on Judicial Sentencing Practices.

Sec. 1 - ADVISORY COMMITTEE ON JUDICIAL SENTENCING PRACTICES

This section establishes an Advisory Committee on Judicial Sentencing Practices as a temporary committee to assist the Judicial Council in its review, investigation and formulation of responses to the alleged problems of sentencing discrimination of minority persons in the courts of the state.

Sec. 2 - MEMBERSHIP

(a) Provides that the committee be composed of nine members: three representatives of criminal justice agencies, three Alaska Natives, 2 Blacks and one member of another minority.

(b) Provides that members be chosen with consideration of their willingness to put in the time and effort necessary for the committee to function effectively. Provides members be appointed without regard to political affiliation and that they be appointed within 20 days of the effective date of this act or within 20 days of any vacancy on the committee.

(c) Provides vacancies be filled in accordance with (a).

Sec. 3 - COMPENSATION

Provides that members receive no compensation but may receive per diem and travel compensation at the state rate.

Sec. 4 - CHAIRMAN AND VICE-CHAIRMAN

Provides that members elect a chairman and vice-chairman.

Sec. 5 - MEETINGS

This section provides that the committee meet at least once every two months. The first meeting shall be convened at a call of the chair of the Alaska Judicial Council not later than 20 days after appointment of committee members.

Sec. 6 - DUTIES

This section outlines the duties of the committee. They may review reports concerning sentencing, probation and parole practices with regard to treatment of members of monorities; hold public hearings to determine whether monorities are unfairly disadvantaged when involved with the criminal justice system; complete a report with recommendations for correction of minority civil rights violations that may be found to exist.Report must be submitted to the Judicial Council, Governor and legislature no later than February 1, 1980.

Sec. 7 - TERMINATION

This section provides for termination of the committee on Fenruary 29, 1980.

Sec. 8 - EFFECTIVE DATE

Provides for an immediate effective date.

HB 195 am is one of three bills submitted as a package by Representative Anderson et. al. The others are HCR 5 urging the Judicial Council to complete its review and make recommendations in the matter of judicial sentencing practices; and HB 196 which is a special appropriation to finance the implementation of HCR 5.

HB 195 am	An act providing for an advisory committee on judicial sentencing practices; and providing for an effective date.	Anderson, Fuller Hurlbert Martin, etc

SUMMARY

Establishes the Advisory Committee on Judicial Sentencing Practices as a temporary committee to assist the Judicial Council in its review, investigation and formulation of responses to problems and concerns arising out of the Juducial Council's findings of apparent discrimination in the sentencing of minority persons convicted of crimes in the courts of the state. Membership consists of nine persons, including six minority members. Bill provides for compensation, election of chairman and vice-chairman, meetings. Outlines duties of the Advisory Committee. Provides recommendation report be submitted no later than 2/1/80. Provides Committee terminates 2/29/80.

STATE AFFAIRS COMMITTEE

April 2, 1979

SUMMARY

This legislation establishes a temporary advisory committee on tne Judicial Council to review apparenc discrimination in minority sentencing.

It terminates February 29, 1980.

RELATED LEGISLATION

HB 195 is one of three bills submitted as a package by Representative Anderson. The status of the other bills is: HCR 5 has passed the House and Senate; HB 196 is in tne Senate Rules Committee.

HB

248

COMMITTEE REPORT

SENATE

FURTHER: Judiciary

3/8/79

Date: 2/20/80

Mr. President:

The Committee on STATE AFFAIRS has had HB 248
relating to the merger of electric and telephone utilities

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

S 60 (Rev. 12/78)

Alaska State Legislature

Senate

Committee on State Affairs

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

HB 248 - An Act relating to the merger of electric and telephone utilities; and providing for an effective date.

BY: House State Affairs Committee

As statutes now read, two telephone or electric cooperatives may merge and two telephone or electric corporations may merge. Statutes do not provide for the merger of a utility cooperative with a utility corporation. This bill would allow such mergers.

This bill has the support of the Rural Electric Association and the Alaska Public Utilities Commission.


Allison
Richey
Rm 514
Capitol
Comments
APWA
HB 248

APUC Comments on HB 248

The APUC believes this Legislation is in the public interest and supports House Bill 248.

The Commission observes that this legislation does not effect a merger between a cooperative and non-cooperative electric or telephone utility. It merely facilitates that process. Ultimately, any negotiated 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 imposes no fiscal impact on this agency.

APUC Comments on HB 248

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The Commission observes that this legislation does not effect a merger between a cooperative and non-cooperative electric or telephone utility. It merely facilitates that process. Ultimately, any negotiated 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 imposes no fiscal impact on this agency.

State Affairs

BILL ANALYSIS

ASSIGNMENT DATE 2/27/98

ASSIGNED

DEPARTMENT	SPONSOR (PRINCIPAL)	BILL NO.
Commerce	State Affairs	HB 248

DEPARTMENT POSITION

~~Support amend - 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

OF COUNSEL
M. E. MONAGLE

R. E. ROBERTSON (1885-1961)
F. O. EASTAUGH
J. B. BRADLEY
WILLIAM G. RUDDY
L. B. JACOBSON
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February 4, 1980

Senator Robert Mulcahy, Chairman
State Affairs Committee
Pouch "V" Mail Stop 3100
Juneau, Alaska 99811

Re: HOUSE BILL 248

Dear Senator:

My client, the Glacier Highway Electric Association, would appreciate it if House Bill 248, which permits mergers between Rural Electrification Act Cooperatives and privately owned utilities, was moved along. The Bill was passed through the House last year and is a relatively straightforward piece of legislation.

Your help and assistance is greatly appreciated.

Sincerely,

W. G. Ruddy
Attorney for Glacier Highway
Electric Association

WGR:vb

HB 248 An act relating to the merger of electric and telephone utilities; and providing for an effective date.

House State Aff.

SUMMARY

This bill adds a new section to Ch. 5-ALASKA BUSINESS CORPORATION ACT entitled MERGER OF COOPERATIVE INTO A CORPORATION ORGANIZED UNDER THIS CHAPTER. It provides that a cooperative organized under the Electric and Telephone Cooperative Act (Ch.25) may merge into a corporation, organized under this chapter, that is engaged in business as and is certified as a telephone or electric utility. The corporation shall comply with provisions of this chapter insofar as they set out procedures for the merger of business corporations. Adds a new section to ELECTRIC AND TELEPHONE COOPERATIVE ACT (Ch. 25) stating the same as above and provides that the cooperative shall comply with provisions dealing with merger of cooperatives as set out in this chapter.

SUPPORTING INFORMATION

This bill was submitted at the request of Rural Electric Association representatives. REA's are cooperatives which are 100% federally funded under the U.S. Department of Agriculture and owned by the participating customers. As the law now reads, two REA's may merge and two private utility corporations may merge but REA's and private utilities may not merge. This bill would authorize such a merger. Bill Ruddy, Lobbyist for the Glacier Highway Electric Association which is an REA, stated that merger discussions are underway right now between Glacier Highway Electric Assoc. and Alaska Electric Light and Power Company, which is a private utility corporation. Under state law they cannot merge. This bill would make that possible if desired by both parties. He said the benefit would be a rate drop for Glacier Highway Electric customers and shareholders as AELP can provide services at approximately 40% lower rate than they are paying through GHEA now. AELP now provides electrical service to approximately 90% of the Juneau area. If they merged AELP would pick up the GHEA members.

AS OF 12/26/79 NEGOTIATIONS ARE STILL UNDERWAY. AELP SAYS IT LOOKS FAVORABLE FOR ~~[illegible]~~ MERGER VERY SOON

Carolyn Guess, Alaska Public Utilities Commission, stated that they support this bill. This type of merger would require the approval of APUC, who decide if it is in the public interest and issue the certificate. She stated that there would be no fiscal impact. (SEE APUC COMMENTS - ATTACHED TO BILL.

HB 248 was passed out of House State Affairs with all members recommending DO PASS. It passed the House on March 7, 39-0.

PREVIOUS LEGISLATION: Was CSHB 879 [redacted] IN 1978 session (Commerce). It passed the House and died in Senate State Affairs. Mike Miller stated that he believed it died because of lack of time rather than any opposition to the bill.

FISCAL NOTE: None

RELATED LEGISLATION: None

INTERESTED PARTIES: House State Affairs (Sponsor)
Alaska Public Utilities Commission
Bill Ruddy-Glacier Highway Electric Assn.
ALASKA ELEC. LIGHT & POWER (586-2222)

HB 248 An act relating to the merger of electric and telephone utilities; and providing for an effective date. State Affai

SUMMARY

This bill adds a new section to statutes (CH. 05-ALASKA BUSINESS CORPORATION ACT) entitled MERGER OF COOPERATIVE INTO A CORPORATION ORGANIZED UNDER THIS CHAPTER. It states that a cooperative organized under the Electric and Telephone Cooperative Act(Ch. .25) may merge into a corporation,organized under this chapter, that is engaged in business as and is certificated as a telephone or electric utility. The corporation shall comply with provisions of this chapter insofar as they set out procedures for the merger of business corporations. Adds a new section to ELECTRIC AND TELEPHONE COOPERATIVE ACT (Ch. .25) stating the same as above and provides that the cooperative shall comply with provisions dealing with merger of cooperatives as set out in this chapter.

(COMMERCE)
Previous Leg. Was HCSHB 879 last year
Passed House & Died in Senate St. Aff.

F. N. -
J. N. - None
Related Leg. None
Interested Parties - Commerce APUC -
Bill Reddy - Alaska Highway
House ST. AFF

SB248 BILL RUDDY 2/14/80

Dave Reese -

R.E.A.

Beyond B.H. Bridge - Elec. Assn. - 1948

Rate disparity large
50% more - G-HEA

Many probs - Lots of mergers
can be accomplished
2 IBEW members
Reliance totally diff
REA Acctg proc of G-HEA

HCLP - Powell, Lovell, Salisbury

Labor and Mgmt presently cohesive

Big St. Black Box G-HEA & HCLP
of HCLP rate structure.

"No legal battle" with the merger.

Next 2 weeks

Mike Miller - Submit leg.
HB 248 permits merger either way
General applications all over State

Call Bill Ruddy when
scheduled.

April 29, 1979

W. G. Ruddy
Robertson, Monagle,
Eastaugh & Bradley
Attorneys at Law
P.O. Box 1211
Juneau, Alaska 99802

Dear Mr. Ruddy:

It is too late to move House Bill 248 through this session. Early staff research indicated that the need that prompted the bill was no longer there. As we had received no particular interest in this bill we concentrated the short time we had on a number of other bills.

We will be looking at it first thing next session.

Sincerely,

Bob Mulcahy
Senator

Copy filed in Committee HB 248 folders

mg

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R E ROBERTSON (1885-1961)
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P M HOFFMAN
J P TANGEN
L G BERRY (ANCHORAGE)
C R RICH (ANCHORAGE)
D A HOLBROOK
J D MILLER (ANCHORAGE)
T A SOFO
W R MULEN (ANCHORAGE)
D E CUADRA (ANCHORAGE)

OF COUNSEL
M E MONAGLE

April 25, 1979

Senator Bob Mulcahy
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Would it be possible to move House Bill 248 through the Senate this year? The Bill is non-controversial and merely permits the merger of privately owned and cooperatively owned utilities. It was endorsed by the Alaska Public Utilities Commission and has been approved by the Department of Commerce. Your assistance would be greatly appreciated.

Sincerely,

Deborah A Holbrook
for W. G. Ruddy

WGR:vb

HB

359

Original sponsor: Gardiner

Offered: 4/20/79
Referred: Rules

IN THE HOUSE BY THE RESOURCES COMMITTEE

SENATE CS FOR HOUSE BILL NO. 359

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to salmon enhancement."

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

* Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that

(1) efficiently enhancing the salmon fisheries will result in a substantial contribution to increased food production and is an appropriate use of the resource;

(2) efficiently enhancing the common property salmon fisheries will result in a general benefit to the state and in a greater direct benefit to the commercial, subsistence, and sport fisheries;

(3) a direct economic benefit to the commercial fisheries results from efficient salmon enhancement and includes enhanced economic return to those persons commercially harvesting the resource;

(4) efficient salmon enhancement will result in increased economic benefit to the coastal and interior regions of the state;

(5) regional user involvement in salmon enhancement planning and production will promote maximum benefit to the users as well as maximum resource protection;

(6) fisheries commerce in the coastal and interior regions of the state overlap many local government boundaries, is not tied to local government boundaries, and is primarily in the unorganized borough;

(7) it is impracticable for the framework of local government in the state to be the vehicle for efficient aquaculture development;

(8) regional organizations comprised of user groups will effectively promote aquaculture development in the state;

16 - Board of Fish & Game
10 - Fisheries & Fisher Reg

(9) the most equitable and nondiscriminatory method for providing revenues for regional salmon enhancement is to authorize regional associations to assess percentage royalty shares against those persons commercially harvesting the resource within the region.

(b) It is the purpose of AS 16.10.375 - 16.10.620 to provide for continuing efficient aquaculture development in the coastal and interior regions of the state in a manner which equally affects and benefits all persons similarly situated and to encourage the development of small, private, nonprofit hatcheries that may provide important benefits to the state through increased employment, educational training, and research opportunities.

* Sec. 2. AS 16.10.440(b) is amended to read:

(b) The Board of Fisheries may, after the issuance of a permit by the commissioner, amend by regulation adopted in accordance with the Administrative Procedure Act (AS 44.62), the terms of the permit relating to the harvest of broodstock fish by hatchery operators and the specific locations designated by the department for harvest. The Board of Fisheries may not adopt any regulations nor take any action regarding the issuance or denial of any permits required in [PROMULGATE REGULATIONS NECESSARY TO IMPLEMENT] AS 16.10.400 - 16.10.470.

* Sec. 3. AS 16.10.510(9) is amended to read:

(9) make grants for organizational and planning purposes to qualified regional associations which have formed a nonprofit corporation, in amounts not exceeding $100,000 per region and up to an additional $100,000 on a 50/50 cash matching basis with the regional associations which have an authorized royalty-assessment under AS 16.10.530 or AS 16.10.540. The state portion of the matching share shall be available when a final vote for assessments is made under AS 16.10.530 or AS 16.10.540. This provision also applies to qualified regional associations which have formed a nonprofit corporation before June 24, 1977.

510

Fishery Enhancement

* Sec. 4. AS 16.10.520(b) is amended to read:

(b) Loans for the total project costs may be made if the commissioner determines that the applicant has sufficient financial resources to insure the establishment of an equity position in the project equal to 10 per cent of the loan within six years or less, either through a royalty [AN] assessment levied under AS 16.10.530 or AS 16.10.540 or other means approved by the commissioner. For purposes of this subsection, "total project costs" includes planning and construction costs for the facility and the cost of operations for not more than the first six years. The costs for operations shall be loaned on an annual basis.

* Sec. 5. AS 16.10.520(c) is amended to read:

(c) All loans must be secured by collateral satisfactory to the commissioner, including but not limited to a first deed of trust, assignment of lease and leasehold improvements, sale of surplus fish from the hatchery, or royalty assessments from fishermen levied under AS 16.10.530 - 16.10.540.

* Sec. 6. AS 16.10.530 is amended to read:

Sec. 16.10.530. ROYALTY ASSESSMENT ON SALE OF SALMON. (a) The commissioner, on request of the qualified regional association for the area in which the royalty assessment is to be levied, and after consultation with the commissioner of fish and game and after reaching any necessary agreements with local governments, shall establish areas in which a royalty [AN] assessment shall be levied on the sale of one or more species of salmon caught by persons holding entry permits [LICENSED] under AS 16.43.010 - 16.43.380 [AS 16.05.540 - 16.05.600], in the area in which the royalty assessment is to be levied. A request by the qualified regional association shall include a description of compliance with (e) of this section. The commissioner shall determine whether the procedural requirements under (e) of this section were followed and

whether the proposed assessment is reasonable. A royalty [AN] assessment levied under this section shall be for the purpose of providing revenue for the qualified regional association for the area in which the royalty assessment is made. The rate and conditions of royalty assessments, including species to be involved, shall be stated by the appropriate qualified regional association in conjunction with the request to the commissioner under this subsection. The royalty assessment may be equal to either two or three per cent of the fair market value of the fish but may not exceed three per cent of the fair market value of the fish.

(b) (repealed)

(c) The commissioner and the appropriate qualified regional association must agree on a means of collection of the royalty assessment and the commissioner may, by regulation, require its collection by buyers of the salmon upon the sale of which a royalty [AN] assessment is levied.

(d) The royalty assessment shall terminate

(1) upon request of the qualified regional corporation when all financial obligations relating to the royalty assessments have been met; or

(2) upon majority vote at an election held under (h) of this section, in the area in which the royalty assessment is levied either before any financial obligations relating to the royalty assessment have been incurred or after all financial obligations relating to the royalty assessment have been met.

(e) Before a royalty [AN] assessment is made under this section, the qualified regional association for the area in which the royalty assessment is to be levied shall hold an initial public meeting to explain and discuss the necessity for the royalty assessment and to

explain the registration procedure established under (f) of this section. Reasonable public notice of the meeting shall be sent to all limited entry permit holders actively participating in a fishery in the area, posted in at least three centrally located public places in the area, and published in at least one newspaper of general circulation at least one time a week for three consecutive weeks in the area, if one exists. The notice shall briefly state the amount of the royalty assessment and a short general description of the purposes for which the royalty assessment money will be used. A ballot shall be mailed to all limited entry permit holders actively participating in a fishery in the area at least 20 days before the initial public meeting and contain a copy of the notice and ask the question whether a royalty [AN] assessment shall be imposed. At the public meeting the returned ballots shall be counted by a special committee appointed by the regional association for that purpose, and a vote by written ballot shall be taken on the question from among the limited entry permit holders present at the initial public meeting. After the vote is taken at the initial meeting a second public meeting shall be held, upon the limited notice of publication in a newspaper of general circulation, each day for five consecutive days and the mailing of personal notice to all limited entry permit holders who actively participate in a fishery in the area at least 14 days before the second public meeting, to give those who did not vote by written ballot at the initial public meeting an opportunity to vote. These votes shall be counted with the votes counted at the initial meeting. A majority vote for the royalty assessment is required from the combined total of the returned ballots and the votes by ballot cast at both public meetings, before a royalty [AN] assessment may be imposed. No person may vote twice.

(f) The qualified regional association shall establish standard

registration procedures for voting on royalty assessments under this section.

(g) A limited entry permit holder who would be qualified to vote on a royalty assessment levied by a regional corporation may request the commissioner to reduce or terminate a royalty assessment in the region. The commissioner may terminate or reduce the royalty assessment if he finds the royalty assessment to be unreasonable or to be no longer needed by the regional association to meet the purposes of AS 16.10.372 - 16.10.620.

(h) Upon receipt of a petition requesting termination of the royalty assessment and signed by not less that 10 per cent of the number of persons qualified to vote under (e) of this section in the election levying the royalty assessment in the area, the commissioner shall determine if there are any outstanding financial obligations relating to the royalty assessment. If the commissioner determines that there are no outstanding financial obligations relating to the royalty assessment, the commissioner shall notify the qualified regional association for the area of his determination. The qualified regional association shall, within two months after receiving notice of the commissioner's determination, hold public meetings and mail ballots in accordance with (e) of this section. The ballots shall ask the question whether the royalty assessment for the area shall be continued. Only a person who is qualified to vote in accordance with (e) of this section may receive and cast a ballot under this subsection.

* Sec. 7. AS 16.10.540(a) is amended to read:

(a) In place of or in addition to an assessment levied under AS 16.10.530, an association of persons who hold entry permits [LICENSED] under AS 16.43.010 - 16.43.380 [AS 16.05.540 - 16.05.600], which consists of at least 51 per cent of the persons holding entry permits

[SO LICENSED] and actively participating in a fishery to be benefited by a hatchery program, may levy and collect an assessment from among its members for the purpose of securing and repaying a loan made under AS 16.10.510.

* Sec. 8. AS 44.62.330(a) is amended by adding a new paragraph to read:

(46) Department of Commerce and Economic Development concerning the Fisheries Enhancement Loan Program (AS 16.10.500 - 16.10.-620).

AB 359 CARL Rossiter

not just users involved more

#5 line 20 currently reads (3) regional to involvement in salmon enhancement planning and production will assure maximum economic return as well as maximum resource protection

regional user

sort commercial - dept. to

#5 regional user involvement in salmon enhancement planning and production will promote maximum benefit to the users.

user controlled

why: regional user verbage should will include various groups that should be involved in the planning, enhancement when regional involvement is to restrictive.

#8 line 28

from (8) user - controlled regional organizations will most effectively ensure efficient aquaculture development in the state.

various groups represented

All to

to

regional associations comprised of user groups will effectively promote aquaculture development in the state.

Back to multiple interests

Why: Basically same reason as #5 change. regional associations comprised of user groups keeps door open for involv

line 19

page 6, Sec 8. AS 16.10.440(6)
is repealed -

This entire line to be eliminated

~~delete this to section~~

section: 16.10.440(6) The Board of Fisheries may promulgate regulations ~~in accordance with the Administrative Procedure Act~~ necessary to implement AS 16.10.400 - 16.10.460 [AS 16.10.400 - 16.10.470]

By repealing 16.10.440(6) The Board of Fisheries would no longer be involved in aquaculture. It would then be entirely left up to the commissioner of Fish + Game. Repealing 16.10.440(6) would not eliminate Bas involvement in.

16.10.400 Permits For Salmon Hatcheries
16.10.410 Hearings Regarding Permit Issuance
16.10.420 Conditions of Permit
16.10.430 Alteration, Suspension
16.10.440 Regulation
16.10.443 Department assistance in Egg Source.
16.10.475 Inspection.
16.10.450 Sale of Salmon + Salmon Eggs by Hatchery.

16.10.460 Inspection of Hatchery

16.10.470 Annual Report.

Most people feel it is desirable having the Bd oversee management of State Resources

The management of the fishery should be in pursuit of the board. Eliminating

A M E N D M E N T #1

Offered in the SENATE By Kerttula

TO: SENATE CS FOR HOUSE BILL NO. 359

Page 1, line 6:

Delete "salmon"; after "enhancement" add the following: "of the salmon fishery through private hatchery development"

Page 7, between lines 4 and 5:

Insert the following new material:

"* Sec. 8. AS 16.43 is amended by adding new sections to read:

ARTICLE 5B. SPECIAL HARVEST AREA ENTRY PERMITS.

Sec. 16.43.335. SPECIAL HARVEST AREA ENTRY PERMITS. (a) In addition to entry permits, interim-use permits, and educational permits, the commission may issue special harvest area entry permits to holders of private, nonprofit hatchery permits issued by the Department of Fish and Game under AS 16.10.400 - 16.10.475.

(b) The commission may issue special harvest area entry permits notwithstanding the establishment of maximum or optimum numbers under AS 16.43.240 and 16.43.290.

Sec. 16.43.337. TERMS AND CONDITIONS OF SPECIAL HARVEST AREA ENTRY PERMITS. (a) Special harvest area entry permits may be applied for on an annual basis and shall be issued for a term of one year. A permit is nontransferable.

(b) A special harvest area entry permit may only be issued for the applicable area designated by the Department of Fish and Game as a special harvest area.

(c) The annual fee for a special harvest area entry permit shall be specified by commission regulation under the authority of AS 16.43.-160.

Sec. 16.43.339. DISPOSITION OF FISH. Fish caught under the authority of a special harvest area entry permit are the property of the permit holder. The permit holder may sell the fish if the proceeds are used in the manner described in AS 16.10.450.

Sec. 16.43.341. AUTHORIZED GEAR. For the purposes of harvesting salmon, a special harvest area entry permit holder may employ any fishing gear designated as legal gear in the applicable special harvest area by the Board of Fisheries.

Sec. 16.43.343. ADOPTION OF REGULATIONS. (a) Use privileges granted under AS 16.43.335 - 16.43.341 are subject to the regulations of the Board of Fisheries.

(b) The commission, after consultation with the Department of Fish and Game, shall adopt regulations which are reasonably necessary to implement AS 16.43.335 - 16.43.341."

Renumber following section accordingly.

STATE OF ALASKA
THE LEGISLATURE

POUCH V STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM April 24, 1979

SUBJECT: Sectional analysis - SCS HB 359
(Work Order No. 7188)

TO: Senator Jalmar Kerttula

FROM: Kenneth E. Vassar, Legislative Counsel

You have requested a sectional analysis of the Senate Resources Committee's substitute for House Bill 359 (An Act relating to salmon enhancement).

The first section of the bill (page 1, lines 8 - 29, and page 2, lines 1 - 10) expresses various legislative findings relating to the benefits to be achieved by efficient salmon enhancement in the state. Subsection (b) of that section attributes certain purposes to AS 16.10.375 - 16.10.620 which relate to efficient aquaculture development in certain parts of the state to encourage the development hatcheries and provide employment, educational training, and research opportunities.

Section 2 of the bill (page 2, lines 11 - 19) amend AS 16.10.-440(b). The effect of the amendment would be to limit the regulatory power of the Board of Fisheries in relation to the provisions of AS 16.10.470 (these sections of the law relate to salmon hatchery permits). Currently, the Board of Fisheries has the power, under this section, to "promulgate regulations necessary to implement" these sections. The proposed amendment would limit the board's regulatory power in this specific area by allowing the board to adopt regulations amending the terms of permits issued under AS 16.10.-400 - 16.10.470 which relate to the harvest of broodstock fish by hatchery operators and to the specific locations designated by the department for harvest by the hatchery operators. The amendment would specifically provide that the board may not adopt regulations or take any action regarding the issuance or denial of a permit.

Sections 3 - 6 of the bill (page 2, lines 20 - 29, pages 3 - 5, and page 6, lines 1 - 24) insert the word "royalty" before "assessment" wherever the latter appears in AS 16.10.-500 -16.10.620 (fisheries enhancement loan program). This is the only amendment provided in sections 3 - 5 of the bill (page 2, lines 20 - 29, and page 3, lines 1 - 16). AS 16.10.-500 - 16.10.620 establishes a loan program for hatchery operators. The purpose of the assessments is to secure and provide a means of repaying the loans made under those sections.

Section 6 of the bill (page 3, lines 17 - 29, pages 4 - 5, and page 6, lines 1 - 24) amends AS 16.10.530. In addition to adding the word "royalty" as mentioned above, the section would amend the following subsections of AS 16.10.530 in the following manner:

(a) (1) requires qualified regional associations to reach "any necessary agreements with local governments" before levying assessments;

(2) replaces obsolete language by providing that the assessment is levied upon the sale of salmon caught by persons "holding entry permits" rather than persons "licensed under AS 16.05.540 - 16.05.600;

(3) restricts the amount of the assessment to either two or three per cent of the fair market value of the fish.

(d) adds a new paragraph (2) which allows for the termination of a royalty assessment in accordance with procedures described in (h) of the section.

It also adds the following new subsections:

(g) an entry permit holder who would be qualified to vote on the levy of the assessment may request the commissioner to reduce or terminate an assessment in the region; the commissioner may reduce or terminate the assessment if he finds it to be unreasonable or no longer necessary for the purposes of the hatchery;

(h) alternatively, the assessment may be terminated by an election called by petition of 10 per cent of the persons qualified to vote for the levy of an assessment in a region. The commissioner will terminate the assessment only if there are no outstanding financial obligations relating to the assessment.

Section 7 of the bill (page 6, lines 25 - 29, and page 7, lines 1 - 4) amend AS 16.10.540(a) by replacing the obsolete language "persons licensed under AS 16.05.540 - 16.05.600" with "persons holding entry permits."

Section 8 (page 7, lines 5 - 8) amends AS 44.62.330(a) by adding a new paragraph (46). The effect of this amendment is to place the activities of the Department of Commerce and Economic Development relating to the Fisheries Enhancement Loan Program under the administrative adjudication provisions of the Administrative Procedure Act.

KEV:nem

March 27, 1979

RE: HB 359 Salmon Enhancement

A word on the above bill which is now in Senate Resources. While the first section of this bill contains a list of findings and purposes of dubious validity, I have no desire to argue the premises related to aquaculture. I am greatly disturbed, however, at the effect of the apparently innocuous Section 8 which simply states "AS 16.10.440 (b) is repealed."

This sub-paragraph reads as follows:

(b) The Board of Fisheries may promulgate regulations necessary to implement §§400-470 of this chapter.

Deletion of this portion of the statute would put the Board of Fisheries out of the aquaculture business and leave it entirely up to the Commissioner. In testimony before the House Resources Committee, Speaker Gardiner stated that it had not been the original intent of the legislature that the Board be in a position to scrutinize matters relating to aquaculture.

I question this.

Many years before Representative Gardiner attained to the Legislature, far-thinking lawmakers determined the desirability of having a Board to oversee the management of the State's fishery resources. Time has proven the value of this decision, though many of today's problems stem from failure of the Board to exercise close enough scrutiny over the activities of the Department, its top administrator, and lesser bureaucrats.

Aquaculture will, it is fervently hoped, contribute to the total salmon stocks available to the common property fishery. The management of this fishery is, without argument, within the purview of the Board, It seems strange to contend that the Board must manage but can have no voice in providing direction to efforts the result of which it must inevitably deal with.

Passage of this section would be a disastrous, precedent-setting action. It would place the Commissioner of Fish and Game (and the Department) another step further beyond the control of the Board and further imbalance a relationship originally intended (at least in part) to be a check-and-balance situation. I am disappointed to see Terry make this proposal. One should not speculate upon the existence of any possible quid pro quo's between the proponents of this legislation and members of the Department but I do believe strongly that Section 8 of this bill should be deleted by the Senate (preferably in the Resources Committee) or we can expect to find some foxes in the henhouse at some time in the future.

This is why our founding fathers provided for a Board.

HB

486

COMMITTEE REPORT

SENATE

FURTHER: None

3/3/80

Date: _____

Mr. President:

The Committee on STATE AFFAIRS has had HB 486
highway 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

[X] reports it back without recommendation F/S Follows.

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

S 60 (Rev. 12/78)

HOUSE STATE AFFAIRS
HAS NO BACKUP
ON HB 486.

Oxford Pendaflex

STOCK No. 753 1/3

3-5 1980 HOUR 2:20

TO Bob

WHILE YOU WERE AWAY

M Rep. Jerry Martin TELEPHONE

- [x] CALLED TO SEE YOU
- [ ] TELEPHONED
- [ ] WILL CALL AGAIN
- [ ] PLEASE PHONE
- [ ] RETURNED YOUR CALL
- [ ] URGENT

REMARKS would like to testify on HB 486 when it comes up.

SIGNED SR

TOPS 4003

in file

1

TO SENATOR MULCAHY

FROM MARILYN BARNETT
SRA BOX 20405
ANCHORAGE, AK 99507
PHONE 349-1720

I SUPPORT HB 486 AND URGE HEARINGS IMMEDIATELY. SCHOOL SIGNS NEEDED I
N
ANCHORAGE. VOTE IN FAVOR ON SENATE FLOOR.

Official Business

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

HB 486 - An Act relating to highway signs; and providing for an effective date.

BY: House State Affairs Committee

HB 486 adds "directional signs and notices pertaining to schools" to a list of signs, displays and devices that may be erected or maintained within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate, primary or secondary highways in this state. (Please see attached statute.)

The Department of Transportation and Public Facilities has no objection to this bill.

School Directional Signs – notified 4/2

Susan Sullivan 333-6412

Introduced: 4/28/79
Referred: State Affairs

IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

HOUSE BILL NO. 486

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

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

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

* Section 1. AS 19.25.105(a) is amended by adding a new paragraph to read:

(4) directional signs and notices pertaining to schools.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-070(c).

This bill adds:

"directional signs & notices pertaining to schools."

to the list of signs, displays & ~~lines~~ devices that may be erected or maintained within (660) feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate, primary or secondary highways in this state.

STATE OF ALASKA
RECEIVED
MAR 17 '80
LIEUTENANT GOVERNOR

O'Malley School PTA
SRA Box 20
Anchorage, Alaska 99507

Mr. Terry Miller
Pouch V
Juneau, Alaska 99811

Re: House Bill #486

Dear Mr. Miller,

The O'Malley PTA Executive Board urges you to support House Bill #486. O'Malley Elementary School is located off a sideroad (Rockridge Dr.) off of O'Malley Road. The school is not visible from O'Malley Road. Currently, the only indication that there is a school in the vacinity is the school zone signs requiring motorists to slow to 20 MPH when children are present. The O'Malley PTA Executive Board feels strongly that directional signs are needed to inform the public of the location of our school. We are particularly concerned with the placement of a sign at the intersection of O'Malley Road and Rockridge Drive.

We thank you for the support of this measure.

Sincerely,

Frances Hannan

Frances Hannan - Vice President
O'Malley PTA

To: Terry Miller
Pouch V
Juneau, Alaska 99811

Fr: O'Malley Elementary School PTA Executive Board
Star Rt. A Box 20
Anchorage, Alaska 99507

RE: HOUSE BILL #486

STATE OF ALASKA
RECEIVED
MAR 1[illegible] '80
LIEUTENANT GOVERNOR

The O'Malley PTA requests support for House Bill #486 with regard to signs.

Our school is located off the main highway and is rather difficult to find. We have many parents and substitute teachers who have been inconvenienced because they could not locate the school. We are also a voting precinct. Each election day we receive calls from people who cannot find us.

A bill allowing directional signs located on the main highway is much needed.

Darlene Trent - Principal, O'Malley School
Nancy Harvey - Treasurer, O'Malley PTA
Rita Shaw - President
Frances Hannan - Vice President, O'Malley PTA
Virginia B. Dawley
Carol Long
Dianne L. Olson
Leona M. Cange
Marlyse J. Engelke
Nancy J. Fuerstenberg
Nancy M. Heckart
Sally Brook
Jeanne Krasnowski

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 11, 1980
000H

The Honorable Bob Mulcahy
Alaska State Senator
Chairman, Senate State Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

This is in response to your request of March 5, 1980 for this Department's position on House Bill 486 and Committee Substitute for House Bill 267 amended concerning highway advertising signs.

The Department of Transportation and Public Facilities has no objection to either Bill.

Sincerely,

Robert W. Ward
Commissioner

25A-T1LH

CH. 25 - PROTECTION & USE OF STATE HIGHWAYS & ROADS

Article 3. Outdoor Advertising.

Section

105. Limitations of outdoor advertising signs, displays and devices
110. Removal of nonconforming advertising
160. Definitions

Sec. 19.25.105. Limitations of outdoor advertising signs, displays and devices. (a) No outdoor advertising may be erected or maintained within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate, primary, or secondary highways in this state except the following:

(1) directional and other official signs and notices which include, but are not limited to, signs and notices pertaining to natural wonders, scenic and historic attractions, which are required or authorized by law, and which shall conform to federal standards for interstate and primary systems;

(2) signs, displays and devices advertising the sale or lease of property upon which they are located or advertising activities conducted on the property.

(3) signs determined by the state, subject to concurrence of the United States Department of Transportation, to be landmark signs, including signs on farm structures, or natural surfaces, of historic or artistic significance, the preservation of which would be consistent with the provisions of this chapter.

(b) This section is subject to AS 07.15.340 as it applies to secondary highways.

(c) No outdoor advertising may be erected or maintained beyond 660 feet of the nearest edge of the right-of-way of the main traveled way of the interstate primary or secondary highways in this state with the purpose of their message being read from that travel way except those outdoor advertising signs, displays or devices allowed under (a) of this section. (§ 3 ch 155 SLA 1970; am §§ 1, 2 ch 195 SLA 1975)

Effect of amendment. — The 1975 amendment, effective June 28, 1975, added paragraph (3) to subsection (a) and added subsection (c).

Alaska State Legislature

Senate

Committee on State Affairs

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

HB 486 - An Act relating to highway signs; and providing for an effective date.

BY: House State Affairs Committee

HB 486 adds "directional signs and notices pertaining to schools" to a list of signs, displays and devices that may be erected or maintained within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate, primary or secondary highways in this state. (Please see attached statute.)

The Department of Transportation and Public Facilities has no objection to this bill.

CH. 25 - PROTECTION & USE OF STATE HIGHWAYS & ROADS

Article 3. Outdoor Advertising.

Section

105. Limitations of outdoor advertising signs, displays and devices
110. Removal of nonconforming advertising
160. Definitions

Sec. 19.25.105. Limitations of outdoor advertising signs, displays and devices. (a) No outdoor advertising may be erected or maintained within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate, primary, or secondary highways in this state except the following:

(1) directional and other official signs and notices which include, but are not limited to, signs and notices pertaining to natural wonders, scenic and historic attractions, which are required or authorized by law, and which shall conform to federal standards for interstate and primary systems;

(2) signs, displays and devices advertising the sale or lease of property upon which they are located or advertising activities conducted on the property.

(3) signs determined by the state, subject to concurrence of the United States Department of Transportation, to be landmark signs, including signs on farm structures, or natural surfaces, of historic or artistic significance, the preservation of which would be consistent with the provisions of this chapter.

(b) This section is subject to AS 07.15.340 as it applies to secondary highways.

(c) No outdoor advertising may be erected or maintained beyond 660 feet of the nearest edge of the right-of-way of the main traveled way of the interstate primary or secondary highways in this state with the purpose of their message being read from that travel way except those outdoor advertising signs, displays or devices allowed under (a) of this section. (§ 3 ch 155 SLA 1970; am §§ 1, 2 ch 195 SLA 1975)

Effect of amendment. — The 1975 amendment, effective June 26, 1975, added paragraph (3) to subsection (a) and added subsection (c).

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 11, 1980
000H

The Honorable Bob Mulcahy
Alaska State Senator
Chairman, Senate State Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

This is in response to your request of March 5, 1980 for this Department's position on House Bill 486 and Committee Substitute for House Bill 267 amended concerning highway advertising signs.

The Department of Transportation and Public Facilities has no objection to either Bill.

Sincerely,

Robert W. Ward
Commissioner

BA-T1LH

HB

590

COMMITTEE REPORT

SENATE

FURTHER: Resources

3/20/80

Date: April 10, 1980

Mr. President:

The Committee on STATE AFFAIRS has had CSHB 590 am

relating to herring

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 titl [ ] new title

and recommends _____

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

[✓] reports it back without recommendation AS FOLLOWS:

[ ] referred to the _____ _____ Committee

MEMBERS SIGNING
DO PASS

Bob Mulcahy

MEMBERS HAVING
OTHER RECOMMENDATIONS:

3 yes - No Rec
Pat Kelley no rec

Bob Mulcahy
CHAIRMAN

S 60 (Rev. 12/78)

Official Business

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

CSHB 590 am - An Act relating to herring; and providing for an effective date.

BY: House Resources Committee

SECTION 1 - LEGISLATIVE FINDINGS AND POLICY ON HERRING STRIPPING

The Legislature finds that in certain circumstances herring stripping provides benefits to the state economy that may outweigh the waste involved in the process.

Legislative policy is that the disposal of herring carcasses is acceptable only if:

1. the herring population can support a stripping industry without substantially reducing the availability of herring for other uses; and

2. stripping is conducted in an area of the state where local industry either does not exist, or if it does, is insufficient to provide reasonable economic support of the residents.

SECTION 2 - HERRING STRIPPING

Authorizes herring stripping in the Bering Sea, effective September 1, 1980, until July 1, 1982. The Board of Fisheries shall adopt regulations regarding disposal of carcasses. Provisions of AS 46.03.100 (Waste Disposal Permit) attached, apply to the disposal of herring carcasses under this section.

SECTION 3 :

Amends AS 16.10 (Fisheries and Fishing Regulations, Herring Spawn) by adding a new section entitled, REMOVAL OF HERRING FROM STATE. Prohibits removal of herring from state before it has been frozen, iced, stripped or salted. However, roe herring (if 5+ per cent of the body weight consists of roe) may not be salted and exported from the state. Provides effective date of September 1, 1981, for this section.

EFFECTS OF CSHB 590 ON BERING SEA HERRING ROE FISHERY

Roe Herring Season	Local Stripping Allowed	Salting then Exporting Allowed
1978	Yes[1]	Yes
1979	No	Yes
1980	No	Yes
1981	Yes[2]	Yes
1982	Yes	No[3]
1983	No	No

1. Herring stripping was prohibited by AS 16.10.173 (attached) SLA 1977, in all areas of the state except Bering Sea as of 1/1/78. Prohibited in Bering Sea as of 1/1/79.

2. Provided by Section 2, CSHB 590 am, effective 9/1/80.

3. Provided by Section 3, CSHB 590 am, effective 9/1/81.

Terry Gardiner

Box 6092, Ketchikan, Alaska 99901 Pouch V, Juneau, Alaska 99811

To: All House Members

From: Representative Terry Gardiner

Date: March 18, 1980

Re: HB 590

Dear Fellow House Members:

HB 590 is a good bill. It is a consensus bill of fishermen and processors and ADF&G over what is needed to build an economically healthy herring fishery.

Right now herring is being harvested by foreign fleets. We want this fish to be harvested and processed by Alaskan fishermen and processors. Last year some fishermen directly exported whole herring onto foreign freighters. HB 590 will stop this. HB 590 will force processing of herring within Alaska, not on foreign vessels or soil.

The bill takes a realistic approach to phasing in the processing industry. A fishing industry cannot be built in one year. The bill changes nothing this present season. It allows salting and stripping of herring next year. For 3 years after it allows stripping. After 1984 all herring will be frozen or otherwise processed.

The buildup of the herring processing industry will provide a base of investment for other undeveloped fisheries. This is especially true in the Bering Sea area for which the exemption applies. This wil not affect other areas of the state.

The end result will be many jobs and economic benefits to Alaska. British Columbia has already done this successfully. This phase-in alternative is better than the other two alternatives: 1) A foreign fleet and processors or 2) raw export of whole herring.

Sincerely,

Terry Gardiner

Terry Gardiner

REFERS TO SEC. 3 ONLY CSHB 590 AM

TG/mh

Original sponsors: Gardiner and Moss

Offered: 2/28/80
Referred: Rules

IN THE HOUSE BY THE RESOURCES COMMITTEE

CS FOR HOUSE BILL NO. 590

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

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

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

* Section 1. LEGISLATIVE FINDINGS AND POLICY ON HERRING STRIPPING. (a) Notwithstanding AS 16.10.172, the legislature finds that in certain circumstances the processing technique described in AS 16.10.172(3), commonly referred to as "stripping", provides benefits of such importance to the state economy that the benefits may outweigh the waste involved in the process.

(b) It is the policy of the legislature that notwithstanding AS 16.10.173 the disposal of herring carcasses is acceptable only if

(1) the herring is taken from waters in which the herring population is large enough to support a stripping industry without substantially reducing the availability of the herring for other uses; and

(2) the stripping process is conducted in an area of the state where local industry either does not exist or, if it does exist, it is insufficient to provide reasonable economic support to the people who live in the area.

delete

* Sec. 2. HERRING STRIPPING. (a) The legislature finds that the Bering Sea is an area where the disposal of herring carcasses is acceptable under the criteria established in sec. 1 of this Act.

(b) Notwithstanding AS 16.10.173 and until July 1, 1982, the stripping of commercially taken herring for the purpose of removing and selling the roe product is authorized if the herring is taken from and the carcass disposal process occurs in the Bering Sea.

(c) The Board of Fisheries shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) regarding disposal of herring carcasses for each administrative area where disposal occurs.

(d) The provisions of AS 46.03.100 apply to the disposal of herring carcasses under this section.

* Sec. 3. AS 16.10 is amended by adding a new section to article 3 to read:

Sec. 16.10.175. REMOVAL OF HERRING FROM STATE. (a) It is unlawful for a person to remove herring from the state before the herring has been frozen or otherwise processed for shipment.

(b) In this section, "processed for shipment" includes, but is not limited to, icing, stripping or salting of the herring; however, it does not include salting of the herring if five percent or more of the body weight of the herring consists of roe.

* Sec. 4. Sections 1, 2 [redacted] of this Act take effect September 1, 1980. Section 3 of this Act takes effect September 1, 1981.

(H) RESOURCES COMMITTEE offered amendment deleting "and 4" line 15.

PASSED HOUSE 24-13-3 3/17/80

RECONSIDERED.

PASSED HOUSE 26-12-0 3/19/80

CS HB 590 am — An Act relating to herring; and providing for an effective date — By (H) Resources

Section 1. Legislative Findings and Policy on Herring Stripping

Legislature finds that ~~herring~~ in certain circumstances herring stripping provides benefits to the state economy that may outweigh the waste involved in the process. Stripping is described in the present statutes (AS 16.10.172 (3)) as "deliberately permitting decomposition of the herring carcass to allow for the removal and subsequent sale of the roe product, with the consequence that the flesh is unusable and discarded."

Legislative policy is that ~~herring~~ disposal of herring carcasses is acceptable only if

(1) the herring population can support a stripping industry without substantially reducing availability of herring for other uses; and

(2) stripping is conducted in an area of the state where local industry either doesn't exist, or if it does, is insufficient to provide reasonable economic support to the residents.

Section 2. Herring Stripping

Authorizes herring stripping in the Bering Sea, effective September 1, 1980, until July 1, 1982. Board of Fisheries shall adopt regulations regarding disposal of carcasses. Provisions of "waste disposal permit" ~~statutes~~ statutes apply to the disposal of herring carcasses.

Section 3.

Amends AS 16.10. "Fisheries and Fishing Regulations. Herring Spawn" by adding a new section entitled. Removal of herring from state."

Prohibits removal of herring from the state before it has been frozen, iced, stripped or salted. However roe herring may not be salted and exported from the state.

Effective September 1, 1981.

Effect of CS HB 590 am on Bering Sea roe herring fishery

Roe Herring Season ↑	Local Stripping Allowed? ↑	Salting, then Exporting Allowed? ↑
1978	Yes	Yes
1979	No	Yes
1980	No	Yes
1981	Yes [1]	Yes
1982	Yes	No [2]
1983	No	No
↓	↓	↓

1. Provided by Sec. 2 CS HB 590
2. Provided by Sec. 3 CS HB 590

4/4/80 Tower Tower Fest 500-700
Dock Point

Oscar D - 486-3694 - W/Legacy - No Problem - no change
260-350 & Willie
285 after

Clyde 486-5609
Known -

Ellen B 486-3234

Ed Van Fleet 486-3266
Swept Shore
Beach Peak -
Kenny Crab - BB - Ken Alexander -
BxB 486-4112
Tom Mayer - 486-5789

486-5394
Bens - Penn
29

Buck Shaw

BB Red 72 lb - & 7,999
33 mill 40 #
24 & Pink - 39½ Red 1979

And so, CSHB 586 passed the House. CSHB 586

Representative Meekins served notice of reconsideration on CSHB 586 on the next legislative day.

THIRD READING OF HOUSE BILLS

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 590 amended (relating to herring; effective date) was read the third time. (Reconsideration was brought up and held until today's calendar, page 672 of the journal). CSHB 590 am

Representative Eliason moved and asked unanimous consent that CSHB 590am be returned to second reading for the purpose of specific amendment.

Representative Miller objected and withdrew his objection. There being no further objection, it was so ordered.

Amendment No. 2 by Eliason and Halford:

Page 1, line 13

Between "benefits" and "outweigh" insert "may"

Page 1, lines 23 - 25

Delete all material starting with "(a)" through "Act."

Page 1, line 26

Delete "1983" and insert "1982"

Renumber following subsections.

Representative Eliason moved and asked unanimous consent that Amendment No. 2 be adopted. There being no objection, it was so ordered.

CSHB 590 am Mr. Anderson moved and asked unanimous consent that CSHB 590am be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered.

CSHB 590am was read the third time.

The question to be reconsidered bein : "Shall CSHB 590am pass the House?" The roll was taken with the following result:

CSHB 590AM

Yeas:	28	Anderson, Beirne, Bettisworth, Brown, Buchholdt, Carney, Cotten, Duncan, Freeman, Fuller, Gardiner, Halford, Hayes, McKinnon, Malone, Meekins, Metcalfe, Miles, Miller, Moss, Munson, Osterback, Parker, Parr, Randolph, Rogers, Schaeffer, Smith
Nays:	12	Barnes, Branson, Chatterton, Eliason, Guy, Haugen, Hurlbert, Martin, Montgomery, O'Connell, Phillips, Zharoff
Not Voting:	0	

And so, CSHB 590am passed the House on reconsideration of the vote.

Mr. Anderson moved and asked unanimous consent that the roll call on the passage of CSHB 590am be considered the roll call on the effective date clause. There being no objection, it was so ordered.

CSHB 590am was referred to the Chief Clerk for engrossment.

CS HJR 20am Representative Rogers asked that the reconsideration of the vote on COMMITTEE SUBSTITUTE FOR HOUSE JOINT RESOLUTION NO. 20 amended (proposing an amendment to the Constitution of the State of Alaska relating to

CSHB 590 am — An Act relating to herring; and providing for an effective date. — (H) Resources

Section 1 - LEGISLATIVE FINDINGS AND POLICY ON HERRING STRIPPING.

The Legislature finds that in certain circumstances herring stripping provides benefits to the state economy that may outweigh the waste involved in the process.

Legislative policy is that the disposal of herring carcasses is acceptable only if:

1. the herring population can support a stripping industry without substantially reducing availablilty of herring for other uses; and
2. stripping is conducted in an area of the state where local industry either does not exist, or, if it does, is insufficient to provide reasonable economic support to the residents.

Section 2 - HERRING STRIPPING

Authorizes herring stripping in the Bering Sea, effective September 1, 1980 until July, 1982. The Board of Fisheries shall adopt regulations regarding disposal of carcasses. Provisions of AS 46.03.100 Waste Disposal Permit apply to the disposal of herring carcasses under this section. (ATTACHED)

Section 3 - Amends AS 16.10 "Fisheries and Fishing Regulations, Herring Spawn" by adding a new section entitled "Removal of Herring from State." Prohibits removal of herring from state before it has been frozen, iced, stripped or salted. However, roe herring (if 5%+ of body weight consists of roe) may not be salted and exported from the state. Provides effective date, this section, of Sptember 1, 1981.

EFFECTS OF CSHB 590 am ON BERING SEA HERRING ROE FISHERY

ROE HERRING SEASON	LOCAL STRIPPING ALLOWED?	SALTING THEM EXPORTING ALLOWE
1978	Yes[1]	Yes
1979	No	Yes
1980	No	Yes
1981	Yes[1]	Yes
1982	Yes	No[2]
1983	No	No

1. Provided by Sec. 2 CSHB 590 am, effective September 1, 1980
2. Provided by Sec. 3 CSHB 590 am, effective date September 1, 1981.

1. Herring stripping prohibited by AS 16.10.173 (ATTACHED) IN ALL AREAS OF STATE EXCEPT BERING SEA, EFF. 1/1/78. Prohibited in Bering Sea effective 1/1/79

Background

CS HB 590 am is a response to two areas of concern regarding the Bering Sea herring roe fishery ~~regarding~~, and ~~that fishery in the Bering Sea in particular~~. The first of these is the practice of "stripping" the herring to remove the eggs, which ~~results in~~ produces a carcass that is unusable and must be discarded. The second is the export from the state of unprocessed, salted roe herring.

Legislative policy on utilization of herring, as adopted in 1977, states that stripping "is wasteful and does not constitute utilization of this resource for the maximum benefit of the people. Therefore, it is the policy of the legislature that this process should be eliminated to the fullest extent possible." Reacting to the mounting pressure against stripping, the Board of Fisheries prohibited by regulation, effective for the 1979 season, the stripping of herring.* The result of this was that most of the herring from the Bering (• ADF&G estimates 70%) were lightly salted and shipped overseas, bypassing Alaskan processors ~~altogether~~ and labor altogether.

By prohibiting the export of unprocessed herring, CS HB 590 am ~~would~~ would encourage the development of Alaska-based processing facilities. The two-year moratorium on the stripping ban would theoretically allow processors to ease into the requirement that the whole herring be utilized. According to the sponsor, "the bill takes a realistic approach to phasing in the processing industry."

After the ban on stripping is reinstated, effective beginning with the 1983 season, processors will have to find some use for the herring carcass. In practical terms this means the carcass will

* when, effective everywhere?

have to be reduced— made into fish meal or fertilizer.— since this is about all that a herring carcass is good for after the roe extraction process. There presently are no reduction plants along the Bering Sea coast, the closest one being in Kodiak.

CS HB 590 am An Act relating to herring; and providing for an effective date By (H) Resources

Section 1. Legislative Findings and Policy on Herring Stripping

Legislature finds that ~~herring~~ in certain circumstances herring stripping provides benefits to the state economy that may outweigh the waste involved in the process. Stripping is described in the present statutes (AS 16.10.172 (3)) as "deliberately permitting decomposition of the herring carcass to allow for the removal and subsequent sale of the roe product, with the consequence that the flesh is unusable and discarded."

Legislative policy is that ~~herring~~ disposal of herring carcasses is acceptable only if

(1) the herring population can support a stripping industry without substantially reducing availability of herring for other uses; and

(2) stripping is conducted in an area of the state where local industry either doesn't exist, or if it does, is insufficient to provide reasonable economic support to the residents.

Section 2. Herring Stripping

Authorizes herring stripping in the Bering Sea, effective September 1, 1980, until July 1, 1982. Board of Fisheries shall adopt regulations regarding disposal of carcasses. Provisions of "waste disposal permit" ~~program~~ statutes apply to the disposal of herring carcasses.

Section 3.

Amends AS 16.10. "Fisheries and Fishing Regulations. Herring Spawn" by adding a new section entitled. "Removal of herring from state."

Prohibits removal of herring from the state before it has been frozen, iced, stripped or salted. However roe herring of 5% body weight or more may not be salted and exported from the state.

Effective September 1, 1981.

Effect of CS HB 590 am on Bering Sea roe herring fishery

Roe Herring Season	Local Stripping Allowed?	Salting, then Exporting Allowed?
1978	Yes	Yes
1979	No	Yes
1980	No	Yes
1981	Yes [1]	Yes
1982	Yes	No [2]
1983	No	No

1 Provided by Sec. 2 CS HB 590, effective Sept. 1, 1980.

2 Provided by Sec. 3 CS HB 590, effective Sept. 1, 1981.

Pennoyer 9210

Value of roe – 3x4 x that for bait.

Board of Fish. prohib

Season starts ~ May 1

Salting 20% solution by volume
Carcass must be reduced

Last yr. 10,000 m.t., this yr could go 25-30,000 m.t. depending on weather. Little shore-based plants to handle this product

Foreign boats on hand to transport processed herring – ~70% of Togiak herring was salted.
Processing other than salting is more labor intensive - more beneficial.
Must use available surplus inshore or lose it.

Most herring sent to Orient for stripping. ~~Do~~
Bill doesn't eliminate salting immediately?

Next year both salting & stripping allowed, after that just stripping, then neither.

A.D.F.&G. has no prob~~lem~~

Oscar — "More or less go along with it" probably going to happen

Natives wanted to get herring under that control. Cut out roe herring altogether.

Up north no way to utilize the whole body. reduction

~~Regarding the herring stripping provision~~

Oscar Dyson "more or less goes along with this bill" He feels it will probably happen sooner or later (the prohibition against herring stripping). The 1982 time limit will allow the processors to ease into the requirement that the whole herring be utilized. The main problem in the Bering Sea is that reduction plants are so far removed from the herring resource. He noted that other areas, such as Canada, are moving away from herring roe fisheries toward utilization of the entire fish.

Regarding removal of herring from the state, he says this resulted from last year's situation where roe herring was salted and immediately shipped to Japan, thus bypassing state labor altogether.

Lauber - No official comment. (Maybe this could be better handled by regulatio

Must be processed before it goes on board a foreign vessel. Board put 20% salt solution.

Hasn't been much transporting out of the state - chilled seawater doesn't really work

Processors on both sides of the fence

Closest reduction plant is in Kodiak

Positions on CS HB 590

Oscar Dyson - "more or less goes along with the bill" - 486-3694

U.F.A. - no position

Pacific Seafood Processors - no position (Rick Laubei)

Pac. Pearl Seafoods (Royal DeVaney) - no position 276-2181

Washington Fish & Oyster (Bill Hinkston) 206-285-6800 - Against provision allowing herring stripping in the Bering Sea. Said that wherever herring carcasses are dumped, you lose the herring in that area. Foresees problems with enforcement of dumping-control regulations

Hinkston- 206-285-6800

~~Lovett~~ - Clyde Lovett 486-5307 will ~~call~~ get bill & call back with comments

Shut Kodiak
Call -

~~Boyd DeVaney~~ - Pac Trawl

Not involved w/ herring
Could be detrimental to local fisherman
Comment on pollution only will this be a problem in shallow water dumped all at once - Dumping 50-100 tons at a shot

Could be shipped out of ~~Kodiak~~ the Bay to Kodiak.
No great freezing capacity there
Not that great of quality - frozen roe herring

Larry Cotter

interested parties:

Tom Waterer - Salamatof Seafoods
Anchorage ~~776-4294~~ 283-7000

Alan Otness - Icicle Seafoods
U.F.A. fishing Petersburg 772-4294

~~Larry Cotter~~ 586-6642
I.L.U. Juneau

~~UFA~~ 586-2820

Official Business

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

CSHB 590 am - An Act relating to herring; and providing for an effective date.

BY: House Resources Committee

SECTION 1 - LEGISLATIVE FINDINGS AND POLICY ON HERRING STRIPPING

The Legislature finds that in certain circumstances herring stripping provides benefits to the state economy that may outweigh the waste involved in the process.

Legislative policy is that the disposal of herring carcasses is acceptable only if:

1. the herring population can support a stripping industry without substantially reducing the availability of herring for other uses; and

2. stripping is conducted in an area of the state where local industry either does not exist, or if it does, is insufficient to provide reasonable economic support of the residents.

SECTION 2 - HERRING STRIPPING

Authorizes herring stripping in the Bering Sea, effective September 1, 1980, until July 1, 1982. The Board of Fisheries shall adopt regulations regarding disposal of carcasses. Provisions of AS 46.03.100 (Waste Disposal Permit) attached, apply to the disposal of herring carcasses under this section.

SECTION 3 :

Amends AS 16.10 (Fisheries and Fishing Regulations, Herring Spawn) by adding a new section entitled, REMOVAL OF HERRING FROM STATE. Prohibits removal of herring from state before it has been frozen, iced, stripped or salted. However, roe herring (if 5+ per cent of the body weight consists of roe) may not be salted and exported from the state. Provides effective date of September 1, 1981, for this section.

EFFECTS OF CSHB 590 ON BERING SEA HERRING ROE FISHERY

Roe Herring Season	Local Stripping Allowed	Salting then Exporting Allowed
1978	Yes[1]	Yes
1979	No	Yes
1980	No	Yes
1981	Yes[2]	Yes
1982	Yes	No[3]
198:	No	No

1. Herring stripping was prohibited by AS 16.10.173 (attached) SLA 1977, in all areas of the state except Bering Sea as of 1/1/78. Prohibited in Bering Sea as of 1/1/79.

2. Provided by Section 2, CSHB 590 am, effective 9/1/80.

3. Provided by Section 3, CSHB 590 am, effective 9/1/81.

Sec. 46.03.100. Waste disposal permit. (a) A person who conducts an operation which results in the disposal of solid or liquid waste material or heated process or cooling water into the waters or onto the land of the state must procure a permit from the department before disposing of the waste material or water. The permit must be obtained for direct disposal and for disposal into publicly operated sewerage systems.

(b) This section does not apply to a person discharging only domestic sewage into a sewerage system. (§ 3 ch 120 SLA 1971; am § 3 ch 220 SLA 1976)

Effect of amendment. — The 1976 amendment in the first sentence of subsection (a), substituted "an operation" for "a commercial or industrial operation," inserted "or heated process or cooling water" and "or onto the land," and added "or water" to the end of the sentence.

Sec. 46.03.110. Waste disposal permit procedure. (a) An application for a permit shall be made on forms prescribed by the department or on forms prescribed by the United States Environmental Protection Agency and shall contain the name and address of the applicant, a description of his operations, the quantity and type of waste material sought to be disposed of, the proposed method of disposal, and any other information considered necessary by the department. Application for permit shall be made at least 60 days before commencement of a proposed discharge.

(b) Upon receipt of a proper application the department shall publish notice of the application in two separate publications of a newspaper of general circulation within the general area in which the disposal of waste material is proposed to be made. The notice may also be published in other appropriate information media. The notice shall include a statement that a person who wants to present his views to the department in regard to the application may do so in writing to the department within 30 days of the second publication of the notice. The written response entitles the writer to a copy of the application.

(c) When the department receives an application, the commissioner shall immediately send copies of the application to the commissioner of fish and game, the commissioner of natural resources, the commissioner of commerce and economic development and the commissioner of health and social services.

(d) The department may specify in a permit the terms and conditions under which waste material may be disposed of. The terms and conditions shall be directed to avoiding pollution and to otherwise carry out the policies of this chapter. No permit may be effective for a period in excess of five years from the date of issuance.

(e) If the department has certified a National Pollutant Discharge Elimination System permit under sec. 401 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. sec. 1341), and the United States Environmental Protection Agency has issued that permit to a person, the department may waive the requirements of this section, and adopt the federal permit as the permit required under § 100 of this chapter. (§ 3 ch 120 SLA 1971; am § 6 ch 104 SLA 1971; am § 116 ch 218 SLA 1976; am §§ 4, 5 ch 220 SLA 1976)

Effect of amendments. — The first 1976 amendment substituted "commissioner of commerce and economic development" for "commissioner of economic development" in subsection (c).

The second 1976 amendment inserted "or on forms prescribed by the United States Environmental Protection Agency" in the first sentence of subsection (a) and added subsection (e).

Article 3. Herring Spawn.

Section
140 — 170. [Repealed]
172. Legislative policy on utilization of herring
173. Utilization of commercially taken herring

Secs. 16.10.140 — 16.10.170.
Repealed by § 2 ch 91 SLA 1970.

Sec. 16.10.172. Legislative policy on utilization of herring. The legislature finds the following: (1) extensive and valuable herring populations are available for harvest in waters subject to the jurisdiction of the state; (2) commercial markets are available for herring processed in several forms; (3) one processing technique presently employed involves deliberately permitting decomposition of the herring carcass to allow for removal and subsequent sale of the roe product, with the consequence that the flesh is unusable and discarded. The legislature declares that the process referred to in (3) of this section is wasteful and does not constitute utilization of this resource for the maximum benefit of the people. Therefore, it is the policy of the legislature that this process should be eliminated to the fullest extent possible. (§ 1 ch 9 SLA 1977)

Effective date. — Section 2, ch. 9, SLA 1977, provides: "This Act takes effect January 1, 1978."

Sec. 16.10.173. Utilization of commercially taken herring. (a) It is unlawful for a person, as defined in AS 01.10.060 and including a joint venture, to waste or to cause to be wasted any commercially taken herring.

(b) As used in this section, "waste" means the failure to use the flesh of commercially taken herring for reduction to meal, production of fish food, human consumption, food for domestic animals, scientific or educational purposes, or round herring bait. Normal, inadvertent loss of flesh associated with the uses described in this subsection which cannot be prevented by practical means does not constitute waste. The commissioner may authorize other uses of commercially taken herring not inconsistent with the intent of this section and § 172 of this chapter at his discretion upon receipt of a request accompanied by a detailed justification.

(c) For purposes of this section, "flesh" means all muscular body tissue surrounding the bony skeleton of the herring.

(d) The Board of Fisheries may adopt regulations under the Administrative Procedure Act (AS 44.62) it considers necessary for implementation of this section. The board may delegate its authority under this section to the commissioner.

(e) The provisions of this section do not apply to herring taken commercially in the Bering Sea (including appurtenant bays, sounds, estuaries, and water of the state) north of 56° North Latitude, until January 1, 1979. (§ 1 ch 9 SLA 1977)

Effective date. — Section 2, ch. 9, SLA 1977, provides: "This Act takes effect January 1, 1978."

Terry Gardiner

Box 6092, Ketchikan, Alaska 99901 Pouch V, Juneau, Alaska 99811

To: All House Members

From: Representative Terry Gardiner

Date: March 18, 1980

Re: HB 590

Dear Fellow House Members:

HB 590 is a good bill. It is a consensus bill of fishermen and processors and ADF&G over what is needed to build an economically healthy herring fishery.

Right now herring is being harvested by foreign fleets. We want this fish to be harvested and processed by Alaskan fishermen and processors. Last year some fishermen directly exported whole herring onto foreign freighters. HB 590 will stop this. HB 590 will force processing of herring within Alaska, not on foreign vessels or soil.

The bill takes a realistic approach to phasing in the processing industry. A fishing industry cannot be built in one year. The bill changes nothing this present season. It allows salting and stripping of herring next year. For 3 years after it allows stripping. After 1984 all herring will be frozen or otherwise processed.

The buildup of the herring processing industry will provide a base of investment for other undeveloped fisheries. This is especially true in the Bering Sea area for which the exemption applies. This wil not affect other areas of the state.

The end result will be many jobs and economic benefits to Alaska. British Columbia has already done this successfully. This phase-in alternative is better than the other two alternatives: 1) A foreign fleet and processors or 2) raw export of whole herring.

Sincerely,

Terry Gardiner

Terry Gardiner

REFERS TO SEC. 3
REFERS HB 590 AM.

TG/mh

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

Salamatof Seafoods, Inc.

P. O. Drawer 4220 Kenai, Alaska 99611 Phone: (907) 283-7000

March 18, 1980

Honorable Bob Mulcahy, Senator
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Sir:

Enclosed for your review is recent correspondences and information that we have instituted to particular interested parties regarding HB 590. We feel that this Bill is of such great consequence that you should be made aware of the matters of concern as we see them.

At stake is the philosophy of how our fisheries will be developed and whether or not they will be developed in the best interest of Alaskans. It is being suggested as an argument that some operations, whether of outside or foreign interests, should be given consideration because of the economic hardship of not being allowed to proceed with their schemes of removing product from the State. However, if they are allowed, it will be a direct economic hardship to the resident processors and other economic sectors within the State.

Currently there is a mounting effort for floating processors and shore plants to process a new season's catch within the State's jurisdiction. Without some protection, these operations will not be given the emphasis or likelihood of success that they desperately need now.

Thank you for your consideration of these matters.

Cordially,

SALAMATOF SEAFOODS, INC.

Tom Waterer

Tom Waterer, President

TW:dle
Enclosures

March 10, 1980

PROPOSED CHANGES

HB 590

Original sponsors: Gardiner and Moss

IN THE HOUSE BY THE RESOURCES COMMITTEE

CS FOR HOUSE BILL NO. 590

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

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

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

*Section 1. LEGISLATIVE FINDINGS AND POLICY ON HERRING STRIPPING.

(a) Notwithstanding AS 1 .10.172, the legislature finds that in certain circumstances the processing technique described in AS 16.10.172(3), commonly referred to as "stripping", provides benefits of such importance to the state econo · that the benefits outweigh the wa:te involved in the process.

(b) It is the policy of the legislature that notwithstanding AS 16.10.173 the disposal of herring carcasses is acceptable only if

(1) the herring is taken from waters in which the herring population is large enough to support a stripping industry without substantially reducing the availability of the herring for other uses; and

(2) the stripping process is conducted in an area of the state where local industry either does not exist or, if it does exist, it is insufficient to provide reasonable econo ic support to the people who live in the area, or insufficient meal or reduction facilities exist within a 100-mile radius.

AS FOLLOWS:

*Section 2. HERRING STRIPPING

(a) The legislature finds that the Bering Se is an area of fish origin for which [where] the disposal of herring carcasses is acceptable under the criteria established in sec. 1 of this Act.

(b) Notwithstanding AS 16.10.173 and until July 1, 1983, the stripping of commercially taken herring for the purpose of removing and selling the roe product is authorized if the herring is taken from [and the carcass disposal process occurs] in the Bering Sea.

(c) The Board of Fisheries shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) regarding disposal of herring carcasses for each administrative area where disposal occurs.

(d) The provisions of AS 46.03.100 apply to the disposal of herring carcasses under this section.

*Section 3. AS 16.10 is amended by adding a new section to article 3 to read:

Section 16.10.175. REMOVAL OF HERRING FROM STATE.

(a) It is unlawful for a person to remove herring from the state before the herring has been frozen or otherwise processed for shipment.

(b) In this section, "processed for shipment" includes, but is not limited to, icing, stripping or salting of the herring; however, it does not include salting or icing of the herring if five percent or more of the body weight of the herring consists of roe.

*Section 4. Sections 1, 2 and 4 of this Act take effect [September 1, 1980] April 15, 1980. Section 3 of this Act takes effect [September 1, 1981] April 15, 1980.

PROPOSED CHANGES

HB 590

Original sponsors: Gardiner and Moss

IN THE HOUSE BY THE RESOURCES COMMITTEE

CS FOR HOUSE BILL NO. 590

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

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

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

* Section 1. LEGISLATIVE FINDINGS AND POLICY ON HERRING STRIPPING.

(a) Notwithstanding AS 16.10.172, the legislature finds that in certain circumstances the processing technique described in AS 16.10.172(3), commonly referred to as "stripping", provides benefits of such importance to the state economy that the benefits outweigh the waste even if discard of the carcass is involved in the process.

(b) It is the policy of the legislature that the stripping process wherein the carcass is discarded is acceptable only if the herring is taken from waters in which the herring population is large enough to support a stripping industry [without substantially reducing the availability of the herring for other uses], and only if the [stripping] discarding process is conducted in an area of the state where in which adequate meal or local [industry either does] reduction facilities do not exist within a 50-mile radius or, if it does exist, is insufficient to provide reasonable economic support to the people who live in the area.

WE PREFER SECTION 2 TO BE DELETED, HOWEVER, IF INCLUDED SHOULD READ AS FOLLOWS:

* Section 2. HERRING STRIPPING.

(a) The legislature finds that the area of purchase described in (b) of this section is an area where the [stripping] purchase of herring for roe is acceptable under the criteria established in sec. 1 of this Act.

(b) Notwithstanding AS 16.10.173 and until July 1, 1981, or 1982 or 1983, *(options) [the stripping of commercially taken herring for the purpose of removing and selling the roe product] discard is authorized if the herring is taken from [and the stripping process occurs within] an area north of 58 degrees latitude, south of 60 degrees latitude; east of 162 degrees 10 minutes 30 seconds longitude; and west of 158 degrees 53 minutes 30 seconds longitude.

* Section 3. AS 16.10 is amended by adding a new section to article 3 to read:

Section 16.10.175. REMOVAL OF HERRING FROM STATE.

(a) It is unlawful for a person to remove herring from the state before the herring has been frozen or otherwise processed for shipment.

(b) In this section, "processed for shipment" includes, but is not limited to, [ieing] no stripping or salting of the herring; however, it does not include salting of the herring if five percent or more of the body weight of the herring consists of roe. Such salted herring should be packed in cartons no larger than 200 lbs. net, as is consistent with packaging requirements for food products.

* Section 4. This Act allows easier enforcement and takes effect immediately in accordance with AS 01.10.070(c).

Salamatof Seafoods, Inc.

P O Drawer 4220 Kenai, Alaska 99611 Phone (907) 283-7000

March 11, 1980

Honorable Terry Gardiner
Speaker of the House
House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Sir:

This letter is sent for your consideration of specific problems which I see in the wording and format of HB 590 as offered on 2/28/80. Philosophically I request that you and other representatives of the State consider with utmost dispatch what might be done to, first, effect the maximum legislation of value added for our fishery resources within the State's jurisdiction by creation of in-State processing and; second, once realizing the benefit of such a goal, do whatever is possible to encourage the survival of in-State processors and the continuation of their resident ownership. If such a direction is not taken, it is likely that in ever greater percentages the impact and survival of in-State processors will cease. The current state of economics of the Alaskan fisheries is such that the continuation of Alaskan processors must be encouraged by whatever measures possible.

The effect of HB 590 if implemented to require in-State processing will add tremendously to the in-State impact of our seafood harvest, especially as it relates to herring. This is accomplished through the impact of Alaskan employment, capital investment, and related sectors.

Whatever forms HB 590 takes, it should not be forgotten that the goal is to create in-State processing of herring to the state of maximum value added at the earliest possible date.

Secondary to that goal is the problem of how and whether such a goal will reasonably be effected. In the most recent draft of HB 590, I take special note of the time factor proposed of September 1, 1980, whereby in-State stripping with carcass discard can be effected. The suggestion thereby is that during the 1980 production season in-State processors will not be afforded the privilege of processing the expanding Bristol Bay herring harvest as they best see feasible, and yet foreign interests are given the opportunity to receive roe herring and export them out of the State lightly salted and used in any manner that they deem fit. This generally correlates to exactly what processors are wishing to do during the 1980 production season within the State's jurisdiction whenever the fish are not frozen.

I urgently request that the last item of the Bill, Section 4, take effect April 15, 1980, to preclude such unfair disadvantage given to in-State processors. I note also that under Section 4 reference to Section 3 is postponed until September 1, 1981, thereby allowing these foreign and non-resident interests to continue their operations through both the 1980 and 1981 production seasons. I suggest that the time factor of implementation by April 15, 1980, so that the 1980 production season be included.

Additional to the above information, I would wish to suggest that in-State processing can be effected in such a manner that the possibility of handling the proposed Bristol Bay harvest in 1980 can be effected within the State's jurisdiction. The possibility of this being effected increases dramatically as stripping with carcass discard is allowed on an interim period until July 1, 1983, as is proposed in the Bill. However, such provision should not be restricted to the Bering Sea areas, but rather to all processing areas within the State where insufficient meal or reduction facilities do not exist within a 100-mile radius. This is a very important consideration that the stripping and discard processes be allowed not only in the Bering Sea areas, but wherever in the State the product is processed, since much of the product will not be processed in the Bering Sea area.

In the case of our company's goals, we are wishing to freeze as much Bering Sea herring as is possible. However, if we are unable to process some fish by freezing, we then wish to be afforded the opportunity to strip herring at our plant in Kenai and discard the carcasses. Our waste disposal system is used for salmon and halibut wastes and includes a large sophisticated macerating grinder which ultimately pumps a fine mash into deep water where it is rapidly dispersed.

In conclusion, I would like to reemphasize that the objective of HB 590 should be to insure the survival of in-State processing and processors by providing for preferential access to the herring resources they are capable of handling. This further has the substantial benefit by way of enhancing the economic well-being of the processors and the impact of the tremendous payroll dollars for processing labor as well as dollars injected to the transportation and related industries.

The condition of Alaska's resident seafood processing industry is such that it needs immediate assistance in 1980. The only possible negative factor regarding the issue of HB 590 is whether or not the industry can adequately handle the harvest. The stripping provision, however, if extended to the processing sector State wide, should help remove such questions.

Otherwise it might be argued that there is a potential for economic hardship on those who have invested to export product out of the State to process in Canada, Washington, Japan, or Korea. If there is any such economic hardship, that is unfortunate; however, if this Bill does not pass immediately, their investments and economic hardships will be even more apparent at a later date when they have effected their operations for one or two years; and in the meantime, their arguments are being considered at the expense of Alaskan processors and labor.

The benefit of Alaska and its citizens is best enhanced by favor of in-State processors and processing.

I have included a copy of HB 590 (2 copies), representing copies of the last two drafts and in each case have indicated necessary changes to best effect the goals outlined above.

Thank you for your consideration.

Sincerely,

SALAMATOF SEAFOODS, INC.

Tom Waterer, President
TW:dle
cc: House Resource Committee Members: Patrick J. Carney
C. V. Chatterton
Samuel R. Cotten
Richard I. Eliason
John G. Fuller
Richard W. Halford
Bill Miles
Fred S. Zharoff

President of the Senate, Clem R. Tillion
Hugh Malone, House of Representatives
Jim Kross, Environmental Services
John Martins, Environmental Services
Frank McIlhargey, Economic Development Director

Enclosures

Salamatof Seafoods, Inc.

P O Drawer 4220 Kenai, Alaska 99611 Phone (907) 283-7000

February 18, 1980

City of Kenai
P.O. Box 580
Kenai, Alaska 99611

Attn: Mayor Vincent O'Reilly

Gentlemen:

This letter will serve to advise you of a very important bill currently in the House which we believe has the potential to provide tremendous economic impact upon the City of Kenai and the entire Borough. Enclosed you will find a copy of HB 590, relating to a requirement to effect processing of herring within the State's jurisdiction. As President of Salamatof Seafoods, Inc., a substantial employer in the City of Kenai and the Kenai Peninsula Borough, I solicit your support for this most important bill.

It has the impact of not only creating employment, but also of plant utilization and in-State quality control. Stepwise this bill may create a vehicle for further guidelines requiring the maximum value added to be realized within the State for all species of our seafood resources. This I strongly advocate.

Referring specifically to herring, I have included an outline from my testimony before the House Resource Committee on Thursday, February 7th. The notes are not fully descriptive since it was my outline, however, the points are basically:

1. If Alaska wishes to receive the maximum benefit from a seafood harvest, it must so direct the processing industry by legislative action, otherwise, overhead and labor will be utilized elsewhere wherever possible.

2. The adverse market reputation for quality of Alaskan seafood can only be overcome by greater quality control measures. This, in turn, can only be scrutinized as processing occurs within the State's jurisdiction.

3. The current economic depression of the Alaskan seafood industry and especially of the Kenai Peninsula processors can be in part lessened by proper utilization of the vast herring resource just recently proven economically so important.

4. In a worst case analysis and in an industry based out of State, there would be left to the State only $18 per ton or less by way of taxes for the herring harvested. This correlates to a State-wide return of $720,000-$900,000. If a best case analysis is a stake, a first wholesale value by in-State processors of up to $100 Million Dollars of new dollars in 1980 can be realized. These new dollars, in turn, have even greater

impact when the particular multipliers are realized via the economics involved.

5. Our industry rule of thumb is that each ton of herring processed to the roe finished product requires about two man days of labor. If the projected Bristol Bay harvest were all processed to the roe state, it would create about 60,000 man days of employment for process workers. This is in addition to the employment of the fishermen and tendermen levels. Processing to a frozen state would require comparable labor plus capital investment only of a slighter consequence. Salting or brining of herring requires an inconsequential labor impact and, hence, a tremendous economic loss to the State and Borough.

6. Of the 1980 Bristol Bay harvest, we estimate it is probable that a minimal 20% will be processed by Kenai Peninsula processors if the product is not taken from them via foreign bulk transport means. If this is the case, at stake is a minimum 12,000 man days of labor plus the sales dollars generated into the economy by the particular Borough seafood processors involved. This will have impact upon the transportation industry and related supply industry and numerous other segments of our local economy.

7. In both the Canadian province of British Columbia and the state of California, the tremendous impact of requiring in-province or in-state processing has been realized. In each of those areas, legislation for the purpose of limiting the exports of unprocessed seafood, and especially herring, has been effected much more strictly than is proposed by HB 590. In both of those areas it has been realized that if the resource is to be harvested, it should be for the maximum economic benefit, which can only be realized by the export of the finished product.

I thank you for your consideration of this hastily prepared message. The time factor involved is that currently the matter will be brought before House Committee again on Thursday, February 22nd. I solicit a strong and immediate support of this bill to our Representatives as you deem appropriate.

Sincerely,

SALAMATOF SEAFOODS, INC.

Tom Waterer, President
TW:dle
Enc: HB 590
Testimony Outline - House Resource Committee

cc: House Speaker Terry Gardiner
Senator Clem Tillion
Representative Hugh Malon
Mayor Tom Bearup - Soldotna
Mayor Don Gilman - Kenai Pen. Bor.
Mr. Frank McIlhargey, Econ. Dev. Coun.
Mr. George Ford, Kenai Chamb. Commerce

TESTIMONY BY TOM WATERER
House Resource Committee
February 7, 1980

I. INTRODUCTION

A. Company - 100% Alaskan owned; incorporated in the State in 1973:

Size, volume, position in industry, particularly in herring, employment, 1979 raw fish tax discussions.

B. Personal -

Time in industry, 18 years fisherman - processor.
Formal education in Biological Sciences.

II. ORIENTATION

Alaska should review its entire philosophies regarding management of its fishing industry. In light of the fact that its 1979 ex-vessel values alone were on the order of 700 Million Dollars, this thought should surely bear some consideration.

However, true impact of fisheries is fact that in addition to this 700 Million is added substantial payrolls of the State's processors and the notable multiplier effect this has on Alaskan economy, especially in light of the fact that generally these are imported - dollars injected directly into the private sector.

Noting that the socio-economic impact is so great it stands that some consideration be given to how best to manage the economics of a fishing as to the best benefit of Alaska and its citizens.

In my opinion HB 590 is one of first examples of such legislation.

The unfortunate reality - usually fisheries are managed only on premise that when a biological surplus exists it should be harvested by whatever means available w/o due consideration of the particular socio-economics involved. This, of course, is as much a fallacy as is conservation for the sake of conservation. I say, what purpose is there for Alaska to allow harvest if there is not maximum benefit to the State and its citizens to do such? It is time that biological management be counled with economic management and by economic management I mean maximizing economic benefit to State, its resident fishermen, its processors.

DEFINE PROCESSING IN CASE OF HERRING

I strongly advocate Alaska proceed stepwise toward maximizing value added within the State. Since processing in the fishing industry is very labor intensive, Alaska can only benefit by such direction. Benefit to labor, transport, taxes, etc.

In the case of HB 590, we strongly support it and suggest that since Alaska herring industry is just now experienceing a rapid growth, now is the time to set the guidelines by which to create the most value to the State via in-State processing, and at the same time insure the quality reputation.

Salamatof Seafoods, Inc.

P O Drawer 4220 Kenai, Alaska 99611 Phone: (90) 283-7000

February 1980

Dear Fisherman:

This letter submitted for your consideration is to serve the purpose of information flow between processor and fisherman, which is so often inadequate. I hope that you will very seriously consider what information we have to share and that you will realize how greatly your understanding and response to industry problems can, in turn, benefit us all.

The sad state of the Alaska fishing industry in general, and quite specifically that of the salmon industry, is that it is in a pronounced state of depression. Further it is unlikely that this situation will change in the near future. Currently the biggest problem the industry faces is how to cope with a badly depressed market. The problems are immense, the solutions are difficult, and the immediate economic consequences will be difficult on us all.

In the past five years the salmon industry has gone through an immense change, one in which it saw total Alaskan salmon catches in the range of 30 million to 40 million fish leap step-wise to last season's high catch of nearly 90 million fish. The large volume change, coupled with the related logistics problems faced by both fisherman and processor, has lead to a multiple of both quality control and marketing difficulties. At the same time, however, the entire salmon fisheries of the Northwest American coast has strived to make a quantum conversion from canned to frozen processing in response to changing world markets.

These two simultaneous changes in the industry have not been handled well due to lack of foresight, lack of experience, and lack of planning. This is true at both the fisherman and the processor sectors, and is most apparent by the way limited funds have been invested and how markets have been approached. The industry generally has poorly trained itself on how to properly handle fish as required for today's processing standards and today's markets.

The past five years of development has been almost entirely devoted to volume of production and not upon refinement of technique; again, this is true for both fisherman and processor. It might be said that both sectors have geared their operations almost entirely to production and not to market, consequently, both sectors are now suffering the grave consequences.

The consequences referenced above are basically related to market collapse and the resulting substantial decrease in both revenues and profits for effort. To survive in such situations, one must consider seriously the prospect of changing from production orientation to market orientation.

Without protection of bills such as HB 590, in-State processing will not only not develop, but will likely decline once the alternate modes of handling are developed. This is especially true for herring, since roe in fish can be easily preserved in unprocessed state long enough to allow cheap bulk transport to outside and generally foreign processing facilities where plants already exist, and labor is tremendously cheaper.

What's at stake -- herring -- a probably 1980 1st whole value to processors at up to 100 Million Dollars, depending upon actual volume harvested, quality and current market development. If fully realized, and if property regulated, the large bulk of those dollars can enter the economy; and being new dollars to the State, would be magnified greatly in impact due to the related multiplier of the particular economies.

What is the worst case if HB 590 doesn't pass?

*Multitude of Canadian processing plants waiting idle, even greater Japanese trampers carrying lightly salted fish to Korea and Japan. These are being prepared now.

*1979 Togiak example

Trampers, 300-400 ft. tanker barges

*Once proven, these could transport from SE, CI, PWS, anywhere.

Since out-of-state operators have a greater tendency to attract non-resident fishermen and since this is a developing non-limited fishery, there are a multitude of fishermen from Bellingham, Seattle, Astoria, San Francisco, and S___ — wishing to join these operations.

In a worse case analysis, an out-of-state fisherman, tenderman, barge, or tramper operator, travel to Bristol Bay to harvest and transport the fish out. In 1979 the Bristol Bay case was about $600/ton. Alaska gets 3% or $18 return.

Extending the worst case to 40-50,000 State-wide harvest, Alaska gets $720,000-$900,000 in raw fish tax--nothing else.

Obviously this won't result, for all herring close to 50% value is likely lost.

We are required to capitalize in Alaska labor, identify each carton by packer origin, and our Alaska health number, where is this, and Alaska quality control on tanker operations hauling product to Canada or Korea?

* Processing does exist in Alaska. Bering Sea must apply.
Canadian herring restrictions.

Rep. Cotten (Sam) Rules House Committee

Steven ~~Noyer~~ Pennoyer Dir. Commercial Fisheries

Similar
Unprocessed fish is now required
Classifying processing

*Foreign not acceptable any
cooking, canning, salting - 20%, freezing.

*Salting not acceptable - in every case the purpose is to get roe.

**Processing required 2 man days/ton for roe

16.10.162

It is policy of legislature process shall be eliminated
Ref. to item 3.

*No reason to utilize carcase.

1979 take (52,000,000 (9,000,000 is bait)
(900,000 kelp
(43,000,000 roe

Bristol Bay 70% salted

Herring is most numerous species in world.

**Salting accomplishes nothing.

The market we are facing today has been pushed harder and harder each year to accept our product, which we're increasing in volume yearly and yet asking ever greater prices. At the same time we have cared little about what our particular market, be it processor for the fisherman or consumer for the processor, really wishes to purchase. We have forced and demanded and pushed and generally have been accepted on the grace of future business and promised future improvements. However, the time of reckoning has come in which both processor and fisherman have been caught. We can push no longer; in today's market we have no choice but to accept the demands of the market or be left without. When it was that our Japanese consumers were fearful of the affects of the 200-mile limit, when their own suppliers were not proven. and when European and domestic consumers were fearful that their supply was being diverted to Japanese markets, processors were able to make ever higher demands, and in turn fishermen upon them.

Two years ago world economies were stronger, consumers more confident, and interest rates much lower. Under such circumstances, inventories could be accumulated without such problems as today, with expectation that although it had to be moved, supplies and suppliers would ultimately be needed. Today economies have changed, interest rates have increased, consumers have become more price conscious, and most especially supply alternatives from ours in Alaska have been developed. In 1979 three areas of major world salmon production all concurrently produced large volumes; Alaska produced nearly 90 million fish, of which approximately 24 million were Bristol Bay sockeye. Both of these figures are expected to increase in 1980. Also, in last season's production was counted nearly record catches by the Japanese fleets in both Siberian waters and the North Japan (hokkaido) fisheries. In the case of the latter, the Japanese chum catch exceeded 80,000 metric tons or nearly 50% greater than last year's bumper Bristol Bay harvest.

The timing of these huge catches was very poor for the market at a time when consumers' acceptance was already pushed to the limit and at a time when interest rates were rising. In a matter of just a few months inventory totals previously unknown became apparent and when coupled with the vast new productions, became awesome compared to the movement rate generally seen at the consumer level. It became apparent that something had to give. Prices could no longer be at such high levels while inventories accumulated. Financial institutions have begun pushing for liquidation of inventories and the harder they pushed the more rapidly the market has fallen. This is true both domestically and abroad.

Concurrent with the present problems of over supply, another nightmare has become apparent, and that is the fact that much of the substantial inventories, again held both domestic and abroad, are not of adequate quality to achieve consumer acceptance other than at give-away prices. Unfortuante, too, is the fact that a majority portion of the low quality product is of Alaskan origin. This factor especially depresses market confidence in future Alaskan supplies. This situation of poor market reputation because of inadequate quality control is a problem which both fisherman and processor must

strive to correct immediately. We at Salamatof must insist of ourselves and of our fishermen that major improvements be made. Without such improvements, neither we nor our fishermen can hope to attain again prices which we once received for our product. However, even though we and individuals among our fishermen move to further establish a quality reputation, we must also each push our constituents toward the same goal even through legislative action if need be. Otherwise, those of us who offer a superior product to the market are often averaged in price with those in the industry who offer lesser products. Even though this is neither fair nor reasonable, it does occur frequently for both the fisherman and processor due to numerous realities that exist both in our Alaskan industry and world markets.

The multitude of problems that have so suddenly come together in our industry have lead to substantial insolvencies in many processing companies, even to the extent of bankruptcy. This problem has developed not only among domestic processors but also among overseas distributors. Again, this itself has further implications; as more and more companies are deemed insolvent, more and more lending institutions are becoming skeptical in their attitude towards financing the fishing industry in both our Alaskan producing areas and in a multitude of distant distribution areas. Overseas buyers in Japan have found themselves pushed hard for high prices by past suppliers, including most Alaskan processors, and at the same time have much smaller purchasing power because of a weaker yen. In October of 1978 the value of the yen was about 180/U.S. Dollar. Today it is about 240/U.S. Dollar. This means that to buy One Dollar's worth of our salmon, a Japanese buyer has to pay about 35% more in yen than he did 16 months ago.

What does this all mean to us today as processor or fisherman? What does this all mean to our industry in general? IT MEANS that likely we will see further drastic reductions in both market prices and fisherman prices for most seafood items and most notably salmon. IT MEANS that even to attain these price levels, qualities must be improved, and this in turn is certainly the only way by which we can hope to attain in the future the prices we were once paid. Basically, as mentioned before, IT MEANS that to survive these difficult times we must all reevaluate each step in our operations and consider in more specific terms what it is we can do to improve our efficiencies in response to lower returns. We must also consider what we might do to improve our techniques of product handling so that we might once again increase the values which originally gave us the incentive to expand. We at Salamatof Seafoods have already extensively planned for such change and in the upcoming months will be trying to work more with you, the fisherman, to effect necessary additional changes. To survive in today's glutted markets, you the fisherman and we the processor must both have something superior to offer by way of product or be passed by because of stricter market standards for frozen salmon. We at Salamatof Seafoods wish to enhance our establishing reputation for offering something extra in quality control. This we expect shall become even more important in the changing market situation, which we suspect will lead in 1980 to the greatest price differential ever between what is known as number one and number two quality salmon. This will likely be most apparent in higher value species such as

red salmon.

Speaking specifically about sockeyes...

Due to the record run expected for Bristol Bay in 1980;

Because of the already depressed market;

Plus the adverse exchange rate for the Japanese yen,

the prices likely to be availab'e on the world market will be down substantially. Additionally, the losses sustained by processors last year cannot be continued or the current survivors will themselves fail, resulting in the absence of buyers for fishermen's catches.

The expected drop in salmon prices will mean to the Bristol Bay fisherman that they can expect probably half or even less of last season's prices for reds. This will have a carry over effect to both other species and other areas. Last season the processors generally took such a financial beating that if given the choice to pay higher prices or face the demands of a strike. it is quite possible that they may choose to minimize their loss by refusing to buy, instead of incurring even greater losses by paying too much for product they know cannot be sold at a profit. This information is certainly not pleasant to hear by anyone, but it unfortunately is a reality that does exist and must be reckoned with. In addition to refusing to pay higher prices next season, most processors will probably also be demanding from the fisherman what is demanded from the processor by the market, and, that is, a very big improvement in the techniques in handling salmon. It is likely that most processors next year will completely refuse to buy salmon that are not of top quality. The risk is simply too great.

We at Salamatof Seafoods do not wish to be bearers of gloom, but want to draw your attention, the fisherman, to the fact that it is an entirely new set of circumstances facing us all upon entering the 1980 season. We do wish to encourage you somewhat, too, to the knowledge that some time in the future the market will likely recover and we may all enjoy the returns to which we were once accustomed. The speed of this recovery can be increased by proper handling and quality control as mandated by the market.

We wish to offer the following information and suggestions to best effect quality as required today:

1. All seafood products begin decomposition and softening upon catching, either in or out of the water. The speed of this decomposition varies noticeably from species to species, including various salmon species. Decomposition can generally be classified by two categories with considerable inter-relationship. These are enzymatic and bacteriological. The first is most noticeable by action of the enzymes of the gut cavity, but is also apparent through enzymes contained in the body flesh; the latter is caused by bacteriolog-

1. (continued)

ical action from whatever source, be it from either internal or external innoculation of bacteria. Regardless, in all cases, decomposition is slowed by decreasing the temperature towards freezing and is minimized by careful handling. Careful handling precludes bruising and the breakdown of gut membranes, which speeds enzymatic breakdown. Handling by way of cleanliness in a boat hold or by whatever means will help slow bacteriological decomposition. Quality control additionally includes consideration of how a product is stowed, stored, and transported. Deep stacking because of the resulting pressure should always be avoided. For salmon, quality is best maintained if the depth of fish is kept to less than thirty inches. Whenever bruising, excessive depth in a hold, and warm temperatures occur together, exceedingly rapid decomposition occurs which is itself self-perpetuating. As a salmon begins to decompose, more temperature is generated, which in turn speeds breakdown further. At this point, something must be done quickly or the fish is lost totally.

2. Recommendations can be further extended for salmon as follows:

   a. Deliver product as rapidly as possible from catch to a cool environment. If this is not possible on a fishing vessel, it must be delivered to a processor with such ability within 12 hours of being caught, and in the interim must be kept cool and shaded as is best possible;

   b. Fishing boat holds must be insulated from engine heat;

   c. Avoid deep stacking or any walking on fish in a fish hold. Internal damage by such action will render a fish as number two almost always;

   d. Do no use fish pughes or even fish picks other than on net meshes;

   e. Avoid handling salmon by the tail or dropping whenever possible, and keep handling to an absolute minimum;

   f. Before a salmon is caught, thoroughly with proper sanitizing agent, be sure to clean the fish hold into which it will be put. Never allow fish to set in gurry;

2. (continued)

g. When salmon are first caught in the net, pick them as quickly as possible, and never allow a fish to stay in the net through a change of tide, especially, if the net is stationary, such as is usual for a set net. This has the affect of net meshes macerating a fish's flesh as tidal pressures change direction. A set netter should always take special efforts to protect and cool his catch because of the harsh conditions he generally exposes his catch to upon removal from the water.

The above are but a few suggestions of how quality can be improved to first secure a market for the fisherman and, in turn, the processor, and next to effect an eventual increase in price for the product. We do expect that sometime in the future market conditions will be improved as quality is increased and inventories gradually decrease by increased consumption. When that time comes we shall once again have a healthy industry. In the meantime, we must all work together towards a common goal, that being continuation of business during these difficult times. It is possible that the two-year time factor in effecting this, which is currently suggested by the Japanese, can be attained more rapidly. We shall try in the near future to keep you informed as situations and market conditions change.

Thank you for your past support and consideration of these matters. We look forward to better times as do you.

Cordially,

SALAMATOF SEAFOODS, INC.

Tom Waterer
President

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

Sec. 46.03.100. Waste disposal permit. (a) A person who conducts an operation which results in the disposal of solid or liquid waste material or heated process or cooling water into the waters or onto the land of the state must procure a permit from the department before disposing of the waste material or water. The permit must be obtained for direct disposal and for disposal into publicly operated sewerage systems.

(b) This section does not apply to a person discharging only domestic sewage into a sewerage system. (§ 3 ch 120 SLA 1971; am § 3 ch 220 SLA 1976)

Effect of amendment. — The 1976 amendment in the first sentence of subsection (a), substituted "an operation" for "a commercial or industrial operation," inserted "or heated process or cooling water" and "or onto the land," and added "or water" to the end of the sentence.

Sec. 46.03.110. Waste disposal permit procedure. (a) An application for a permit shall be made on forms prescribed by the department or on forms prescribed by the United States Environmental Protection Agency and shall contain the name and address of the applicant, a description of his operations, the quantity and type of waste material sought to be disposed of, the proposed method of disposal, and any other information considered necessary by the department. Application for permit shall be made at least 60 days before commencement of a proposed discharge.

(b) Upon receipt of a proper application the department shall publish notice of the application in two separate publications of a newspaper of general circulation within the general area in which the disposal of waste material is proposed to be made. The notice may also be published in other appropriate information media. The notice shall include a statement that a person who wants to present his views to the department in regard to the application may do so in writing to the department within 30 days of the second publication of the notice. The written response entitles the writer to a copy of the application.

(c) When the department receives an application, the commissioner shall immediately send copies of the application to the commissioner of fish and game, the commissioner of natural resources, the commissioner of commerce and economic development and the commissioner of health and social services.

(d) The department may specify in a permit the terms and conditions under which waste material may be disposed of. The terms and conditions shall be directed to avoiding pollution and to otherwise carry out the policies of this chapter. No permit may be effective for a period in excess of five years from the date of issuance.

(e) If the department has certified a National Pollutant Discharge Elimination System permit under sec. 401 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. sec. 1341), and the United States Environmental Protection Agency has issued that permit to a person, the department may waive the requirements of this section, and adopt the federal permit as the permit required under § 100 of this chapter. (§ 3 ch 120 SLA 1971; am § 6 ch 104 SLA 1971; am § 116 ch 218 SLA 1976; am §§ 4, 5 ch 220 SLA 1976)

Effect of amendments. — The first 1976 amendment substituted "commissioner of commerce and economic development" for "commissioner of economic development" in subsection (c).

The second 1976 amendment inserted "or on forms prescribed by the United States Environmental Protection Agency" in the first sentence of subsection (a) and added subsection (e).

Article 3. Herring Spawn.

Section
140 — 170. [Repealed]
172. Legislative policy on utilization of herring
173. Utilization of commercially taken herring

Secs. 16.10.140 — 16.10.170.
Repealed by § 2 ch 91 SLA 1970.

Sec. 16.10.172. Legislative policy on utilization of herring. The legislature finds the following: (1) extensive and valuable herring populations are available for harvest in waters subject to the jurisdiction of the state; (2) commercial markets are available for herring processed in several forms; (3) one processing technique presently employed involves deliberately permitting decomposition of the herring carcass to allow for removal and subsequent sale of the roe product, with the consequence that the flesh is unusable and discarded. The legislature declares that the process referred to in (3) of this section is wasteful and does not constitute utilization of this resource for the maximum benefit of the people. Therefore, it is the policy of the legislature that this process should be eliminated to the fullest extent possible. (§ 1 ch 9 SLA 1977)

Effective date. — Section 2, ch. 9, SLA 1977, provides: "This Act takes effect January 1, 1978."

Sec. 16.10.173. Utilization of commercially taken herring. (a) It is unlawful for a person, as defined in AS 01.10.060 and including a joint venture, to waste or to cause to be wasted any commercially taken herring.

(b) As used in this section, "waste" means the failure to use the flesh of commercially taken herring for reduction to meal, production of fish food, human consumption, food for domestic animals, scientific or educational purposes, or round herring bait. Normal, inadvertent loss of flesh associated with the uses described in this subsection which cannot be prevented by practical means does not constitute waste. The commissioner may authorize other uses of commercially taken herring not inconsistent with the intent of this section and § 172 of this chapter at his discretion upon receipt of a request accompanied by a detailed justification.

(c) For purposes of this section, "flesh" means all muscular body tissue surrounding the bony skeleton of the herring.

(d) The Board of Fisheries may adopt regulations under the Administrative Procedure Act (AS 44.62) it considers necessary for implementation of this section. The board may delegate its authority under this section to the commissioner.

(e) The provisions of this section do not apply to herring taken commercially in the Bering Sea (including appurtenant bays, sounds, estuaries, and water of the state) north of 56° North Latitude, until January 1, 1979. (§ 1 ch 9 SLA 1977)

Effective date. — Section 2, ch. 9, SLA 1977, provides: "This Act takes effect January 1, 1978."

Panel approves in-state herring processing bill

The current practice of salting Bering Sea caught herring and selling it to foreign tramp steamers for shipment back to South Korea and Japan will be stopped by 1984 under a bill approved by the House Resources Committee.

The bill is a compromise between those that want to require in-state processing of all Alaska herring and those that argue the developing herring fishery in Western Alaska will never get off the ground unless the markets remain flexible.

Under the current version, salting will be phased out in the Bering Sea. The fishery will stay the same this season as the act does not take effect until Sept. 1, 1980. In 1981, salting and stripping will be permissable. In 1982 and 1983, only stripping will be allowed. From 1984 on, processors will be expected to have complete freezing and hauling capability.

"Stripping" is a process where the extremely valuable roe (eggs) is extracted from the herring carcass. The herring is put in light brine solution for three or four days which breaks the skin. Processing workers "smack" the herring to pop out the roe. The carcass is so deteriorated by this time it's considered waste.

Under current law, Alaska processors must comply with environmental regulations and run the carcasses through their bio-dry machines so there is no waste.

Since onshore processing facilities, let alone waste disposal facilities, do not exist in most of Western Alaska, the area will be granted an exemption from this requirement until July 1, 1983.

Until then, processors are to follow regulations written by the Board of Fisheries, in conjunction with the state Department of Environmental Conservation.

Board member Jim Beaton said this could be a problem because he doesn't think the department knows what herring waste is. Beaton believes herring carcasses washed up on a beach definitely are pollution, but carcasses dumped three miles out to sea enter the ecosystem as food for other organisms.

During a Feb. 21 Resources Committee meeting, Rep. Terry Gardiner, the sponsor, said originally the bill prevented the shipment Outside of raw herring. Then it was changed to include salting and then to allow stripping in the Togiak fishery. "I don't mind giving an exception if we can get rid of it over a period of time," he said.

"We can live with it (the bill) if it gives us something to do with the fish," testified Lyle Negus, vice president of the processing firm Pacific-Mist Inc. He said the company had "tried tendering (the herring) back to Kodiak (from Togiak), but it's not feasible because of the distance involved."

Beaton attended a couple hearings on the bill and, in the end, supported it. But he questioned whether the legislature really could mandate an in-state, labor intensive herring processing industry given the chaotic state of the markets.

"The thing about (sac roe) herring, that nobody seems to be able to get through their heads, is that a good catch in Canada, like they had a couple years ago, can saturate the market."

The sac roe product largely is limited to Japan, where it is used in traditional dishes.

Beaton also doubted whether the legislators were informed enough to decide on "something this big." Among the people that testified, only two were active fishermen and only two were processors.

Depending on the markets, "We may not have a herring fishery from year to year," he said.

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bunded. The effect on Kodiak was that the Gods on high had spoken, therefore the decision was irrevocable, and if we didn't like it, too bad - It's just the way it is.

We feel a much more appropriate approach would have been to send a representative to Kodiak, prior to the announcement, and at least go through the motions of consulting with the community about Western's problems with the Kodiak route, to advise us Western was considering cancellation, and ask for Kodiak input which might throw a more favorable light on the situation.

To our knowledge, since deregulation, Kodiak has never been consulted about problems by either airline providing

Even with airline deregulation, it seems to us that your industry does hold some public responsibility and trust to provide adequate, dependable and continued service, especially to communities almost entirely dependent on air service for daily needs.

With Western's departure, we are, more or less, at the mercy of Wien, which while promising they "may" begin direct flights to Seattle by April 27th on a six day a week basis, we truly have no guarantee this will occur or continue. Their direct service was discontinued in early January with no notice.

I might add that in the Kodiak tourist brochure which is mailed to inquirers, of which there are several thousand each year, there is a picture of a Western aircraft. Unfortunately, a 30,000 re-order was placed just prior to your cancellation announcement. No only does it leave us with an incorrect, out-of-date brochure, it proves Western Airlines with free publicity from a community which you have chosen to ignore.

A little community consideration and public relations on your part would certainly be appreciated.

Sincerely,

KODIAK AREA CHAMBER OF COMMERCE
Arthur F. Johnson
President

Violin

(Continued from Page 1)

Hopson had led workshops in fiddle, mandolin and guitar. He has been touring as Rosenthal's accompaniest since 1977. Currently he is transcribing music for a forthcoming book on folk music of Southeast Alaska and performing regularly in the Juneau area.

Kodiak Baranof Productions wishes to thank both the Kodiak Community Schools and Kodiak Community College for their support and assistance with the Winter-Spring Concert Series.

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Herring carcass waste may continue

JUNEAU (AP) — The House voted Wednesday to allow the process of stripping roe from commercial-caught Bristol Bay herring and then wasting the herring carcasses to continue for two more years.

The Legislature voted 28-12 on a reconsideration ballot to pass a bill aimed at halting the current practice of salting Bering Sea-caught herring and selling it to foreign vessels for shipment to Japan.

Under the bill, the salting of herring would be phased out in the Bering Sea. By mid-1983 processors would be required to have complete freezing and hauling capability.

The most controversial provision of the bill would allow herring carcasses to be wasted — after the valuable roe (eggs) has been stripped from the herring — until mid-1982.

The original bill would have allowed the practice to continue until 1983, but Rep. Dick Eliason, R-Sitka, successfully argued for passage of an amendment to reduce the time period.

"In 1977 we unanimously passed a bill that said stripping of herring is a waste of a resource," Eliason said. But he said the 1977 legislation allowed a two-year exemption to permit the stripping of herring in Bristol Bay, so that American processors could gear up to process the entire herring.

"That was two years ago and they (processors) haven't done anything," Eliason said. "To be quite frank, I don't think processors will gear up" until they absolutely have to, he added.

Supporters of the bill said they don't necessarily favor harvesting of herring only for the roe. "But if we don't, the foreign fleets will," said Rep. Alvin Osterback, D-Sand Point.

The bill (CSHB590 amended) now goes to the Senate.

Shrimp price negotiations

Negotiations for this year's shrimp prices are scheduled to begin soon.

Letters of intent to negotiate have been sent to all processors by the Alaska Draggers Association, according to association manager Al Burch.

Association representatives also plan to meet with Sand Point draggers in an effort to work together on shrimp price negotiations, according to Burch.

Kodiak Kalendar

FRIDAY

Museum 12 noon - 5 p.m.

Well Baby Clinic, call for appointment, 486-3319 Health Center

A. Holmes Johnson Library 1 - 9 p.m.

Ram Committee Weekly Breakfast meeting, 6:45 a.m., Shelikof Lodge

Kodiak Women in Crisis HELPLINE 486-3625

No Breakwater

The Tuesday and Friday column Breakwater does not appear this week because assistant publisher Roger Brigham is on vacation and editor Kent Brandley is recovering from surgery, leaving Breakwater columnist Chris Blackburn acting Mirror editor.

No Abby

Dear Abby and the daily crossword puzzle do not appear in this week's Kodiak Daily Mirror because the two features have not arrived in The Mirror office. As soon as the features wend their way through the postal system to Kodiak they will again appear on our pages.



Russell dies

Services were held in Vale, Ore. Tuesday for former Kodiak resident Ralph F. Russell, 36, who died at home in Boise, Idaho after an extended illness.

Russell is survived by his wife, Donna Russell, and his parents, Lester and Mary Russell. Russell is also survived by three daughters, two sons, three sisters, and brothers Wayne, LeRoy and Leslie.

Russell grew up in Nampa, Idaho. He lived in Seattle from 1965 to 1967, where he was employed by Boeing Aircraft Co. He then moved to Kodiak where he operated his own fishing boat and was a real estate land developer. Russell married Donna Stoler in Kodiak in 1973.

The Russells moved to Boise in 1977, where he was association with Baldwin Realty until retiring in January of 1979.

Russell attended the Hillview Church of the Nazarene in Boise, and was a member of the Nazarene Church in Nampa, Idaho. He was also a member of the Eagle Lions Club.

Parks and Recreation



CN CENTER DANCES will be held Friday, March 21, for junior students and Saturday, March 22, for high school students. The high dance will run from 8 to 11 p.m. and no one will be ad- after 9:30 p.m. Chaperones for this dance will be: parent- er Jody Thomas and recreation staff members Jim Balamaci, n center manager, Steve Donaldson and Alex Legaspi. The chool age dance will run from 9 to 12 p.m. and no one will be ed after 10:30 p.m. Chaperones for this dance will be parent- er Marilyn McKinnon and recreation staff members: Jim aci, Alex Legaspi, Steve Donaldson, Barb Jastran, and Chris

TER BABIES begins a new four week session Monday, March ere are three levels of instruction: New Water Babies if for all n who are new to the program; Guppies, the next level, is a g place where children continue to work and learn until they p the physical capability to swim; and Super Guppies hildren who are big enough to kick, stroke with their arms, their head to get a breath of air on their own. For information istration and class times, call the Parks and Recreation ment at 486-5363.

LEAGUE BASKETBALL ends this week in the junior high On Monday evening at 7 p.m. in the "B" tournament, Mack's Shop, the consolation bracket winner, faces the unbeaten ; and at 8:30 p.m. in the "AA" tournament, consolation Sweeney-Berg takes on unbeaten Sea-Land. Although these ampionship games, since this is a double elimination tour- t, if one of the unbeaten teams lose, they will have to play Wednesday evening. This past Wednesday evening, Wien won tournament and Afognak Natives took runner-up honors.

KS AND RECREATION ADVISORY BOARD meets Wed- March 19, at 5 p.m. in the Baranof Park Office. Agenda nicude review of the annual budget and appearances by Chuck regarding a proposal for a roller skating program, and Kruse, regarding possible location of a visitor information and chamber building on the vacant museum lots. This g is open to the public.

Monday, March 17
ning Pool - Morning Lap 6 - 7 a.m.; Water Babies: Water Babies 11:40 - 12 a.m., s 12 - 12:20 p.m., Guppies 3 p.m., Super Guppies 3:25 - m.; Evening Lap Swim 6 - Open Swim 7 - 8:30 p.m.
chool Gym - Girl Dribblers ball 5:30 - 10 p.m.
High School - Women's se: 1st Session 5:30 - 6:30 nd Session 6:30 - 7:30 p.m. ague Basketball: 7 p.m. s vs. Juniors, 8:30 p.m. y Berg vs. Sea-Land.
enter - Open Center 6:30 -

Tuesday, March 18
ning Pool - Morning Lap - 7 a.m.; Water Babies: Water Babies 11:3[illegible] - 11:50 Guppies 11:50 - 12:10 p.m.; Lessons 3:30 - 4:30 p.m.; Swim 7 - 9 p.m.; Adult Class 9 - 10 p.m.; Adult 9 - 10 p.m.
chool Gym - Open Gym 7 -
High School - Volleyball 7 -

Wednesday, March 19
ning Pool - Morning Lap - 7 a.m.; Water Babies: schedule as on Monday; g Lap Swim 6 - 7 p.m.; Night 7 - 10 p.m.
chool Gym - Girl Dribblers ball 6:30 - 10 p.m.
High School - Women's se: 1st Session 5:30 - 6:30 nd Session 6:30 - 7:30 p.m.; eague Basketball: "B" and "AA" Championships.
Teen Center - Open Center 6:30 - 10 p.m.

Thursday, March 20
Swimming Pool - Morning Lap Swim 6 - 7 a.m.; Youth Lessons 3:30 - 4:30 p.m.; Open Swim 7 - 9 p.m.; Adult Fitness Class 9 - 10 p.m.; Adult Lessons 9 - 10 p.m.
High School Gym - Open Gym 7 - 9 p.m.
Junior High School - Girl Dribblers Basketball 6:30 - 10 p.m.; Women's Exercise: 1st Session 5:30 - 6:30 p.m., 2nd Session 6:30 - 7:30 p.m.
Teen Center - Open Center 6:30 - 10 p.m.

Friday, March 21
Swimming Pool - Morning Lap Swim 6 - 7 a.m.; Water Babies; Guppies 3:15 - 3:35 p.m., Super Guppies 3:35 - 4 p.m.; Evening Lap Swim 6 - 7 p.m., Open Swim 7 - 9 p.m.; Quiet Swim 9 - 10 p.m.
Junior High School - Volleyball 7 - 10 p.m.
Teen Center - Junior High Dance 8 - 100 p.m.

Saturday, March 22
Swimming Pool - Open Swim 2 - 5 p.m.
High School Gym - Girl Dribblers Basketball 1 - 5 p.m.
Teen Center - High School Dance 9 - 12 p.m.

Sunday, March 23
Swimming Pool - Open Swim 2 - 4 p.m.; Quiet Swim 4 - 6 p.m.
High School Gym - Open Gym 2 - 9 p.m.; Indoor Soccer 7 - 9 p.m.
Junior High School - "B" League Practice Night.

Sailing ha[illegible]

JUNEAU (AP) — The House today passed legislation aimed at halting the current practice of salting Bering Sea-caught herring and selling it to foreign vessels for shipment to South Korea and Japan.

But a controversial provision in the bill would allow herring carcasses to be wasted — after the valuable roe (eggs) has been stripped from the carcasses — until mid-1983.

Supporters of the legislation billed it as a "compromise" between those who want to require in-state processing of all Alaska herring and those who argue that markets must remain flexible if the developing herring fishery is to expand.

The bill passed 24-13 after considerable debate mostly focused on the provision allowing Alaska processors, until mid-1983, to waste the herring carcasses after stripping away the roe.

"We're talking about an absolute waste of a resource," Rep. Dick Eliason, R-Sitka, said in arguing for defeat of the bill (CSHB590 amended). He called for a reconsideration vote, which probably will come on Tuesday.

Under the bill, the salting of herring would be phased out in the Bering Sea.

Until July 1, 1983, the stripping of commercially taken herring for the purpose of removing the roe would be authorized if the herring is taken from the Bering Sea and the carcasses are disposed of there.

The bill would not make any changes for the current season. In 1981 salting and stripping would be permissable. In 1982 and 1983 only stripping would be allowed. From mid-1983 on, processors would be required to have complete freezing and hauling capability.

"Stripping" is the process where the extremely valuable roe (eggs) is extracted from the herring.

Rep. Phillip Guy, D-Kwethluk, said he could not "in good conscience support the bill." Guy said herring is the mainstay of the people in his district, who depend on herring, including the carcass, to provide protein for their diets.

But Rep. Rick Halford, R-Anchorage, urged support of the bill, which he termed a "compromise." He said that by mid-1983 industry would be required to utilize all the herring, including the carcass.

He and other supporters said that allowing waste of the carcasses until mid-1983 is necessary to give American processors time to gear up.

"I've never been in favor of harvesting for roe only," said Rep. Alvin Osterback, D-Sand Point. "But if we don't, the foreign fleets will."

KODIAK MIRROR 3-17-80

Marine weather

By the Associated Press

The National Weather Service reports millibar low near Cape Saint Elias will mo Monday morning and weaken over weste Tuesday morning. A high pressure ridge fro Island north to McGrath will move east and day evening. A weather front from Saint Pa Bay and southward will move northward to s west of Bethel and King Salmon to 100 mile Island by early Tuesday morning then dissip low about 380 miles south of Cold Bay will mo miles south of Sitkinak Island by early Tuesda

Area 3. Kodiak Island waters, Gore Point Storm warning. Northwest wind to 50 knot diminishing to 30 knots Monday afternoon. W to southeast to 20 knots Monday evening incr ealry Tuesday morning. Seas to 23 feet subsi evening then building to 15 feet early Tu Moderate freezing spray diminishing Monday Outlook: East to northeast wind to 45 knots Tu

Shuyak Island to Castle Cape including She warning. West to northwest wind to 25 knots w except south of Cape Sitkinak southwest wind switching to east to southeast to 20 knots south Monday morning and increasing to 35 knots then spread to Shuyak Island Monday night building to 13 feet Monday night. Increasin with snow late Monday. Outlook: East to sou knots.

Area 5. Coastal waters south of the Alaska Cape to Cape Sarichef. Gale warning.



Boat Dis
Free D
10th

Limited entry

(Continued from Page 1)

limited entry permits to qualified fishermen who failed to apply to the Commission for a limited entry before the original deadline, but did file after the original deadline and before the enactment of Anderson's HB 665.

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ist Guard rescues injured man on Calista Sea

Coast Guard performed a for a crewman on the vessel Calista Sea y night, reports the Coast

Douglas, Tony and Darrel Blair were picked up from the island by the Coast Guard after Ray Hick- man reported the incident. All

The cutter released a small boat which towed the disabled boat back to the Support Center

1980 Bering Sea herring regulations

In an attempt to manage an "exploding fishery," which one member of the Alaska Board of Fisheries predicts will be "utter chaos," the Board has passed regulations governing the 1980 inshore herring fishery. The more salient decisions:

Fishing season

The May 1 opening date has been moved up two weeks to April 15. The season will still close June 30. According to ADF&G biologists, the water temperature in the Bering Sea last year was the warmest on record. The result: the herring run, which normally peaks in the Bristol Bay/Togiak area between the 20th and 25th of May, peaked May 5th—before most of the fishermen and processors were on the grounds. The earlier opening "may insure that a fleet will be on the grounds in time to harvest those fish excess to spawning requirements."

Gear limitations

In order to alleviate a situation which one Board member characterized as "where you have the protection guy running around up t[illegible]e with gear here, there and everywhere and he doesn't know whose gear is whose," the Board has passed limits on the number of gillnets per boat. Each permit holder per vessel may have a maximum of 150 fathoms of gillnet. The total amount of gillnets per vessel may not exceed 300 fathoms. Each gillnet must be bouyed at both ends and at least one buoy at each end of the net must be plainly marked with the operator's interim use or entry permit number as well as the ADF&G number of the vessel from which the gear is being operated.

• • •

The use of hand purse seines will be allowed, as well as gillnets and purse seines, in the Bristol Bay/Togiak districts. Originally submitted as a proposal to allow the use of lampara nets (described by one fisherman as an "old man's seine"), the Board amended the proposal to allow the use of hand purse seines.

Area gear restrictions

Ungalikthluk Bay will be closed to herring fishing to protect fragile eel grass beds from damage. The closure does not apply to the roe-on-kelp fishery.

• • •

In the Cape Romanzof district herring may be taken only with gillnets for commercial purposes.

• • •

In the Norton Sound district only gillnets and beach seines may be used to take herring for commercial purposes.

• • •

In the Bering Sea/Kotzebue area herring may be taken for commercial purposes with purse seines, beach seines and gillnets from Port Clarence to Point Hope.

Guideline harvest levels

Bristol Bay/Togiak—Between 20,000 and 40,000 metric tons
Security Cove—750 metric tons
Goodnews Bay—300 metric tons
Norton Sound—1000 metric tons

Allocation by gear types

A proposal to guarantee a minimum of 6,000 metric tons to gillnetters in the Bristol Bay/Togiak area was rejected by the Board. Instead, the Board adopted the following management strategy: "When the total reported harvest reaches 20,000 metric tons, ADF&G shall determine the reported tonnage for gillnet and s[illegible]ine (purse and hand purse) gear. If the harvest for either gear type has not reached 6,000 metric tons, the fishery on the gear with the higher reported catch shall be closed for 24 hours."

[continued from previous page]
fishing, the result is regulations on subsistence fishing ... If we open fishing to commercial interests, we are inviting state and federal people to control our resources. First we lose control of the resources, and then we lose the resources!"

It's a different story in Hooper Bay, Scammon Bay and Chevak, though. Local residents there want a commercial herring fishery. As long as it's just gillnets, and as long as it's only local fishermen. Because only a few of the herring around Kokechik Bay and Cape Romanzof are still used for subsistence, local residents contend there are enough fish available for a commercial fishery.

Fishermen from the three villages, none of whom have fished commercially for herring before, have formed the Stoknavik Cooperative and secured a loan to finance the purchase of thirty wood skiffs and outboard motors. The loan is being made by the Alaska Renewable Resources Corporation. Although Kokechik Bay has been open to commercial herring fishing since 1978, this spring's fishery will be the first opportunity for local fishermen. It will be the first year any processors have showed up to buy fish. The coop has convinced at least one processor to stop by Cape Romanzof. Icicle Seafoods, Inc., plans to have their 137' vessel *Alaska Star*, capable of freezing 25 tons of herring a day, drop anchor outside the entrance to the bay.

Cape Romanzof fishermen will now have the chance to sell their herring for cash. And that, says local fisheries coordinator Frank Fox, "is what we've been praying for." □

Western Alaska fishermen go on a buying spree

Herring fleet multiplies rapidly

by Peter Redmayne

Western Alaska natives, claiming an inshore roe fishery is "their best chance to get off welfare", are rapidly gearing up to go after herring this spring in a big way. In view of the troubled Japanese herring roe market though, it may turn out to be a case of too much, too soon.

In the coastal villages of the Yukon-Kuskokwim Delta, aspiring herring fishermen have invested over $1 million in new boats and gear, according to a preliminary analysis recently completed by the Alaska Native Foundation for the Governor's office. Considering the limited amount of herring available in the area and the fact that many of the boats are efficient gillnetters "with hydraulics and the whole works", there may be some problems when it comes time to slice up the pie.

According to Alaska Native Foundation spokesperson, Kay Koweluk, "There's more than enough of the local people to go out and get the resource. As far as I'm concerned, right now there is a state of over-capacity for the amount of resource that's there." Furthermore, she adds, that million dollar figure may be low. The analysis was done on a "very cursory kind of basis" using only readily available "hard data" such as actual boat purchases from local dealers.

Commercial herring fishing, with gillnets only, is permitted in three areas along the Yukon-Kuskokwim coast. The locations and their guideline harvest levels: Security Cove (750 metric tons), Goodnews Bay (300 metric tons) and Cape Romanzof (350 metric tons). Security Cove and Goodnews Bay already have established commercial herring roe fisheries, but this year will be the first time a commercial fishery has been attempted at Cape Romanzof, where most of the action takes place along the north shore of very shallow Kokechik Bay.

Koweluk expects as many as five processors to drop anchor outside the entrance to Kokechik Bay on their way up to Norton Sound. If that's the case, the herring quota could be taken in three or four days. At its December meeting, the Alaska Board of Fisheries decided to ban purse seiners from Cape Newenham to Port Clarence because local residents expressed fears that seiners could move up the coast and pick up some quotas in three days or less. Ironically, village spokesmen argued at the time that banks wouldn't loan money to local gillnetters on a three day fishery.

Further up the eastern Bering Sea coast, the Alaska Native Foundation study shows fishermen in the Norton Sound and Kotzebue Sound region have spent slightly more than half a million dollars outfitting for this spring's herring fishery. The lower figure does not necessarily mean there is less interest in the north than the south. Norton Sound already has an established salmon fishery, unlike the Cape Romanzof area, and it doesn't require as much of an investment for salmon fishermen to convert their boats so they can go after herring. The guideline harvest level in Norton Sound is 1000 metric tons. North of Port Clarence, where seining is allowed, the level is 300 metric tons.

Much of the "incredible interest" shown by western Alaska fishermen can be attributed to the high prices paid for herring last year. Although word of the turmoil in the Japanese herring roe market is "trickling in", Koweluk indicates "for the most part the people are hoping there will be higher prices and higher roe percentages than last year". And, she predicts, "There could be some problems if the price is lower or [illegible] comparable to what was happening last year." □

Western Alaska natives win herring lawsuit

A U.S. District Court judge in Anchorage, ruling in favor of a group of Yukon-Kuskokwim villages, has found the Commerce Department violated federal guidelines recently when issuing new herring regulations for the eastern Bering Sea.

The decision effectively stops the Marine Resources joint venture from taking its allotted herring quota of 5000 metric tons this winter. It also means foreign trawlers fishing in the eastern Bering Sea must treat herring as a prohibited species, returning it to the sea along with any salmon, crab or halibut.

The suit, filed in January, argued the Commerce Department didn't have "good cause" when it waived the 60-day period for public comment and "cooling off" normally required before new regulations can take effect. The Commerce Department contended it had no choice but to waive the 60-day period in order to prevent "serious disruption" of the eastern Bering Sea groundfishery.

In siding with the villages, the judge ordered Commerce to republish the herring regulations, this time allowing for the full 60 days required before the regulations take effect. Until the regulations go into effect, no offshore herring fishing is allowed.

The Japan Fisheries Agency, intervening on the side of the Commerce Department, called the judge's decision "quite an inconvenience" for Japanese stern trawlers and appealed the ruling to the Ninth Circuit Court of Appeals. □

Bleaching chemical is suspected carcinogen

The Japanese seafood industry, already suffering serious credibility problems with the Japanese consumer, has been ordered by the Ministry of Health and Welfare to cut back on the use of their favorite bleaching agent, hydrogen peroxide. The popular chemical has been identified by government researchers as a possible carcinogen.

Hydrogen peroxide is widely used in the Japanese food processing industry to give everything from noodles to kazunoko (herring roe) that critical visual appeal. In Japan, the better it looks the more it costs. Even though the government softened its initial position, which was to completely ban the use of hydrogen peroxide, the damage may have already been done. "The problem," as one processor explains, "is anytime you identify a product with cancer, even if it's erroneous, you're going to get some kind of reaction."

After shooting mice up with what one Japanese executive claimed were "ridiculous dosages" of hydrogen peroxide, scientists detected cancer in the mice. The government responded by slapping an outright ban on the use of the chemical in food. Food processors, complaining they would be forced out of business, were given a reprieve, of sorts, when the government vacillated and said it was still alright to use hydrogen peroxide as a bleaching agent, but only in amounts small enough so that after the chemical evaporated no residue remained.

The first sector of the Japanese seafood industry to feel the effects of the restrictions placed on the use of hydrogen peroxide was the kamoboko processors. Large quantities of kamoboko, a highly processed fish sausage usually made from Alaska pollock, reportedly had to be destroyed. A more expensive substitute chemical was quickly found and kamoboko was soon back on supermarket shelves with labels disclaiming the use of hydrogen peroxide.

As yet, no substitute has been found to replace the hydrogen peroxide used in the final processing of kazunoko. It is also too early to determine whether any of the large kazunoko inventory carried over from last New Year's will have to be destroyed. According to Jerry Spitz, president of the Fisheries Association of British Columbia, "Most of the problems with kazunoko can be overcome if you don't use much of the hydrogen peroxide. You can still come out with a product that's maybe not quite as nice a color, but it's still a very edible and saleable product. The stuff tastes better without hydrogen peroxide and dye anyway."

Because of the many other factors influencing the price of kazunoko, the general consensus in the industry is it will be very tough to isolate what effects, if any, the continued use of hydrogen peroxide might have on price.

Is the United States government concerned about the recent brouhaha in Japan over the use of hydrogen peroxide in food products? Apparently not. Federal Food and Drug Administration official Pat Adamo reports the FDA recognizes hydrogen peroxide is safe when used as a bleaching agent. Besides, he adds, "We don't usually concern ourselves with other country's regulations." □

[continued from previous page]

food trading companies have lost credibility. The *Asahi Evening News* says one of the reasons Mitsubishi Corp., which had been giving Hokusho financial aid, decided it could no longer sustain the company was because of "much padding of past accountings."

Mitsubishi Corp. would probably like a full accounting from Hokusho President Nakamura. But that won't be easy. The problem is they can't find him. According to the Japanese press, Mr. Nakamura "has disappeared with about $6 million."

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Herring fishery eyed by Alaskan natives

by Peter Redmayne

Cape Romanzof and the tiny villages of Hooper Bay, Scammon Bay and Chevak are situated along some of the world's most desolate coastline. The land where the Yukon and Kuskokwim rivers dump their load into the Bering Sea is low and lonely. Little about the region has changed since Captain James Cook carefully navigated the muddy coast over 200 years ago.

Describing the area, one of Cook's officers on that voyage wrote:

> The Country . . . has a wretched barren appearance, we can see no single article it produces, indeed this seems upon the whole a damned unhappy part of the world, for the Country appears just as destitute as a Country can be, and the surrounding seas are scarcely navigable for the numberless shoals . . .

Voyagers into the Bering Sea normally passed Cape Romanzof at least 50 miles out to sea, sparing the villages the "benefits" of white civilization. Until recently, the people, mostly Yup'ik Eskimos, have led a nomadic existence. Depending on the season, where there was food there was a village. According to regional historians, in the last 100 years only one village has apparently retained its original name and location. Every spring the villages moved to the coast to catch herring.

Village fishermen used gillnets made from seal skin thongs. Captain C.L. Hooper, a visitor to Cape Romanzof in 1880 aboard the U.S. Revenue Cutter *Corwin*, observed the local herring fishery where the gillnets were "set from shore in a very ingenious manner." The nets were about 30 to 40 feet long and about five feet deep. After watching the fishermen, Hooper wrote:

> (The net) is held vertically in the water in the usual manner by means of floats and sinkers, wood and stone being used for that purpose. To the outer end is secured a flat stone, somewhat larger than the rest, which serves as an anchor. A number of short poles, about three inches in diameter, are joined together by lashing to a length of 60 or 70 feet. This pole, used for pushing the net from shore into the desired depth of water, has its end attached to the stone anchor by a loop which allows it to be withdrawn when the net is set, the outer end of the net being held in place by the stone anchor while to the inner end is secured a line of seal thong leading to the shore by which the net is drawn in.

The processing methods Hooper reported are very similar to those used by coastal villagers today. The herring, strung through the gills with long strings of braided grass, were hung up to dry on teepee-style racks. The process took anywhere from 4 to 8 weeks depending on how frequently it rains. The fish were then put into grass baskets, made in such a way to allow air to circulate around the fish, thereby retarding spoilage. The grass used to make the baskets, was the same grass used to string up the herring. The fish, which were dipped in seal oil before being eaten, were a staple part of the year-round diet for the

Cape Romanzof fishermen go outside for new skiffs

The construction of thirty wood herring skiffs for the Stoknavik Coop is not a typical boat story. The 23' x 9' skiffs have been designed by one of the North Pacific fishing industry's more popular naval architects, Ed Monk. Although he says "they're just a nice little utilitarian boat—sturdy as hell," the skiffs will be substantially bigger than those used previously by most of the fishermen. They should pack close to 4 tons.

The boats being built by Admiral Marine Inc. of Port Townsend, Washington, will be delivered to the coop fishermen in assorted pieces, ready for final assembly. According to company president, Earle Wakefield, "We've tried to take all the hard work out of it for them."

Jigs, along with supervisory people from Admiral Marine, will be sent up to Cape Romanzof with the unassembled boats so the fishermen "don't have to put anything in much alignment. It will actually about fall together," claims Wakefield. Communications, though, he explains, "have been a little tough because you can't talk to anybody on the other end who has any familiarity with boatbuilding."

Not as familiar as Wakefield, anyway. He has taught boatbuildiing at technical schools and community colleges for 26 years, or as he likes to put it, "I was really weaned on wooden boats." Wakefield says no two of the Stoknavik fishermen agree on how they're going to fish their boats. "Each one is going to be different. Each one will have their own specitic detail." That, he says, "is the real beauty of the thing."

The biggest challenge of the whole operation appears to be getting the unassembled boats to an isolated place at a price the local fishermen can afford. Wakefield complains he has encountered a "ghastly amount" of miscellaneous costs involved with shipping the boats. The over 5000 separate pieces will be packed into 40' container vans and sent up to Anchorage on a Sea-Land ship. The vans then have to be unpacked before the pieces can be loaded on a cargo plane for Hooper Bay. A new twist was added recently when a section of Hooper Bay's airstrip washed away in a storm.

All in all, Wakefield says, "It's a hell of a big job. You just can't believe it." □

Dilemmas in allocating Bering Sea herring roe

by Peter Reimayne

The Alaska Board of Fisheries, in a controversial effort to promote some semblance of orderly development in the state's exploding Bering Sea herring roe fishery, has laid down the rules for the 1980 season.

As Board Chairman, Nick Szabo, observed, "everybody is expecting a lot of herring up there."

The inshore Bering Sea herring fishery is another chapter in Alaska's struggle to prevent the economic benefits of a resource from flowing out of state. Testifying before the Board, State Senator George Hohman of Bethel took a cue from the movie *Network* when he complained, "I'm getting mad as hell and I don't think we should put up with it any more. Outside people continually get the jump on us." Board member Jim Beaton was more specific. "There must be some way of stopping this money from flowing to Seattle—and that's exactly where it's going."

The dilemma of resident versus non-resident is particularly acute along the remote reaches of the desolate eastern Bering Sea coast—a region one politician described as "the poorest area in the whole state." Salmon canneries never got up that far and local residents like Joe Panigak of Chevak (Pop. 500) "want herring in our future. It's our best chance to get off welfare."

But they may never get that chance. As one fisherman remarked, "Processors are in the business of making money—they're not in the business of rural rehabilitation. Fishing is a competitive business and if you're not competitive, you're not going to make it."

It's too early to predict how many fishermen will take a chance on the herring roe fishery next spring. AFD&G statistics indicate close to 700 fishermen participated last year. Everyone is expecting a lot more this season. Analyzing the Board's role, Beaton explained, "The locals certainly don't have an equal shot at it. We have to get around that and give them some protection."

The Board voted down a number of proposals designed to give local residents, many of whom are recovering from a severe storm last November that destroyed homes, boats and subsistence fish traps, maximum protection. Rejected were proposals to: bar seiners from the Bristol Bay/Togiak area, require exclusive registration by area, limit the length of boats used in the fishery to 32 feet and ban the use of spotter aircraft.

The rationale, according to Beaton, a herring seiner, is: "You can't start putting impediments in front of the processors. I'm getting a little bit concerned ... there are so many impediments being placed upon a developing industry that it amazes me they even survive. I'm not convinced this processing is such a great game."

Reflecting on his analysis, Beaton adds, "I know that's kind of a joke among the fishermen who think all the industry people are getting fabulously wealthy. But if you start thinking in terms of taking a processor all the way up into Norton Sound and the money it costs to cut away from the docks, you have to have a safety valve."

Icicle Seafoods, Inc., is apparently willing to take that chance. According to company spokesman, Alan Otness, "We intend to be in the gillnet business buying gillnet herring north of Cape Newenham, specifically the Cape Romanzof and Hooper Bay area." Icicle plans to go north with a floating processor capable of handling 25 tons of herring a day. Icicle's policy, he claims, "is to support the local industry in the area." Observed one board member, "It looks like Icicle is cornering the market up there."

While acknowledging "our basic philosophy is to keep whatever we have operating at full capacity—like any other processor would," Otness assured the Board local fishermen would receive priority. "We don't intend to bring a fleet of Viking marauders up there to terrorize the area."

The Board spent considerable time listening to testimony weighing the merits of banning purse seiners from the fishery. Brent Keene, a herring seiner who moved to Alaska from Dover, New Hampshire, said, "We broke our butts pioneering this fishery and now we have payments. It's the only fishery left open. I'm not out to eliminate gillnetters, I don't think they should be out to eliminate me. If I'm not allowed to seine, there goes my livelihood."

In Beaton's opinion a seiner's days may be numbered anyway. "The distribution pattern of herring for the last 2,000 years is that they come to the beach and spawn. The gillnetters are sharp—they've figured this out and that's where they put all their nets ... If I was a consultant looking for a way to save the gillnet fleet a lot of money, I'd have the fishery pioneered by the seine fleet and then the gillnetters would come right in back of them and shove them out of the way."

The best protection the Board decided they could give inexperienced local fishermen was an enforceable limitation on the amount of gear gillnetters can use. The Board was reacting to reports of highly efficient boats, outfitted with herring shakers and costing as much as $500,000, being readied for this spring's fishery. And, as one Board member pointed out, "These people aren't coming up here with 3 sets of nets like the law reads. They're coming up here with 25 nets."

The Board's decision to ban purse seines from Cape Newenham to Port Clarence reflected the fears of local residents that seiners could move up the Bering Sea coast and pick up various quotas in 3 days or less. A spokesman for one village explained local banks were ready to loan money to local gillnetters—but not on a 3-day fishery. According to testimony before the Board, various banks and the Alaska Renewable

[continued on page 28]

HB

645

COMMITTEE REPORT

SENATE

FURTHER: Finance

2/27/80

Date: MARCH 12, 1980

Mr. President:

The Committee on STATE AFFAIRS has had CSHB 645

amending and transferring appropriations made in 1979

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

Tim Kelly

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bob Parker
CHAIRMAN

S 60 (Rev. 12/78)

Alaska State Legislature

Senate

Committee on State Affairs

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

CSHB 645 - An Act amending and transferring appropriat' ns made in 1979; and providing for an effective date.

BY: House Finance Committee

Section 1 transfers $2 million originally appropriated to the Power Project Revolving Fund to the Alaska Power Authority for costs associated with the Tyee Lake hydroelectric project.

This transfer is being made directly to the Alaska Power Authority because the Tyee Lake hydroelectric project is being developed as a cpaital project of the state and Revolving Fund monies are only available as loans to municipalities. The $2 million is still regarded as a loan, although the terms for repayment have not yet been specified. Please see Governor's letter of intent, attached.

Section 2 adds Eklutna Power Plants and Paint River to the Six Mile Creek Study Grant.

The Cook Inlet Aquaculture Association received grant monies (through the Dept. of Fish and Game, Div. of Administration) to do a feasibility and design work survey on Six Mile Creek. They proceeded with the project and spent $8,195.49 of the $50,000 appropriated for the study. At that stage the project was deemed not constructable and further work was halted. The Cook Inlet Aquaculture Association would like to use the remaining funds ($41,804.51) for study of the Eklutna Power Plants and Paint River. Attached please find their proposed budgets for each project as submitted to Rep. Montgomery who introduced the amendment in the House Finance Committee.

Section 3 transfers $1,010,000 originally appropriated to the Department of Transportation and Public Facilities, for the purchase and construction of the Anchorage Skill Center, to be paid as a direct grant to the Municipality of Anchorage for the same purpose.

The House Finance Committee added this transfer of appropriat'ons because it was felt that the municipality could get the work done faster. The Municipality of Anchorage will inform the legislature, before the bill leaves the Senate, if it is amenable to this. The House Finance Committee indicated that the state might want to keep control of the Center although the municipality will do the actual construction. If so, the bill will need some wording changes to reflect this intent.

HB 645 HOUSE BILL NO. 645 by the Rules Committee by request of the Governor, entitled:

"An Act transferring an appropriation to the Alaska Power Authority for costs associated with the Tyee Lake hydroelectric project; and providing for an effective date."

was read the first time and referred to the Finance Committee.

The Governor's transmittal letter follows:

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill converting a $2,000,000 FY 80 appropriation to the Power Project Revolving Fund to an appropriation to the Alaska Power Authority (APA) itself.

Last year, the APA received an appropriation of $2,715,000 for a large number of hydroelectric projects (see ch. 80 SLA 1979, at pages 66 and 67) upon the understanding that the appropriation would be repaid to the general fund from the revenue generated by the projects for which that financial assistance was provided. Similarly, it is intended that, by transferring this $2,000,000 from the Power Project Revolving Fund to the APA itself, the APA will repay the general fund from the revenue of the Tyee Lake project in accordance with the terms of the project bonds and generally applicable regulations to be adopted by the APA governing that kind of repayment.

I am proposing this advance to the APA in this manner only on a temporary basis pending the enactment of formal statutory guidelines on the subject. HB 645

Sincerely,

Jay S. Hammond
Governor

Cook Inlet Aquaculture Assn.

P.O. Box 850 — Soldotna, Alaska 99669
262-4441 Ext. 257

January 31, 1980

Representative Joe Montgomery
Pouch V
Juneau, Alaska 99811

Dear Rep. Montgomery:

We applied for and received a $50,000 grant to do a feasibility and design work survey on Six Mile Creek. It was funded through ADF&G.

We proceeded on that project and spent $8195.49. We asked ADF&G to pay it and we received that amount. The project at that stage was not deemed constructable and further study was not accomplished.

We would like to have the remaining funds made available to us for work at Eklutna Power Plant and Paint River. Costs for these two projects are enclosed.

Thanks you for help in this. You will recall the Legislative Budget and Audit Committee recommended this change in the grant.

Sincerely,

Floyd E. Heimbuch
Executive Director

FEH:sa
enclosures

Cook Inlet Aquaculture Assn.

P. O. Box 850 — Soldotna, Alaska 99669
262-4471 Ext. 257

SIX MILE CREEK PROJECT

EXPENSES:

Jack Fisher survey	2914.51
Mileage/supplies for Biologist	303.70
Travel For Ex. Director	227.28
Staff(Administration costs) Biologist - 1 mon. salary and taxes, Ex. Dir.- and Secretary - ½ mo salary and taxes each.	4750.00
TOTAL EXPENSES	8195.49

TOTAL AMOUNT OF GRANT WAS:	50,000.00	
TOTAL AMOUNT OF GRANT RECEIVED:	8,195.49	on 10/19/79
BALANCE OF GRANT NOT RECEIVED:	41,804.51	

Cook Inlet Aquaculture Assn.

P. O. Box 850 — Soldotna, Alaska 99669
262-4441 Ext. 257

PROPOSED BUDGETS FOR PAINT RIVER PROJECT AND EKLUTNA PROJECT

PAINT RIVER PROPOSED BUDGET:

Staff - Biologist	3500.00
Staff field costs	1500.00
Travel to and on Paint River	2000.00
Lab sampling and tests	3500.00
Misc. Equipment	1000.00
TOTAL NEEDED FOR PAINT RIVER	11,500.00

EKLUTNA HATCHERY PROPOSED BUDGET:

Staff	20,000.00
Travel for egg take & to site	2000.00
Supplies	6000.00
Egg take costs & crew	3500.00
TOTAL NEEDED FOR EKLUTNA HATCHERY	32,500.00

TOTAL PROPOSED BUDGET FOR BOTH PROJECTS: $44,000.00

	ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION FUND SOURCES: GENERAL FUND	APPROPRIATION FUND SOURCES: OTHER FUNDS
NATURAL RESOURCE MANAGEMENT (CONT.)				
LAND DISPOSAL SURVEYING		6,680,000	6,680,000	
DEPARTMENT OF FISH & GAME				
VESSELS MAINTENANCE		40,000	40,000	
COMMERCIAL FISHERIES				
KING SALMON DRAINAGE REPAIR (SD 16)		39,500	39,500	
MUSKEGAK SONAR SCANNING EQUIPMENT-GILLNORAD (SD 16)		117,000	117,000	
FISH PROCESSING QUALITY CONTROL STUDY (SD 8)		40,000	40,000	
THE APPROPRIATION OF $40,000 IS FOR A FISH PROCESSING QUALITY CONTROL STUDY IN THE PRINCE WILLIAM SOUND AREA.				
PWSD				
KAVERAK CORPORATION-HERDING PROGRAM GRANT (SD 22)		10,000	10,000	
LAKE FERTILIZATION PROJECT - KETCHIKAN (SD 3)		83,000		83,000
SONAR STUDY (SD 3)		65,000	65,000	
ADMINISTRATION				
SIX MILE CREEK STUDY GRANT - ANCHORAGE (SD 7)		50,000		50,000
SOUTHERN SOUTHEAST REGIONAL AQUACULTURE GRANT (SD 5)		69,000		69,000
SHOOTING RANGES-STATEWIDE		15,000	15,000	
POTTER MARSH RIFLE RANGE ACQUISITION (SD 7)		75,000	75,000	
CREAMER'S FIELD BROCHURE (SD 20)		7,000		7,000
DEPARTMENT OF ENVIRONMENTAL CONSERVATION				
WATER PROGRAMS				
WATER FEASIBILITY STUDY - CORDOVA (SD 5)		60,000	60,000	
THE APPROPRIATION OF $60,000 IS A DIRECT GRANT TO THE CITY OF CORDOVA.				
SEWER & WATER STUDY-WASILLA (SD 6)		20,000	20,000	
THE APPROPRIATION OF $20,000 IS A DIRECT GRANT TO THE CITY OF WASILLA.				
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* * * * * PUBLIC PROTECTION * * * * *	* * * * * PUBLIC PROTECTION * * * * *			
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OFFICE OF THE GOVERNOR				
DISASTER FUND REPLACEMENT		400,000	400,000	

	ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION FUND SOURCES: GENERAL FUND	APPROPRIATION FUND SOURCES: OTHER FUNDS
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT				
DIVISION OF BANKING		30,000	30,000	
DATA PROCESSING UPGRADE AND CROSS-REFERENCING (SD 6)				
DEPARTMENT OF MILITARY AFFAIRS				
ALASKA NATIONAL GUARD		9,044,600		9,044,600
ANCHORAGE ARMORY (SD 7)		1,617,700		1,617,700
MAINTENANCE SHOP, ANCHORAGE (SD 7)		200,000	10,000	190,000
STATEWIDE ARMS CONTINGENCY				
CIVIL AIR PATROL		429,100	429,100	
ARTESIAN HANGAR (SD 11)				
ALASKA DISASTER OFFICE		191,000	191,000	
KODIAK UTILITIES FLOOD DAMAGE GRANT (SD 23)				
DEPARTMENT OF PUBLIC SAFETY				
HIGHWAY SAFETY PLANNING AGENCY		300,000	300,000	
ARMORIES				
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DEPARTMENT OF HEALTH & SOCIAL SERVICES				
DIVISION OF CORRECTION		2,000,000	2,000,000	
WOMEN'S CORRECTION FACILITY-ANCHORAGE (SD 7)				
DEPARTMENT OF PUBLIC SAFETY				
DETACHMENTS AND C.D.O.		87,600	87,600	
INDOOR HOUSING IN FORT YUKON (SD 39)		6,300	6,300	
MORE POLICE CRIMINAL INVESTIGATION AIDS GRANT (SD 22)				
THE APPROPRIATION OF $6,300 IS TO BE PAID AS A DIRECT GRANT TO THE CITY OF MORE FOR MORE POLICE DEPARTMENT INVESTIGATIVE VISUAL AID EQUIPMENT.				
NOTARIUS SONG SEARCH AND RESCUE GRANT (SD 21)		15,000	15,000	
THE APPROPRIATION OF $15,000 IS TO BE PAID AS A DIRECT GRANT TO THE CITY OF NOTARIUS FOR SEARCH AND RESCUE				

Cook Inlet Aquaculture Assn.

P. O. Box 850 — Soldotna, Alaska 99669
262-4441 Ext. 257

January 31, 1980

Representative Joe Montgomery
Pouch V
Juneau, Alaska 99811

Dear Rep. Montgomery:

We applied for and received a $50,000 grant to do a feasibility and design work survey on Six Mile Creek. It was funded through ADF&G.

We proceeded on that project and spent $8195.49. We asked ADF&G to pay it and we received that amount. The project at that stage was not deemed constructable and further study was not accomplished.

We would like to have the remaining funds made available to us for work at Eklutna Power Plant and Paint River. Costs for these two projects are enclosed.

Thanks you for help in this. You will recall the Legislative Budget and Audit Committee recommended this change in the grant.

Sincerely,

Floyd E. Heimbuch
Executive Director

FEh·sa
enclosures

Cook Inlet Aquaculture Assn.

P. O. Box 850 — Soldotna, Alaska 99669
262-4441 Ext. 257

SIX MILE CREEK PROJECT

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TOTAL EXPENSES	8195.49

TOTAL AMOUNT OF GRANT WAS:	50,000.00	
TOTAL AMOUNT OF GRANT RECEIVED:	8,195.49	on 10/19/79
BALANCE OF GRANT NOT RECEIVED:	41,804.51	

Cook Inlet Aquaculture Assn.

P. O. Box 850 — Soldotna, Alaska 99669
262-4441 Ext. 257

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Travel to and on Paint River	2000.00
Lab sampling and tests	3500.00
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Staff	20,000.00
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Egg take costs & crew	3500.00
TOTAL NEEDED FOR EKLUTNA HATCHERY	32,500.00

TOTAL PROPOSED BUDGET FOR BOTH PROJECTS: $44,000.00

	ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION FUND SOURCES GENERAL FUND	OTHER FUNDS
NATURAL RESOURCE MANAGEMENT (CONT.)				
LAND DISPOSAL SURVEYING		6,400,000	6,400,000	
DEPARTMENT OF FISH & GAME				
VESSELS MAINTENANCE		60,000	60,000	
COMMERCIAL FISHERIES				
KING SALMON DRAINAGE REPAIR (SB 181		39,900	39,900	
MUSKMAGAK SONAR SCANNING EQUIPMENT-DILLINGHAM (SB 181		117,000	117,000	
FISH PROCESSING QUALITY CONTROL STUDY (SB 91		40,000	40,000	
THE APPROPRIATION OF $40,000 IS FOR A FISH PROCESSING				
QUALITY CONTROL STUDY IN THE PRINCE WILLIAM SOUND AREA.				
R&D				
BANDAK CORPORATION-HERRING PROGRAM GRANT (SB 221)		10,000	10,000	
LAKE FERTILIZATION PROJECT - KETCHIKAN (SB 11		83,000		83,000
BOARD STUDY (SB 11		85,000	85,000	
ADMINISTRATION				
SIX MILE CREEK STUDY GRANT - ANCHORAGE (SB 71		30,000		30,000
SOUTHERN SOUTHEAST REGIONAL AQUACULTURE GRANT (SB 11		49,000		49,000
SHOOTING RANGES-STATEWIDE		19,000	19,000	
POTTER MARSH RIFLE RANGE ACQUISITION (SB 71		19,000	19,000	
CREAMER'S FIELD BROCHURE (SB 201		3,000		3,000
DEPARTMENT OF ENVIRONMENTAL CONSERVATION				
WATER PROGRAMS				
WATER FEASIBILITY STUDY - CORDOVA (SB 91		40,000	40,000	
THE APPROPRIATION OF $40,000 IS A DIRECT GRANT TO THE				
CITY OF CORDOVA.				
SEWER & WATER STUDY-WASILLA (SB 81		20,000	20,000	
THE APPROPRIATION OF $20,000 IS A DIRECT GRANT TO THE				
CITY OF WASILLA.				
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* * * * * PUBLIC PROTECTION * * * * *	* * * * * PUBLIC PROTECTION	* * * * *	* * * * *	
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OFFICE OF THE GOVERNOR				
DISASTER FUND REPLENISHMENT		400,000	400,000	

	ALLOCATIONS	APPROPRIATION ITEMS	APPROPRIATION FUND SOURCES GENERAL FUND	OTHER FUNDS
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT				
DIVISION OF BANKING		50,000	50,000	
DATA PROCESSING UPGRADE AND CROSS-REFERENCING (SB 61				
DEPARTMENT OF MILITARY AFFAIRS				
ALASKA NATIONAL GUARD		5,044,600		4,600
ANCHORAGE ARMORY (SB 71		1,417,700		417,700
MAINTENANCE SHOP, ANCHORAGE (SB 71		200,000	50,000	150,000
STATEWIDE CONST CONTINGENCY				
CIVIL AIR PATROL		423,100	423,100	
NOTSEDUK HANGAR (SB 21)				
ALASKA DISASTER OFFICE		991,000	991,000	
NOME UTILITIES FLOOD DAMAGE GRANT (SB 221				
DEPARTMENT OF PUBLIC SAFETY				
HIGHWAY SAFETY PLANNING AGENCY		500,000	500,000	
GRANTS				
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* * * * * ADMINISTRATION OF JUSTICE * * * * *	* * * * * ADMINISTRATION OF JUSTICE			* * * * * *
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DEPARTMENT OF HEALTH & SOCIAL SERVICES				
DIVISION OF CORRECTION		2,000,000	2,000,000	
WOMEN'S CORRECTION FACILITY-ANCHORAGE (SB 71				
DEPARTMENT OF PUBLIC SAFETY				
DETACHMENTS AND C.O.O.		87,400	87,400	
TROOPER HOUSING IN POINT THOMSON (SB 191		4,300	4,300	
NOME POLICE CRIMINAL INVESTIGATION AIDE GRANT (SB 221				
THE APPROPRIATION OF $4,300 IS TO BE PAID AS A DIRECT				
GRANT TO THE CITY OF NOME FOR NOME POLICE DEPARTMENT				
INVESTIGATIVE VISUAL AID EQUIPMENT.		15,000	15,000	
NOTSEDUK MARA SEARCH AND RESCUE GRANT (SB 221				
THE APPROPRIATION OF $15,000 IS TO BE PAID AS A DIRECT				
GRANT TO THE CITY OF NOTSEDUK FOR SEARCH AND RESCUE				

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

CSHF 645 - An Act amending and transferring appropriations made in 1979; and providing for an effective date.

BY: House Finance Committee

last year appropriated to Thomas Bay Power Auth.

Section 1 transfers $2 million originally appropriated to the Power Project Revolving Fund to the Alaska Power Authority for costs associated with the Tyee Lake hydroelectric project.

This transfer is being made directly to the Alaska Power Authority because the Tyee Lake hydroelectric project is being developed as a cpaital project of the state and Revolving Fund monies are only available as loans to municipalities. The $2 million is still regarded as a loan, although the terms for repayment have not yet been specified. Please see Governor's letter of intent, attached.

Section 2 adds Eklutna Power Plants and Paint River to the Six Mile Creek Study Grant.

The Cook Inlet Aquaculture Association received grant monies (through the Dept. of Fish and Game, Div. of Administration) to do a feasibility and design work survey on Six Mile Creek. They proceeded with the project and spent $8,195.49 of the $50,000 appropriated for the study. At that stage the project was deemed not constructable and further work was halted. The Cook Inlet Aquaculture Association would like to use the remaining funds ($41,804.51) for study of the Eklutna Power Plants and Paint River. Attached please find their proposed budgets for each project as submitted to Rep. Montgomery who introduced the amendment in the House Finance Committee.

Section 3 transfers $1,010,000 originally appropriated to the Department of Transportation and Public Facilities, for the purchase and construction of the Anchorage Skill Center, to be paid as a direct grant to the Municipality of Anchorage for the same purpose.

The House Finance Committee added this transfer of appropriations because it was felt that the municipality could get the work done faster. The Municipality of Anchorage will inform the legislature, before the bill leaves the Senate, if it is amenable to this. The House Finance Committee indicated that the state might want to keep control of the Center although the municipality will do the actual construction. If so, the bill will need some wording changes to reflect this intent.

CS HB 645 — An Act amending and transferring appropriations made in 1979; and providing for an effective date. — By (H) Finance

FROM POWER

Section 1

The reason for the transfer of the $2,000,000 from the Power Project Revolving Fund directly to the Alaska Power Authority is that the Tyee Lake project is being developed as a capital project of the state, and Revolving Fund monies are only available as loans to municipalities. The $2,000,000 is still regarded as a loan, though the terms for repayment haven't been specified.

Section 2 - Added by (H) Finance

Includes Eklutna Power Plants and Paint River in the $100,000 study grant appropriated to ADF&G. ~~Dept~~ Div. of Administration.

HAVE NO POSITION

Section 3 - Added by (H) Finance

Transfers $1,010,000 appropriated to DOTPF for purchase and construction of the Anchorage skill center to the Municipality of Anchorage for the same purpose.

HB 645 HOUSE BILL NO. 645 by the Rules Committee by request of the Governor, entitled:

> "An Act transferring an appropriation to the Alaska Power Authority for costs associated with the Tyee Lake hydroelectric project; and providing for an effective date."

was read the first time and referred to the Finance Committee.

The Governor's transmittal letter follows:

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill converting a $2,000,000 FY 80 appropriation to the Power Project Revolving Fund to an appropriation to the Alaska Power Authority (APA) itself.

Last year, the APA received an appropriation of $2,715,000 for a large number of hydroelectric projects (see ch. 80 SLA 1979, at pages 66 and 67) upon the understanding that the appropriation would be repaid to the general fund from the revenue generated by the projects for which that financial assistance was provided. Similarly, it is intended that, by transferring this $2,000,000 from the Power Project Revolving Fund to the APA itself, the APA will repay the general fund from the revenue of the Tyee Lake project in accordance with the terms of the project bonds and generally applicable regulations to be adopted by the APA governing that kind of repayment.

I am proposing this advance to the APA in this manner only on a temporary basis pending the enactment of formal statutory guidelines on the subject. HB 645

Sincerely,

Jay S. Hammond
Governor

See 1st Letter of Intent - Gov

HB

728

COMMITTEE REPORT

SENATE

FURTHER: None

4/28/80

Date: May 7, 1980

Mr. President:

The Committee on STATE AFFAIRS has had CSHB 778

taxation of electric cooperatives

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 FINANCE Committee

MEMBERS SIGNING
DO PASS

Walter D. McCoy

Bob Mackey

Bruce Bailey

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Tom Wolf Hudson

Ben Campbell

CHAIRMAN

S 60 (Rev. 12/78)

Bill File

HB 778

HOUSE BILL NO. 778

THE PROBLEM

Since 1960, electric and telephone cooperatives have been paying 2% of gross receipts as a tax in lieu of ad valorem. This worked well through the years until the price of diesel fuel began to skyrocket after the 1973 Arab oil embargo. As the cost of diesel increased, the rates for diesel generated electricity increased. As the rates went up, the taxes went up with them.

The result of all this is that the consumers served by highest cost electric cooperative (AVEC) pay about ten times more tax than those served by the cooperative with the lowest rates (Chugach). It simply is not fair for rural consumers to have to pay disproportionately more tax than their urban neighbors just because their electricity costs more.

EFFECT OF THE BILL

This bill separates the taxing procedure used for electric cooperatives from that used for telephone cooperatives. It leaves the present procedure alone for telephone cooperatives -- they would still pay 2% of gross receipts in taxes.

Electric cooperatives would now pay 1/2 mill per kilowatt hour of electricity sold at retail. This is approximately the same tax per kilowatt hour that is now being paid by the electric cooperative with the lowest rates. It simply equalizes the taxes paid in the rest of the state to this level.

ALASKA RURAL ELECTRIC COOPERATIVE ASSOCIATION, INC.

6000 C STREET · SUITE C · ANCHORAGE, ALASKA 99502 · (907) 278-3235

COMPARISON OF GROSS RECEIPTS TAX
WITH PROPOSED
ELECTRIC COOPERATIVE TAX FOR 1978

(Calculated from REA Bulletin 1-1, 1978)

COOP	2% GROSS RECEIPTS TAX	G.R. TAX EXPRESSED IN MILLS/KWH	ELECTRIC COOP TAX @ 1/2 MILL/KWH
MEA	$ 178,287	.80	$ 111,834
KEA	95,362	1.77	26,870
HEA	140,546	.63	112,296
GVEA	388,858	1.26	154,564
GHEA	11,365	1.43	3,964
CEA	495,952	.64	390,085
NEA	15,980	2.86	2,794
KtzEA	26,551	3.10	4,281
CVEA	82,766	2.16	19,118
NEC	14,568	2.63	2,764
AVEC	109,506	6.85	7,992
*CEC	(@ 1%) 3,733	(@ 1%) 1.18	(@ 1mill) 785
TOTALS	$1,563,474		$ 837,347

NOTE: REA Bulletin 1-1, 1978 did not contain figures for Barrow Utilities & Electric Cooperative, which would also be affected by the proposed tax change.

* Cordova Electric Cooperative qualifies for the new coop reduced rate.

Official Business

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

CSHB 778 - An Act relating to the taxation of electric cooperatives; and providing for an effective date.

BY: The Commerce Committee

Since 1960, electric and telephone cooperatives have been paying 2% of gross receipts as a tax in lieu of ad valorem. This worked well through the years until the price of diesel fuel began to skyrocket after the 1973 Arab oil embargo. As the cost of diesel increased, the rates for diesel generated electricity increased. As the rates went up, the taxes went up with them.

The result of all this is that the consumers served by highest cost electric cooperative (AVEC) pay about ten times more tax than those served by the cooperative with the lowest rates (Chugach).

This bill separates the taxing procedure used for electric cooperatives from that used for telephone cooperatives. It leaves the present procedure alone for telephone cooperatives - they would still pay 2% of gross receipts in taxes.

Electric cooperatives would now pay 1/2 mill per kilowatt hour of electricity sold at retail. This is approximately the same tax per kilowatt hour that is now being paid by the electric cooperative with the lowest rates. It simply equalizes the taxes paid in the rest of the state to this level.

SB 504 and HB 778 (Taxation of electric and telephone co-ops.)

Current statutes (AS 10.25.) provide that telephone and electric co-ops shall be taxed as follows:

a) 1% of gross revenues for co-ops which have furnished electric or telephone service to consumers for less than five years as of December 31 of the preceding calendar year.

b) 2% of gross revenues for co-ops which have furnished electric or telephone service to consumers for five years or longer as of December 31 of the preceding calendar year.

This bill would not change the taxing procedures for telephone co-ops which would remain as shown above. However, this bill would require that the tax* for electric co-ops be computed as follows:

a) ½ mill per killowatt hour for electric co-ops which have furnished electric energy and power to consumers for less than five years as of December 31, of the preceding calendar year.

b) ½ mill per killowatt hour for electric co-ops which have furnished electric energy and power to consumers for five years or longer as of December 31, of the preceding calendar year.

* This is a tax on the number of kilowatt hours of electricity sold at retail during the preceding calendar year

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS for House Bill No. 778.

Title An Act relating to the taxation of electric cooperatives.

Requested by House Rules Committee Date 4/24/80

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 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		-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 4/24/80.

IV. DATE April 24, 1980 PREPARED BY Dan Lee

AGENCY Department of Revenue, Audit Division

PHONE 465-2320

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CSHB 773
Title An Act relating to the taxation of electric cooperatives
Requested by Rules Date 4/15/80

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 of Dollars)

GENERAL FUND	----------	approx. (50.0) annually			----------	------
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The bill proposes to replace the present gross receipt tax for electric cooperatives with a flat amount per kwh charge. The proposed charge would vary with the length of service.

The proposed change would have a very minor impact on the general fund revenues because most of the receipts of this tax are shared with local governments.

IV. DATE 4/16/80 PREPARED BY Barbara Sorensen
AGENCY Revenue
PHONE x 2174

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

3?-001 (Rev. 12/79)

STATE
of ALASKA

MEMORANDUM

TO: R. D. Stevenson
Special Assistant
Department of Revenue

DATE: April 24, 1980

FILE NO:

TELEPHONE NO:

FROM: Gary L. Jenkins
Director
Audit Division

SUBJECT: CS for House Bill No. 778

This proposed legislation would amend the provisions of Chapter 25 of Title 10 which deals with the taxation of electric cooperatives. The proposed amendments to the current law are clearly state and there do not appear to be any administrative problems or costs.

The Committee Substitute for House Bill 778 made one minor change in the original bill; however, there were no changes made in the areas which we mentioned in our original analysis.

The Legislature may wish to consider one factor with regard to the taxation of cooperatives which in recent years has been of concern to local municipalities. That issue is the fact that cooperatives have substantial other income from pole rentals and providing other services besides the direct telephone or electric service and they are not taxed at all on these receipts. This issue was originally raised by the Matanuska - Susitna Borough and has been of concern to other boroughs. The boroughs are concerned because of the fact that the majority of the money received from this tax is shared back to the local municipalities. We did pursue the issue in depth and it was determined that we could not tax this other income under the provisions in Title 10 and further, Title 10 also exempted this income from taxation under Title 43.

ALASKA RURAL ELECTRIC COOPERATIVE ASSOCIATION, INC.

801 W. FIREWEED LANE • SUITE 101 • ANCHORAGE, ALASKA 99503 • (907) 276-3235

COMPARISON OF GROSS RECEIPTS TAX
WITH PROPOSED
ELECTRIC COOPERATIVE TAX FOR 1977
(Source: REA Bulletin 1-1, 1977)

COOP	2% GROSS RECEIPTS TAX	G.R. TAX EXPRESSED IN MILLS/KWH	ELECTRIC COOP TAX @ 1/2 MILL/KWH
MEA	$ 130,758	.76	$ 87,979
KEA	81,994	1.62	25,279
HEA	121,455	.63	96,993
GVEA	350,736	1.06	166,224
GHEA	10,036	1.41	3,558
CEA	418,521	.58	363,105
NEA	12,664	2.47	2,567
KtzEA	22,779	2.97	3,838
CVEA	76,568	1.81	21,186
NEC	12,495	2.62	2,384
AVEC	84,845	5.52	7,685
TOTALS	$1,322,851		$ 780,798

NOTE: REA Bulletin 1-1, 1977 did not contain figures for the following cooperatives which would al- be affected by the proposed tax change: Barrow Utilites & Electric Cooperative and Cordova Electric Cooperative.

HB
908

COMMITTEE REPORT

SENATE

FURTHER: None

4/2/80 Date: March 23, 1980

Mr. President:

The Committee on STATE AFFAIRS has had HB 903
merit principle in state employment

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 903 [✓] 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

Zeke
Bob Melvin

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Patrick Kelly NO
Bob Melvin Do Pass
Tim Kelly Do Pass

Don Mason
CHAIRMAN

S 60 (Rev. 12/78)

Official Business

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

CSHB 908 - An Act relating to the merit principle in state employment.

BY: Rules by request of the Legislative Council (for the Blue Ribbon Commission on the State Personnel Act.)

Article XIII, Section 6 of the Alaska Constitution directs that the legislature shall establish a system under which the merit principle will govern the employment of persons by the state. Following this mandate, the State Personnel Act adopted in 1961, states that it "is the purpose of this chapter to establish a system of personnel administration based upon the merit principle..." Neither the constitution or the statutes identify the components of the merit principle. The intent of CSHB 908 is to identify these components.

The principles identified in CSHB 908 are the basic precepts governing the selection, retention, advancement and, if necessary, separation of state employees. These principles are based on similar concepts identified during the initial state constitutional debates, and are consistent with the Federal Standards for a Merit System of Personnel Administration.

The Department of Administration supports this bill.

the Constitution of the State of Alaska, and that I will faithfully discharge my duties as
to the best of my ability." The legislature may prescribe further oaths or affirmations.

Merit System

SECTION 6. The legislature shall establish a system under which the merit principle will govern the employment of persons by the State.

Retirement System

SECTION 7. Membership in employee retirement systems of the State or its political subdivisions shall constitute a contractual relationship. Accrued benefits of these systems shall not be diminished or impaired.

Residual Power

SECTION 8. The enumeration of specified powers in this constitution shall not be construed as limiting the powers of the State.

Provisions Self-Executing

SECTION 9. The provisions of this constitution shall be construed to be self-executing whenever possible.

Interpretation

SECTION 10. Titles and subtitles shall not be used in construing this constitution. Personal pronouns used in this constitution shall be construed as including either sex.

Law-Making Power

SECTION 11. As used in this constitution, the terms "by law" and "by the legislature", or variations of these terms, are used interchangeably when related to law-making powers. Unless clearly inapplicable, the law-making powers assigned to the legislature may be exercised by the people through the initiative, subject to the limitations of Article XI.

Disclaimer and Agreement

SECTION 12. The State of Alaska and its people forever disclaim all right and title in or to any property belonging to the United States or subject to its disposition, and not granted or confirmed to the State or its political subdivisions, by or under the act admitting Alaska to the Union. The State and its people further disclaim all right or title in

Chapter 25. State Personnel Act.

Article
1. Administration (§§ 39.25.010—39.25.080)
2. Coverage of Personnel (§§ 39.25.090—39.25.130)
3. Personnel Rules (§§ 39.25.140—39.25.155)
4. Prohibitions (§ 39.25.160)
5. Hearings (§ 39.25.170)
6. Miscellaneous Provisions (§§ 39.25.180—39.25.190)
7. General Provisions (§§ 39.25.210—39.25.220)

Article 1. Administration.

Section
10. Purpose of chapter
20. Appointing authority
30. Division of personnel and board
40. Director of personnel
50. Powers and duties
60. Personnel board
70. Powers and duties of personnel board
80. Public records

Sec. 39.25.010. Purpose of chapter. It is the purpose of this chapter to establish a system of personnel administration based upon the merit principle and adapted to the requirements of the state to the end that persons best qualified to perform the functions of the state will be employed, and that an effective career service will be encouraged, developed and maintained. (§ 1 ch 144 SLA 1960)

Legislative committee report. — For report on original bill, see 1960 House Journal, p. 209.

Quoted in Mueller v. Alaska State Bd. of Personnel, Sup. Ct. Op. No. 396 (File No. 738), 425 P.2d 145 (1967).

Am. Jur. references. — 10 Am. Jur., Civil Service, § 1 et seq., 11 Am. Jur., Constitutional Law, §§ 240 to 242, 42 Am. Jur., Public Administrative Law, §§ 8 to 250.

Sec. 39.25.020. Appointing authority. The authority to appoint to positions in the state service is as follows:

(1) The legislature is the appointing authority for all officers and employees of the legislature and the legislative agencies, but the authority to make appointments may be delegated.

(2) The governor is the appointing authority for all officers and employees of the executive branch, but the authority to make appointments may be delegated.

(3) The chief justice of the supreme court is the appointing authority for all administrative and clerical personnel of the state judicial system, but the authority to make appointments may be delegated.

(4) The board of regents is the appointing authority for all employees of the University of Alaska, but the authority to make appointments may be delegated. (§ 8 ch 144 SLA 1960)

Stated in State v. Bogenrife, Sup. Ct. Op. No. 918 (File No. 1665), 513 P.2d 13 (1973).

Cited in Wolfe v. O'Neill, 336 F. Supp. 1255 (D. Alas. 1972).

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 federal 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

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

DATE: February 27, 1980

RE: Senate Bill 502

Relating to the merit principle in state employment.

Senate Bill 502 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 federal 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

(3) Retention of employees with permanent status on the basis of the adequacy of their performance, reasonable efforts OF TEMPORARY DURATION for correction of inadequate performance and separation CAUSE FOR ~~these employees for cause.~~ INADEQUATE PERFORMANCE.

(3) Retention of employees with permanent status on the basis of the adequacy of their performance, reasonable efforts of temporary duration for correction in inadequate performance and separation for cause ~~for inadequate performance~~.

(3) Retention of employees with permanent status on the basis of the adequacy of their performance, reasonable efforts OF TEMPORARY DURATION for correction of inadequate performance and separation CAUSE FOR these ~~employees for cause.~~ FOR INADEQUATE PERFORMANCE.

SCS INSERTS THIS:

(3) Retention of employees with permanent status on the basis of the adequacy of their performance, reasonable efforts of temporary duration for correction in inadequate performance and separation for cause, ~~for inadequate performance.~~

Cause - - P

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. 908

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the merit principle in state employment."

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

* Section 1. AS 39.25.010 is amended by adding a new subsection to read:

(b) The merit principle of employment includes the following:

(1) recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;

(2) regular integrated salary programs based on the nature of the work performed;

(3) retention of employees with permanent status on the basis of the adequacy of their performance, and provision for correction of inadequate performance and separation of those employees whose inadequate performance cannot be corrected; reasonable efforts to [illegible] three employees for [illegible]

(4) equal treatment of applicants and employees with regard only to consideration within the merit principles of employment; and

(5) selection and retention of an employee's position secure from political influences.

HB

931

COMMITTEE REPORT

SENATE

FURTHER: None

3/24/80

Date: APRIL 14, 1980

Mr. President:

The Committee on STATE AFFAIRS has had CSHB 931 am transferring the Council on Science and Technology from the Dept. of Environmental Conservation to Dept. of Administration

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)

[ ] same title

[ ] replace with CS for _____ [ ] 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

S 60 (Rev. 12/78)

Notify when bill will be heard.

Chris Noah
Exec. Dir.
3510

CSHB 931

Chris called again 4/1/80 to be notified of bill when heard.

4/9/80

Chris Noah is in hospital. Jay Hogan is contact person (465-3795)

And will ~~testify~~ when bill is heard unless Chris is out of the hospital by then Jay Hogan will testify on 4/14/80

Following are the differences between the Alaska Council on Science and Technology statutes as they now read (44.19.181-189), Executive Order No. 46 and CSHB 931 am.

Present Statutes

Locate the council in the Office of the Governor. Provides for seven members who must be confirmed by the legislature. Members to serve overlapping three year terms, except for the first members who serve as follows:

2 members - 1 year
2 members - 2 years
3 members - 3 years

Executive Order No. 46

Locates the council in the Department of Environmental Conservation. Provides for seven members who do not need to be confirmed by the legislature. Members to serve terms the same as above.

CSHB 931 am

Locates the council in the Department of Administration for administrative purposes and services only. Adds one nonvoting representative (appointed by Speaker) and one nonvoting senator (appointed by President) to the council for a total of nine members. Members do not need to be confirmed by the legislature. All members to serve three year terms.

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

CSHB 931 am - An Act transferring the Council on Science and Technology from the Dept. of Environmental Conservation to the Dept. of Administration; and providing for an effective date.

BY: House State Affairs Committee

Executive Order No. 46, which will go into effect on July 1, 1980, transfers the Alaska Council on Science and Technology from the Office of the Governor to the Department of Environmental Conservation.

CSHB 931 am, which has an effective date of July 2, 1980, transfers the Council on Science and Technology from the Department of Environmental Conservation to the Department of Administration for administrative purposes and services only.

The bill also changes the organizational makeup of the Council on Science and Technology by the addition of one nonvoting representative (appointed by the Speaker) and one nonvoting senator (appointed by the President) to the Council for a total of nine members, each to serve a three year term.

Earlier this year the members of the Council on Science and Technology voted unanimously to move to the Department of Administration as that department was felt to be "neutral ground." The Council felt that it might not be appropriate to be administratively housed in a department that would likely be a recipient of grants from the Council, (i.e., Dept. of Environmental Conservation), thus avoiding a conflict-of-interest situation.

The Office of the Governor has no position on this bill.

The Department of Administration is not opposed to this bill.

Attached , for your information, is a copy of Executive Order No. 46.

EXECUTIVE ORDER NO. 46

Under the authority of Article III, Section 23, of the Constitution of the State of Alaska, and in accordance with AS 24.30.130(b), I order the following:

* Section 1. FINDINGS. As governor, I find that it would be in the best interest of efficient administration to transfer the Alaska Council on Science and Technology from the governor's office to the Department of Environmental Conservation.

* Sec. 2. AS 44.19.181 -- 44.19.189 are repealed.

* Sec. 3. AS 44.46 is amended by adding new sections to read:

ARTICLE 4. ALASKA COUNCIL ON SCIENCE AND TECHNOLOGY.

Sec. 44.46.070. COUNCIL ESTABLISHED. (a) There is established in the Department of Environmental Conservation the Alaska Council on Science and Technology. The council consists of seven members who are appointed by the governor upon the recommendations of the state's scientific, engineering, and related communities and organizations. Members have overlapping three-year terms, except that, of the first members, two have terms of one year, two have terms of two years, and three have terms of three years. Two members shall be selected fro different executive departments of state government having significant research activities, two members shall be selected from the Alaska academic community, two members shall have significant activities or direct interests in research and shall be selected from the general public, and one member shall be selected from the staff of the legislature. The council shall elect one of its members as chairman. A chairman may be elected for successive terms as chairman and serves until his successor is designated. Four members constitute a quorum.

(b) Council members receive no compensation but are entitled to the travel and per diem provided by law for members of boards or

commissions.

Sec. 44.46.080. PURPOSE, POWERS, AND DUTIES. (a) The purpose of the council is to review and recommend the scientific and technological research needs of state government, to issue research grants and contracts, to oversee the issued grants and contracts, to promote high standards of research for the priorities proposed by the council, and to address stated legislative or administrative requests for research.

(b) The council may

(1) apprise itself of local, state, federal, and private research programs, activities, and needs;

(2) convene committees, task forces, conferences, public hearings, and other meetings necessary to carry out the council's purposes;

(3) award research grants and contracts on a fair and competitive basis and administer those grants and contracts;

(4) enter into agreements creating one or more systems of information exchange with any appropriate research funding sources;

(5) at the request of any state agency, enter into and administer, but not perform, the research under research grants and contracts funded by that state agency;

(6) investigate the need for and when necessary establish advisory committees for reviewing its program;

(7) request and receive from any agency of the state government the assistance and data needed to carry out the requirements of this section;

(8) hire an executive director and staff that may be necessary to implement AS 44.46.070 -- 44.46.110.

(c) The council shall

(1) develop methods of surveying research needs of the

state, based on the present and future information needs of policy makers, state agencies, and the public at large;

(2) annually review the research needs and propose priorities for funding;

(3) annually submit to the governor and the legislature the findings of the council, including a listing, description, ranking, and justification of research needs, and a commentary on significant research activities of the preceding year funded by the state and including the relationship of that research to the state's needs and priorities;

(4) promote and enhance standards for research activities for which the council has administrative oversight;

(5) establish review procedures for research proposals;

(6) at the request of either the governor or the legislatur advise in a timely fashion on inquiries concerning scientific investigation or comment;

(7) evaluate and forward to appropriate agencies and persor products of research activities funded by the council; the council shall prepare comments to accompany research reports summarizing the applications, importance, or further research needs demonstrated by the findings of council-supported research;

(8) coordinate its data and in ormation needs with other research organizations in order to avoid unnecessary duplication;

(9) not conduct any research itself other than that necessary to further the purpose of the council as provided in (a) of this section;

(10) supply to any person or agency requesting assistance the available information on past or present research activities for which the council has information, except that the council shall not

release information which may endanger the acceptance of any research proposal which is at the time competing with other proposals for funding.

(d) The council may, as funds are appropriated, make grants of financial assistance of up to $5,000 to persons engaged in the development or implementation of northern technology. An application for a grant under this subsection shall be submitted to the council which shall determine the manner in which applications are reviewed and approved. The council may make grants in coordination with other sources of funding. 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. Any patents or royalties accruing from projects funded through grants made by the council remain the property of the individual receiving the grant.

Sec. 44.46.090. RECORDS, REPORTS. (a) The council shall have its financial records audited by an independent certified public accountant. The internal auditor and legislative auditor shall jointly prescribe the form and content of the financial records of the council and shall be afforded access to these records at any time.

(b) Before January 15 of each year, the council shall submit to the governor and the legislature a comprehensive report describing operations and expenditures and the status of grants and contracts for the last preceding fiscal year.

(c) The provisions of AS 09.25.110 -- 09.25.120 apply to the council.

Sec. 44.46.100. DEFINITIONS. In AS 44.46.070 -- 44.46.110,

(1) "council" means the Alaska Council on Science and Technology established in AS 44.46.070;

(2) "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 more efficient, and less costly and less energy intensive than those methods presently utilized and which are appropriate to the Alaska environment.

Sec. 44.46.110. SHORT TITLE. AS 44.46.070 -- 44.46.110 may be cited as the Science and Technology Act.

* Sec. 4. AS 39.25.120 is amended by adding a new paragraph to read:

(12) the executive director, but not other staff, of the Alaska Council on Science and Technology located in the Department of Environmental Conservation.

* Sec. 5. As provided in sec. 8, ch. 56 SLA 1979, subsec. (d) of AS 44.46.080, as enacted in sec. 3 of this order, terminates June 30, 1984.

* Sec. 6. Contracts and proceedings entered into by the council are not affected by the relocation made by this order.

* Sec. 7. This order takes effect July 1 ,1980.

DATED: 1/14/80
Juneau, Alaska

s/ JSH
Jay S. Hammond
Governor

CSHB 931 am — 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.

BY: House State Affairs Committee

Executive Order No. 46, which will go into effect on July 1, 1980, transfers the Alaska Council on Science and Technology from the governor's office to the Department of Environmental conservation.

CSHB 931 am.

This bill, which has an effective date of July 2, 1980 ~~(one day after the effective date of Executive Order No. 46)~~ transfers the Council on Science and Technology from the Department of Environmental Conservation to the Department of Administration for administrative purposes and services only. ~~The changes in Council on Science and Technology statutes~~ ~~The only statutory differences in this bill compared to the Executive Order statutes related to~~ the

This bill ~~would~~ change the organizational makeup of the Council on Science and Technology by the addition of one representative (appointed by the Speakre) and one senator (appointed by the President) to the council for a total of nine members, each to serve a three year term. ~~The~~ Executive order keeps ~~the membership~~ at 7 members appointed by the governor to serve overlapping 3 year terms, except for first members to serve as follows:

2 members - 1 year
2 " - 2 years
3 " - 3 years

Other than the above ~~it is identical~~, the statutes related to the council on Sci. & Technology are the same as in E.O. #46.

Rod Mourant
O.G. did not support on
DOES
Neutral Board Member - as

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

Lee 4-10-80 MP

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS HB 931 am
Title An Act Transferring Council on Science & Technology to Department of Administrati
Requested by Sentor Mulcahy Date 4/8/80

II. FISCAL DETAIL
Agency Affected Administration
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						
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)

This program can be handled at no additional cost in the Department of Administration providing that one clerical position is transferred from the Office of the Governor to compensate for not only this program but also the transfer of the Public Defender Agency and the Alaska Public Offices Commission.

IV DATE 4/9/80 PREPARED BY Judy Crondahl Judy Crondahl
AGENCY Administration
PHONE 465-2277

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

33 001 (Rev 12/78)

HB

948

COMMITTEE REPORT

SENATE

FURTHER: Finance

3/12/80

Date: March 19, 1980

Mr. President:

The Committee on STATE AFFAIRS has had HB 948

making an appropriation to the Dept. of Transportation & Public Facilities for completion of Snettisham hatchery

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

Ed Bowling

Tom Kelly

Bill Ray Ross

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Chairman

CHAIRMAN

S 60 (Rev. 12/78)

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

HB 948 - An Act making an appropriation to the Department of Transportation of Public Facilities for completion of the Snettisham hatchery; and providing for an effective date.

BY: House Finance Committee by Request

General obligation bonds authorized in chapter 140, SLA 1978, and approved by voters in 1978, appropriated $6,002,000 for construction of a salmon hatchery at Snettisham, south of Juneau. The seven bids for this project were opened on January 30, 1980. The four lowest bids were grouped close together, indicating that the bids were reasonable and valid. However, the lowest bid received was approximately $900,000 over the funds available for construction, hence the request for the appropriation in this bill.

The proposed revised budget for the Snettisham Hatchery is as follows:

Site Investigation Design and Other Preliminaries	$626,273.
Site Preparation Contract	$766,136.
Restricted for Equipment (RSA'd to A.D.F.& G.)	$500,000.
Low Bid- Hatchery Construction	$4,717,000.
Change Order Contingency	$215,991.
TOTAL	$6,825,400.

Duncan

TO: Ronald Lehr, Director
Division of Budget & Management
Office of the Governor

DATE: February 14, 1980

FILE NO:

TELEPHONE NO:

RECEIVED
MAR 7 1980

FROM: John Bates
Acting Deputy Commissioner
Planning & Research
Department of Transportation
and Public Facilities

SUBJECT: ~~Request for Reallocation of Funds Request for:~~
~~Snettisham Hatchery; Chp. 140/78~~
→ Info for Amend. to HB 558.
900,000 GF for Snettisham Hatchery

The Department of Transportation and Public Facilities requests authorization to reallocate $900,000 from the Kotzebue Hatchery project to the Snettisham Hatchery project.

The bids were opened on January 30, 1980 for the construction of the salmon hatchery at Snettisham. There were seven bidders with the four lowest bids being close together. This indicates that the bids are reasonable and valid. The lowest bid is approximately $900,000 over the funds presently available for construction. The latest construction cost estimate anticipated correctly the discrepancy between available funding and prices. The request for reallocation of funding was delayed until bid opening to verify the amount required.

The required funding is requested from Kotzebue Hatchery since the project is anticipated to cost less than funds allocated. The Kotzebue project fund request was based on the assumption of poor access to a difficult to develop water supply. Because a spring water supply has been found adjacent to the Noatak River both access and water supply development will be less expensive than anticipated. In addition, development on the basis of using prefabricated modular units for hatchery construction will significantly reduce costs. For these reasons the reallocation from Kotzebue to Snettisham will not adversely effect the Kotzebue project.

The proposed revised budget for the Snettisham Hatchery is as follows:

Site Investigation Design & Other Preliminaries	$ 626,273
Site Preparation Contract	766,136
Restricted for Equipment (RSA'd to ADF&G)	500,000
Low Bid - Hatchery Construction	4,717,000
Change Order Contingency	215,991
TOTAL	$6,825,400

Attachment

3-7-80

HB
950

COMMITTEE REPORT

SENATE

FURTHER: Finance

3/12/80

Date: March 17 1980

Mr. President:

The Committee on STATE AFFAIRS has had HB 950 am

making a special appropriation to the Dept. of Revenue to provide partial interest payments on municipal bonds

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

Roger Laws

Tom Hall

Fred Bradley

Ed Blackwood

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Ed Blackwood
CHAIRMAN

S 60 (Rev. 12/78)

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

HB 950 am - An Act making a special appropriation to the Department of Revenue to provide partial interest payments on municipal bonds as a general fund subsidy to local government; and providing for an effective date.

BY: House Finance Committee

Section 1 of this bill appropriates $4,500,000 to the Department of Revenue, Alaska Municipal Bond Bank Authority, for the purpose of debt service and bond reserves.

Section 2 appropriates $1,500,000 to the Dept. of Revenue to pay the difference between the purchase price of bonds of the municipality of Anchorage, at 8% interest, and the initial reoffering price. If the city decides to sell its bonds to the Bond Bank, the appropriation will go directly to the Bond Bank for debt service and bond reserves.

Because of recent increases in rates of interest charged for municipal bonds, seven Alaska municipalities have been rendered incapable of issuing bonds, totaling $49,500,000, for projects slated to begin this construction season. They are as follows:

	Amount of Bonds	Purpose
Ketchikan	$ 400,000	Airports
Kodiak	12,100,000	Schools
*Anchorage	19,000,000	Sewer/Roads/ Librarys
+Seward	1,700,000	Elec.Dist.Lines
*Sitka	5,600,000	Hospital
Bristol Bay Borough	4,000,000	Schools
Kenai Penin. Bor.	6,700,000	Hospital

*Mandated cap which can't exceed 8%.

+Mandated cap which can't exceed 7½%.

Three of these municipalities have voter mandated "caps" or limits on the rate of interest they can pay on their bonds. There is not enough time for them to call special elections to raise their caps and still catch the summer construction season. The other four places are being treated by the Municipal Bond Bank as if they had Caps of 8%. The Municipal Bond Bank has scheduled a bond sale for March 25, 1980 and urges immediate and favorable action on this bill.

Official Business

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

HB 950 am - (cont.)

Attached please find House Finance Committee Letter of Intent.

The House Finance Committee, the original sponsor of the bill, has amended it by additional language in the title only, as highlighted on the bill.

Alaska State Legislature

House of Representatives

Committee on Finance

Pouch V
State Capitol
Juneau, Alaska 99811

HOUSE FINANCE COMMITTEE

Letter of Intent

HB 950

This appropriation is necessitated by recent, rapid and unprecedented increases in the rate of interest charged for municipal bonds. This increase has been caused by federal monetary policy designed to shrink the national debt market. As a result of this policy, the Bond Buyer Index, which shows the average rate charged for municipal bonds on a weekly basis, has increased from 7.71 per cent on February 14 to 8.94 per cent on March 6.

This increase has rendered seven Alaska municipalities (Anchorage, Sitka, the Bristol Bay Borough, the Kenai Peninsula Borough, Seward, the Ketchikan Gateway Borough and the Kodiak Island Borough) incapable of issuing bonds for projects slated to begin this construction season.

These municipalities are legally barred from issuing these bonds because their bond authorizations have "caps" --- voter approved limits on the rate of interest they can pay on their bonds. In all cases, these "caps" are 8 per cent or below. At the time in late February that three of these municipalities (Anchorage, Sitka and the Bristol Bay Borough) attempted to issue bonds, they received no bids acceptable under their "caps". Given current market conditions, it is a virtual certainty that the other four municipalities will likewise receive no acceptable bids.

If it weren't for the necessity of capturing this construction season, the affected municipalities could raise their "caps" through the election process. But, so that the projects could go to bid and help stimulate the state's sagging economy, the committee decided not to wait for these municipalities to go through that process.

Legal constraints prevented the committee from making this appropriation in the form of a loan to the affected municipalities. Had this been possible, the consensus of the committee was that it would be done.

Thus, although there is a question of equity involved in providing a subsidy for only seven of the state's municipalities, the committee passed out the appropriation. But it is the committee's intent not to provide an on-going subsidy for all municipal bonds. In this regard, I intend to request the commissioner of revenue to notify all municipalities that, if they wish to issue bonds, they must deal with their "caps" in a manner that reflects current market conditions.

Russ Meekins

Representative Russ Meekins
Chairman, House Finance Committee

CHAIRMAN:
NORMAN J. LEVESQUE

BOARD MEMBERS:
THOMAS K. WILLIAMS
LEE MCANERNEY
LANCE ANDERSON
CARROLL FADER

601 WEST FIFTH AVENUE
SUITE 325
ANCHORAGE, ALASKA 99501
(907) 274-7366

EXECUTIVE DIRECTOR:
DAVID A. ROSE

ALASKA MUNICIPAL BOND BANK AUTHORITY

March 1[illegible], 1980

Senator Bob Mulcahy
Senate State Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

The Board of Directors has asked me to request that you and the Committee calendar debate and action on HB 950 as soon as possible.

This Bill will assist the cities of Anchorage, Kodiak, Ketchikan, Seward, Sitka, Bristol Bay Borough, and the Kenai Peninsula Borough in the marketing of bonds. These seven municipalities all have bond sales scheduled in order to secure funds for use during the summer construction season.

As you know the bond market is in major disarray and interest costs are increasing on a daily basis. Some of these cities cannot sell bonds above the 8% interest level (Anchorage and Sitka), another (Seward) cannot sell above the 7½% level. The others do not have voter mandated restrictions. When HB 950 becomes opperative it will serve to provide a subsidy between the market rate of bonds and the mandated cap. For those cities that do not have caps, an 8% cap will be assumed for equity purposes.

If you or the Committee have any questions please do not hesitate to contact me. Please expedite action as much as possible as certain bond sales are scheduled for March 25th on the assumption that the Bill will pass both State Affairs and Finance in the form it left the House.

Sincerely,

David A. Rose

David A. Rose
Executive Director

CHAIRMAN:
NORMAN J. LEVESQUE

BOARD MEMBERS:
THOMAS K. WILLIAMS
LEE MCANERNEY
LANCE ANDERSON
CARROLL FADER

601 WEST FIFTH AVENUE
SUITE 325
ANCHORAGE, ALASKA 99501
(907) 274-7366

EXECUTIVE DIRECTOR
DAVID A. ROSE

ALASKA MUNICIPAL BOND BANK AUTHORITY

FACTS:

Federal monetary policy directed at contraction of the national money supply has had an adverse effect on the bond market.

The 20 Bond Index, the national standard which indicates the interest rate level of bonds purchased, is presently 8.46. This is the highest level in the history of the country.

Alaska credits are rated by national bond rating services (Moody's and Standard & Poor's) at "A" or below. Many municipalities are unrated. With these ratings interest rates will approximate the 20 Bond Index or will exceed it.

Most Alaskan municipalities, as part of the voter approval process, set a limit on the interest rates they are willing to pay on bonds issued. Some cities set a "capper" of 7 1/2 percent while some others have a "capper" of 8.0 percent.

PROBLEM:

Alaskan cities cannot issue their debt because the current market price of bonds exceeds the "capper" limits.

The Alaskan summer construction season depends on raising funds now. Without sufficient funds, we will lose the season.

Communities affected TODAY:

Anchorage	19.0 mm
Sitka	5.6 mm
Bristol Bay Borough	4.0 mm
TOTAL:	28.6 mm

Communities affected in APRIL:

Kenai Peninsula Borough	6.7 mm
Seward	1.7 mm
Ketchikan Gateway Borough	.4 mm
Kodiak Island Borough	10-28 mm
TOTAL:	18.8 mm

TOTAL KNOWN BOND ISSUES: 47.4 mm

ASSUMPTION:

The State wishes to assist its municipalities and avoid loss of the Statewide construction season as it pertains to locally funded capital projects.

ALTERNATIVE SOLUTIONS:

1. Fund all projects directly out of the General Fund as grants. (Cost: $47,400,000).

2. State purchase of bonds issued by the Bond Bank or a municipality at the 7 1/2 - 8 percent level. Hold the bonds in the State portfolio for resale when the market improves. (Cost: $47,400,000).

3. Direct the Bond Bank to sell its bonds at market and have the Bond Bank purchase municipal debt at the 7 1/2 - 8 percent level. Appropriate the differential to the Bond Bank along with necessary reserve funds to leverage the unexpected increase in bonds sold this fiscal year. (Cost: $6,000,000).

DISCUSSION:

1. Alternate 1 is rejected as too costly to the State. Municipalities have the debt capacity and their citizens have indicated a willingness to bear the debt burden.

2. Alternate 2 is rejected as a poor investment of State funds. Emergency subsidy can be provided without either temporary or long-term use of $47,400,000.

3. Alternate 3 is preferred as it uses the least amount of State funds and fully solves the problem. The Bond Bank would utilize approximately $2,765,000 to increase its leveraging reserves to handle the unanticipated increase in bond sale volume. Approximately $3,235,000 would be utilized to provide the full subsidy required for the life of the bonds.

4. Funds not utilized for subsidy (dependent on market improvement) would be available to use as leveraging reserves in FY 81.

5. Municipal Bonds would be purchased at the "capper" rate previously approved by municipal voters in each respective political subdivision. In cases where a "capper" has not been prescribed, the 8 percent figure will be used.

6. Action in this matter, in a timely manner, is essential as the inability to raise funds for construction will delay projects and result in further inflated costs. The sagging construction industry cannot afford a further decline in activity. While bonded costs are $47,400,000, total construction is much higher as other State and Federal funds are being used -- contingent on the availability of local funds.

RECOMMENDATION:

1. That the sum of $6,000,000 be added to the Bond Bank Statutory Reserve Fund through supplemental appropriation.

2. That the Bond Bank sell its bonds at prevailing market rates. That proceeds be used to purchase municipal bonds in the approximate amount of $47,400,000;and the above appropriation be utilized for leverage reserves and subsidy.

3. That the sale of bonds on behalf of Anchorage, Bristol Bay Borough and Sitka, take place on or about March 12, 1980, dependent upon date of passage of supplemental funding. Sale of bonds on behalf of the other cities will take place in late April as presently scheduled or at another date as specified by the cities involved.

D Rose
2/26/80

20 Bond Index

2/14	7.71
2/21	8.46
2/28	8.71
3/6	8.94
3/13	9.10

ALASKA MUNICIPAL BOND BANK
NOTICE OF MEETING

TIME: 9:00 A.M. Alaska Standard Time
DATE: Tuesday, February 25, 1980
PLACE: Bond Bank Offices
601 West 5th Avenue, Suite 325
Anchorage, Alaska 99501

PURPOSE: Approval of a General Bond Resolution-Special Issue

Approval of a Series Resolution providing for the issuance of $10,080,000 Alaska Municipal Bond Bank, General Obligation Bonds, 1980 First Special Issue (Bristol Bay Borough-City and Borough of Sitka).

Consideration of amended loan agreements for the Sitka and Bristol Bay Boroughs.

Consideration of Underwriting Agreement, Contract of Purchase, approval and release of Official Statement.

Consideration of a resolution authorizing preparation, execution, and delivery of bonds.

Consideration of a Resolution appointing paying agents.

Actions regarding loans to Kenai Peninsula Borough (6.7 million) and City of Seward (1.7 million).

Approval of loan application from Ketchikan Gateway Borough. ($400,000)

Other general business of the Authority

Note: Certain items on the agenda will be considered dependent upon passage of legislation pertaining to State subsidization of local government debt interest costs. If legislation has not been passed, the meeting may stand in recess pending enactment. The recessed meeting may be reconvened without further public notice. Those persons present at this meeting will be given notice of the time and place of the reconvening of the meeting.

/s/ David A. Rose
Executive Director

Municipal Newsletter

Foster & M[illegible]

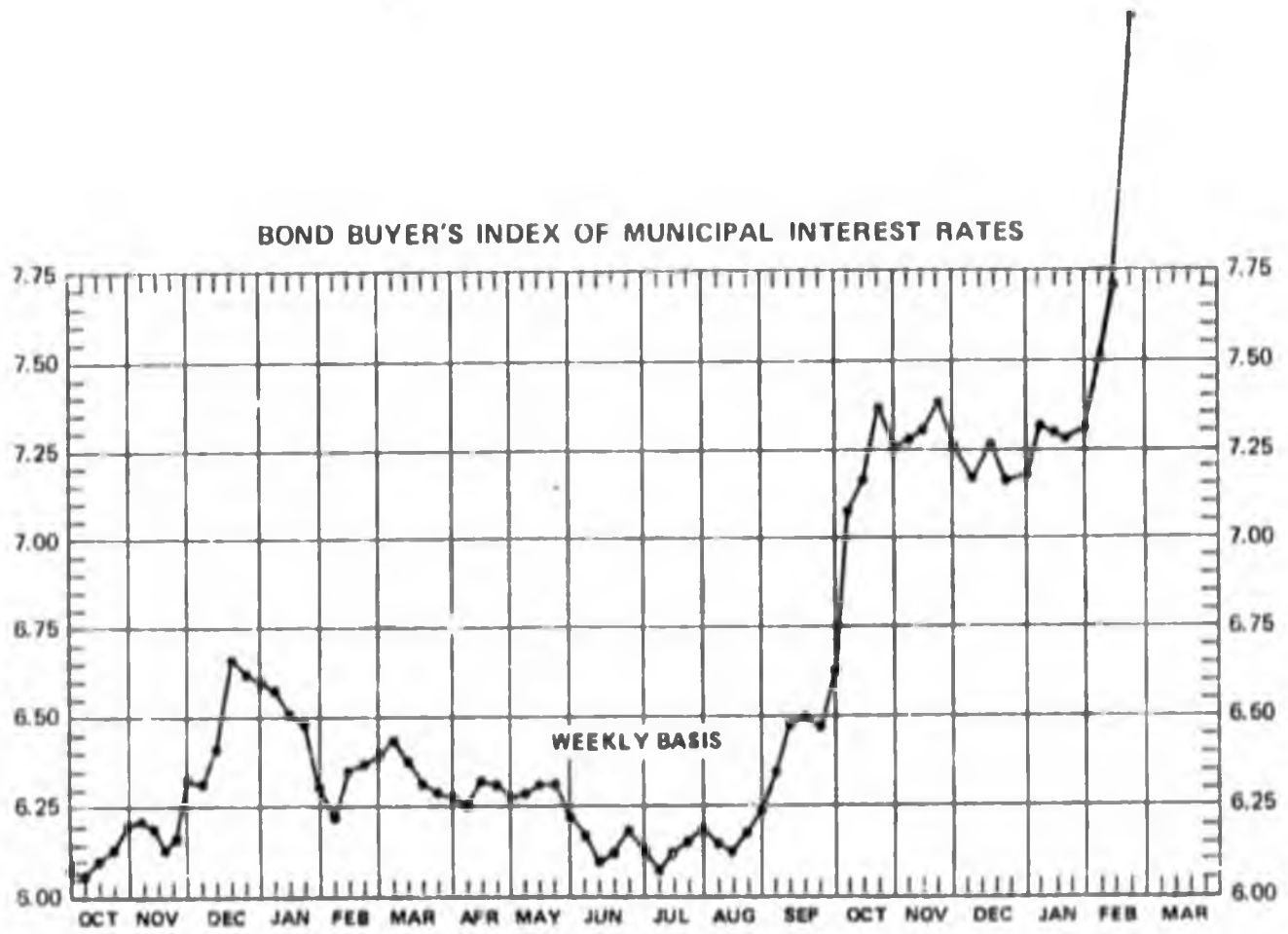
February 25, 1980

What municipal bond market? ..... Just when we thought things couldn't get worse, the bottom fell out. The Bond Buyer's Municipal Bond Index went off the scale with an unprecedented jump of 71 basis points in one week, to stand at 8.46%.

The chaotic money market situation is a result of the failure of the Carter Administration to recognize the problem, let alone the solutions. The current annualized inflation rate of 20% is a result of continuing federal deficits and the very rapid rise in petroleum prices. These problems aren't going to be solved by high interest rates; in fact, the record high interest rates of today are in themselves inflationary.

Unless the government takes immediate, decisive action to come to grips with the problem, it will get worse before it gets better. High interest rates may be with us through the balance of this year, and as long as inflation continues at the present rate, we will simply have to get used to tax-exempt bond rates at current high levels. Expect to see tax-exempt revenue bond interest rates in excess of 10%. Buyers will be interested mostly in higher quality bonds and in staying with shorter term maturities. It may be difficult or impossible to find a market for some of the lesser quality issues that only a few months ago would have been well received by the market.

It is a time for careful planning of capital improvement financing.



An informational Bulletin of our MUNICIPAL FINANCE DEPARTMENT -- a part of our full range of municipal financing services.

R. O. Yeasting, Senior Vice President
Municipal Finance Department

THE STATEMENTS CONTAINED HEREIN, ALTHOUGH OBTAINED FROM RELIABLE SOURCES, ARE NOT GUARANTEED BY US

SEATTLE 206 Columbia Street Seattle, Washington 98104 (206) 344-3500

Aberdeen
Anchorage
Bellevue
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Bozeman
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Eugene
Everett
Fairbanks
Federal Way
Gig Harbor
Juneau
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Walla Walla
Wenatchee
Yakima

nuveen
John Nuveen & Co. Incorporated 127 North Franklin Street, Suite 222, Juneau, Alaska 99801 (907) 586-1636
(907) 586-1708

March 13, 1980

Senator Robert Mulcahy
Chairman, State Affairs
Alaska State Legislature
Pouch V
Juneau, Alaska 99801

Re: House Bill 950

Dear Bob:

Time is of the essence concerning House Bill 950. The bond market is continuing to deteriorate without strong federal action. In this market, the longer the State waits, the more it will cost in subsidies. Anchorage, Sitka and the Bristol Bay Borough are ready to go to market but are waiting for this bill to pass.

I would appreciate it if you could schedule this bill at your earliest possible convenience.

Thank you for your consideration.

Yours truly,

JOHN NUVEEN & CO. INCORPORATED

Sterling Gallagher
Vice President

SG:lw

Dave Rose of the Alaska Municipal Bond Bank called 3/13/80. They have scheduled a bond sale for March 25, 1980 and would like to get this bill enacted as soon as possible, and he stressed the need to catch the summer construction season.

He said that seven cities have been caught short because of th. rate increase. They are:

CITY	AMOUNT OF BONDS	PURPOSE
Ketchikan	$ 400,000	Airports
Kodiak	12,100,000	Schools
*Anchorage	19,000,000	Sewer, Roads Library
+Seward	1,700,000	Electrical Dist. Lines
*Sitka	5,600,000	Hospital
Bristol Bay Borough	4,000,000	Schools
Kenai Peninsula Borough	6,700,000	Hospital

*Mandated Cap which cant exceed 8%

+Mandated Cap which cant exceed 7½%

Mr. Rose said the letter of intent from the house is in error in that it states that all seven cities have a mandated cap of 8% or below. He said that they were not called to testify in house finance who got confused and didnt understand that only three of the cities have a mandated cap. However, they are treating all seven cities as if they did have a cap of 8%. ~~as the four other cities will not have~~ time to call a special election and still catch the construction season.

LA11 3445 17.19 JA01 0112 17.19 03/13/80

TO: SENATOR MULCAHY, CHAIRMAN SENATE STATE AFFAIRS COMMITTEE

FROM: DAVE ROSE, BOND BANK BOARD OF DIRECTORS
601 W. 5TH AVE.,ANC.99501 274-7366

THE BOND BANK BOARD OF IRECTORS URGES IMMEDIATE AND FAVORABLE ACTION ON HB-950 TO SAVE THE CONSTRUCTION SEASON IN ALASKAN CITIES. PLEASE CALENDER AS SOON AS POSSIABLE.

@@@

Funding Information
General Fund $6,000,000
Other Funds -0-
$6,000,000

Introduced: 3/10/80
Referred: Rules

IN THE HOUSE BY THE FINANCE COMMITTEE

HOUSE BILL NO. 950 am

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making special appropriations to the Department of Revenue to provide partial interest payments on municipal bonds as a general fund subsidy to local government; and providing for an effective date."

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

* Section 1. The sum of $4,500,000 is appropriated from the general fund to the Department of Revenue, Alaska Municipal Bond Bank Authority, for the purpose of debt service and bond reserves.

* Sec. 2. The sum of $1,500,000 is appropriated from the general fund to the Department of Revenue to pay to the initial purchasers of bonds issued by the Municipality of Anchorage the difference between the price at which bonds of the municipality bearing interest at the rate of eight percent a year are purchased and the initial reoffering price, including the underwriting fee, as certified by the municipality. If the Municipality of Anchorage certifies to the commissioner of revenue that it has determined to sell its bonds to the Alaska Municipal Bond Bank, then the commissioner of revenue shall pay the amount appropriated by this section to the Alaska Municipal Bond Bank for debt service and bond reserves.

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

Passed House 3/11/80 36-1-3
See letter of intent
Page 690 House Journal

HJR

12

Introduced: 1/26/79
Referred: State Affairs

BY RANDOLPH, ANDERSON, BARNES, BEIRNE, BETTISWORTH, BRANSON, BROWN, CARNEY, COTTEN, DUNCAN, ELIASON, FREEMAN, FULLER, GARDINER, GUY, HALFORD, HAUGEN, HAYES, HURLBERT, MCKINNON, MALONE, MARTIN, MEEKINS, METCALFE, MILES, MILLER, MONTGOMERY, MOSS, MUNSON, O'CONNELL OSTERBACK, PARKER, FARR PHILLIPS, ROGERS, SMITH AND ZHAKOFF

IN THE HOUSE

HOUSE JOINT RESOLUTION NO. 12

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

Relating to the tax exemption granted to federal employees in Alaska and in other locations outside the contiguous 48 states.

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

WHEREAS federal employees in Alaska and in other locations outside the contiguous 48 states receive, in addition to their basic salaries, a cost-of-living allowance of up to 25 per cent of their basic salary (5 U.S.C. sec. 5941); and

WHEREAS the cost-of-living allowance received by those federal employees is exempt from federal income tax (26 U.S.C. sec. 912); and

WHEREAS this constitutes discrimination against nonfederal employees in Alaska and in other locations where federal employees receive tax free cost-of-living allowances since nonfederal employees are subject to the same high cost of living but do not receive the tax relief to offset its effects;

BE IT RESOLVED by the Alaska State Legislature that the Alaska delegation in Congress introduce and urge the passage of legislation that would exempt from the federal income tax a percentage of the wages and salaries paid to residents of Alaska and in other locations that is equal to the tax free cost-of-living allowance paid to federal employees in Alaska and in other locations; and be it

FURTHER RESOLVED that Congress is urged to enact this legislation at the earliest possible time.

COPIES of this resolution shall be sent to the Honorable Ted Stevens and the Honorable Mike Gravel, U. S. Senators, and the Honorable Don Young, U. S

Representative, members of the Alaska delegation in Congress.

Representative, members of the Alaska delegation in Congress.

wanted a better approach to the administration that puts more fish and wildlife resources.

STATE AFFAIRS COMMITTEE

March 28, 1979

HJR 12 Relating to the tax exemption granted to federal employees in Alaska and in other locations outside the contiguous 48 states

By Randolph et. al.

SUMMARY

This resolution directs the Alaska delegation in Congress to introduce and urge passage of legislation that would exempt from federal income tax a percentage of the wages and salaries paid to residents in Alaska and other locations that is equal to the tax free cost-of-living allowance paid to federal workers in Alaska and other locations.

FISCAL NOTE

None

Backup-HJR 12

JOB TITLE	SALARY	TAXABLE INCOME	TAX FREE COLA (25%
Accountant II	$1551.00	$1241	$ 310
GS-7	1446	1157	289
Accounting Clerk II	1122	898	224
GS-4	978	782	19[illegible]
Admin. Assistant III	1798	1438	360
GS-9	1658	1326	332
Civil Engineer	2243	1794	449
GS-11	2007	1606	401
Clerk Typist II	995	796	199
GS-2	816	653	163
Correctional Officer I	1447	1158	289
GS-7	1356	1085	271
Data Process. Equip. Op.	1358	1086	272
GS-4	978	782	196
Highway Engineer I	2243	1794	449
GS-11	2007	1606	401
Library Assistant II	1447	1158	289
GS-5	1094	875	219
Ment. dealth Clinician III	2598	2078	520
GS-12	2405	1924	481
Nurse I	1358	1086	272
GS-7	1446	1157	289
Personnel Technician II	1551	1241	310
GS-6	1220	976	244
Purchasing Agent II	2082	1666	416
GS-9	1658	1326	332
Right-of-way Agent I	1798	1438	360
GS-9	1658	1326	332
Secretary I	1194	955	239
GS-5	1131	905	226
Social Worker III	1798	1438	360
GS-9	1658	1326	332
Switchboard Operator	995	796	199
GS-3	871	697	174

Taxable income and cost-of-living allowances were calculated by dividing the salary by 1.25 as the federal salaries listed had been multiplied by 1.25 to calculate COLA. I did the same with the comparable state salaries for comparative purposes.

ALASKA MINIMUM PAY SCALES
Monthly

Position Title and federal equivalent (GS)	STATE	FEDERAL*
Accountant II (GS-7)	$1551.00	$1446.00
Accounting Clerk II (GS-4)	1122	978
Administrative Assistant III (GS-9)	1798	1658
Civil Engineer (GS-11)	2243	2007
Clerk Typist II (GS-2)	995	816
Correctional Officer I (GS-7)	1447	1356
Data Processing Equip. Operator (GS-4)	1358	978
Highway Engineer I (GS-11)	2243	2007
Library Assistant II (GS-5)	1447	1094
Mental Health Clinician III (GS-12)	2598	2405
Nurse I (GS-7)	1358	1446
Personnel Technician II (GS-6)	1551	1220
Purchasing Agent II (GS-9)	2082	1658
Right-of-Way Agent I (GS-9)	1798	1658
Secretary I (GS-5)	1194	1131
Social Worker III (GS-9)	1798	1658
Switchboard Operator (GS-3)	995	871

These figures are taken from the STATE OF ALASKA, SURVEY OF SALARIES AND BENEFITS, December 1978. From Division of Personnel and Labor Relations

These are starting salaries for these positions.

*Cost-of-living allowance is figured in.

Alaska State Legislature

LIBERTARIAN
REPRESENTATIVE
RICHARD (DICK) L. RANDOLPH
1105 CUSHMAN ST.
FAIRBANKS, ALASKA 99701

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA
99801

March 12, 1979

House of Representatives

The Hon. Bob Mulcahy
Alaska State Legislature
Pouch V
Juneau, Ak. 99801

Dear Bob:

What is the status of HJR 12? In view of the time crunch we're under, I'd sincerely appreciate any effort to expedite.

Thanks for your consideration.

Freedom is the issue,

Dick Randolph
Alaska State Legislature

STATE AFFAIRS COMMITTEE

March 28, 1979

The meeting was brought to order by the Chairman, Bob Mulcahy.

Rick Lauber of the Pacific Seafood Processors testified first on HB 207. He said the bill does what "we" think the original act would do.

"We have no objection to the bill whatsoever, it seems it does only what it should do anyway."

Ziegler asked if anyone had received the letter from the University. He pointed out that the question had been raised that the university does not want to pay for return trips.

Lauber said that processors had had similar situtations where someone did not want to complete their contracts but that was covered by the department of labor. He said the only exceptions would be if the contract was really unreasonable.

Kelly said the president wants to bexcluded from the bill.

As there were questions and Sen. Ziegler's office was looking for a copy of the letter to share with the committee the chairman addressed the next bill on the agenda.

Jay Hogan, Director of Legislative Finance testified on behalf of HB 45.

Hogan passed out a document compiled by Budget & Audit. The first page contained the act passed in 1977. The second page contained the Governor's vetoe message. The bill was vetoed then overruled by a unanimous vote of the legislature and put on the books.

The Attorney General's office advised that governor that the act was unconstitutional and the Governor failed to comply with the act.

In January the Governor ceased making transfers but at that time the value of the transfers was about $2.5 million.

The up shoot is that Budget & Audit found themselves wishing to have no transfers or to have them in accordance to the law passed by the legislature. The legislature went to court knowing they had no power to sue. Without the power to sue the legislature has no power at all during the interim. If the legislature came in after Budget and Audit had filed a suit and said go ahead made Budget & Audit feel that the legal problems on power had been solved.

The committee realized the governor was ignoring the law in August and tried to get a private suit or former legislator but without success. Finally Ramona Kelly sued as a private citizen.

Kelly wanted to know how the legislature goes about suing - if it must be done during the session.

Hogan said there are limited rights. He said the legislature was trying to enforce the law and Budget & Audit was trying to get the law adhered to. It appears that a legislative resolve is necessary to continue the suit. The only other vehicle the legislature would have would be to anticipate problems ahead of time and instruct Budget & Audit what to do before they adjourn and that would be nearly impossible to do.

Rodger Pegues from the Attorney General's office testified next. He said that the AG's office opposes the legislation but does not oppose legislation on the subject. Congress resorts to resolution of the house or both house and gets counsol to present their feelings. The U.S. Attorney General ruled it unconstitutional to bring actions to court. The United States Supreme Court ruled 9-0 that it was unconstitutional.

Surely the legislature could have representation when there is no legal interest at stake. Having house counsol with standing authority would bring in another body of expertise. I don't see a reason for both bodies to have counsol since most issues would be based on constitutional law. He said the bill probably violates the constitution since ours is not that different from the United States Constitution. He also said that the law that the Governor is not complying with is not the transfer law. He described contests where this had been tested.

He said this program would allow any suit. "I think it is a bad idea - I would rather get issues resolved before committees like this. There is more sophistication than in the Supreme Court. I think the bill is an invitation to trouble."

Billy Berrier, Director of Legal Services testified next.

He again passed out copies of the Governor's vetoe.

He said that it is true that many of the questions that would be involved in this bill such as questions of ballot propositions, questions on a mandate to spend, etc. are resolved in other ways.

The ballot proposition for the constitutional amendment was worded such that the legislature felt it would change the outcome of the election. After the legislature adjourned they didn't want a special session to so the Legislative Council brought a suit. The judge did not decide the constitutionality question. In Pennsylvania the legislature does have the power. The Attorney General has asked for the decision to be dismissed but there hasn't been a decision yet. Berrier said he hadn't attended the Budget and Audit meeting but both bodies felt it was an important piece of legislation.

Rodey said it was a complex legal problem. The question is when the Governor refuses to comply with the law who will carry it out - the legislature or the public.. Because of the checks and balances set up within our government he feels the legislature should. To require a private citizen seems undesirable.The Legislature being able to sue carries out the intent of the constitution.

Most cases wuld deal with constitutional issues and the court is the proper place to deal with constitutional issues.

Berrier said the type of questions that come up are constitutional, not dealing with something easy that can be solved politically.

Ziegler said he has great reservations but is inclined to vote "do pass".

Kelly wanted to know if the legislature could sue during session.

Berrier said if a resolution is passed.

There was discussion on the reapportionment case.

Ziegler received the letter from the University and said the statutes state that the University is exempt so that should solve his question.

Hogan requested an alternative membership to call on to make up a quorum during the interim for meetings and explained past problems.

Ziegler said it was a worthwhile amendment.

Bradley made a motion it be accepted.

Rodey made a motion the bill be moved out of commitee.

Representative Randolph testified on HJR 12. He said it was a very simple resolution making a request on Congress. He said it would be hard to pass in Washington but he felt it was worthwhile for the people of Alaska to ask. He said it would have no affect on the state income tax.

Mulcahy asked for a motion to move the bill out of committee. Bradley made the motion.

Mulcahy asked if SB 207 was resolved to everyones satisfaction.

Kelly made a motion to move the bill with individual recommendations.

Mulcahy said as a matter of housekeeping he would ask for acceptance of the substitute for HB 147.

Kelly made a motion to accept the substitute.

Vern Roberts from the Dept. of Motor Vehicles was present to answer questions.

Ziegler asked if the $20.00 fee was reasonable.

Roberts said the fee was best to be left in the hands of the legislature.

Rodey said the cost of plates today is $60.00 - he wasn't advocating an increase but said down the road the cost could create a problem.

Rodey sais he didn't know if we should try to make money with the plates since there was other sources of state revenue.

Roberts said it didn't matter to him that it doesn't cost anymore to try to collect $50 or $150. He said the cost for plates hadn't risen for a number of years.

Mulcahy said an increase would touch most families these days two or three times.

Rodey said OPEC touches them a lot more.

MOre discussion arose concerning legislative license plates.

The chairman asked for a motion to move the bill.

Rodey moved that it be passed out for individual recommendation.

HJR 12 Relating to the tax exemption granted to federal employees in Alaska and in other locations outside the contiguous 48 states. Randolph, etc.

SUMMARY

This resolution directs the Alaska delegation in congress to introduce and urge passage of legislation that would exempt from federal income tax a percentage of the wages and salaries paid to residents in Alaska and other locations that is equal to the tax free cost-of-living allowance paid to federal workers in Alaska and other locations. This constitutes discrimination as non-federal employees in Alaska are subject to the same high cost-of-living but do not receive a tax relief to offset its effects.

SUPPORTING INFORMATION

Nothing from Randolph (prime sponsor) or House State Affairs. Randolph did testify at the House Committee Meeting but I would have to listen to the tapes to find out what he said. The committee passed it out with all members signing DO PASS. This bill is sponsored by 37 of the 40 house members.

See attached salary comparison

FISCAL NOTE: None

RELATED LEGISLATION: None

INTERESTED PARTIES: Department of Administration

Rep. RANDOLPH, ANDERSON, BARNES, BEIRNE, BETTISWORTH, BRANSON, BROWN, CARNEY, COTTEN, DUNCAN, ELIASON, FREEMAN, FULLER, GARDINER, GUY, HALFORD, HAUGEN, HAYES, HURLBERT, MCKINNON, MALONE, MARTIN, MEEKINS, METCALFE, MILES, MILLER, MONTGOMERY, MOSS, MUNSON, O'CONNELL OSTERBACK, PARKER, PARR, PHILLIPS, ROGERS, SMITH AND ZHAROFF

VOTING: House vote 32-yes, 1-no.

HJR 12 Relating to the tax exemption granted to federal employees in Alaska and in other locations outside the contiguous 48 states. Randolph, etc.

SUMMARY

This resolution directs the Alaska delegation in congress to introduce and urge passage of legislation that would exempt from the federal income tax a percentage of the wages and salaries paid to residents in Alaska and other locations that is equal to the tax-free cost-of-living allowance paid to federal workers in Alaska and other locations. This constitutes discrimination as non federal employees in Alaska are subject to the same high cost-of-living but do not receive a tax relief to offset its effects.

SUPPORTING INFORMATION

Will contact House State Affairs on Monday, March 5 1979.

FISCAL NOTE: None

RELATED LEGISLATION: None

INTERESTED PARTIES:

HJR

20

COMMITTEE REPORT

SENA[illegible]

FURTHER: Judiciary

3/20/80

Date: MAY 27, 1980

Mr. President:

The Committee on STATE AFFAIRS has had CSHJR 20 am

Proposing an amendment to the Constitution of the State Of Alaska relating to appointment and confirmation of members of state 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)

[ ] 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

Ted Ludwig

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Robert McNeel

Mike Navarre

Mike Navarre

Bill Ray

CHAIRMAN

[illegible] 60 (Rev. 12/78)

in joint session, these orders become effective at a date thereafter to be designated by the governor.

Supervision

SECTION 24. Each principal department shall be under the supervision of the governor.

Department Heads

SECTION 25. The head of each principal department shall be a single executive unless otherwise provided by law. He shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, and shall serve at the pleasure of the governor, except as otherwise provided in this article with respect to the lieutenant governor. The heads of all principal departments shall be citizens of the United States.

(The amendment to this section was approved by the voters of the state August 25, 1970 and became effective October 10, 1970. The words "secretary of state" were changed to "lieutenant governor".)

Boards and Commissions

SECTION 26. When a board or commission is at the head of a principal department or a regulatory or quasi-judicial agency, its members shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, and may be removed as provided by law. They shall be citizens of the United States. The board or commission may appoint a principal executive officer when authorized by law, but the appointment shall be subject to the approval of the governor.

Recess Appointments

SECTION 27. The governor may make appointments to fill vacancies occurring during a recess of the legislature, in offices requiring confirmation by the legislature. The duration of such appointments shall be prescribed by law.

ARTICLE IV

THE JUDICIARY

Judicial Power and Jurisdiction

SECTION 1. The judicial power of the State is vested in a supreme court, a superior court and the courts established by the legislature. The jurisdiction of courts shall be prescribed by law. The courts shall constitute a unified judicial system for operation and administration. Judicial districts shall be established by law.

Supreme Court

SECTION 2. (a) The supreme court shall be the highest court of the State, with final appellate jurisdiction. It shall consist of three justices, one of whom is chief justice. The number of justices may be increased by law upon the request of the supreme court.

(b) The chief justice shall be selected from among the justices of the supreme court by a majority vote of the justices. His term of office as chief justice is three years. A justice may serve more than one term as chief justice but he may not serve consecutive terms in that office.

(The amendment to this section was approved by the voters of the state August 25, 1970 and became effective October 10, 1970. Subsection (b) was added.)

Superior Court

SECTION 3. The superior court shall be the trial court of general jurisdiction and shall consist of five judges. The number of judges may be changed by law.

Qualifications of Justices and Judges

SECTION 4. Supreme court justices and superior court judges shall be citizens of the United States and of the State, licensed to practice law in the State, and possessing any additional qualifications prescribed by law. Judges of other courts shall be selected in a manner, for terms, and with qualifications prescribed by law.

Nomination and Appointment

SECTION 5. The governor shall fill any vacancy in an office of supreme court justice or superior court judge by appointing one of two or more persons nominated by the judicial council.

Approval or Rejection

SECTION 6. Each supreme court justice and superior court judge shall, in the manner provided by law, be subject to approval or rejection on a nonpartisan ballot at the first general election held

CSHJR 20 am - Proposing an amendment to the Constitution of the State of Alaska relating to the appointment and confirmation of members of state boards and commissions.

Article III, Section 26 now reads that when a board or commission is at the head of a principal department or regulatory or quasi-judicial agency, its members shall be appointed by the governor and confirmed by the legislature and may be removed as provided by law. They shall be U.S. citizens. The board or commission may appoint a principal executive officer when authorized by law, but the appointment shall be subject to the approval of the governor.

CSHJR 20 repeals and re-enacts Section 26 to provide that the governor shall appoint the members of all state boards and commissions unless otherwise provided by law and they may be removed as provided by law. Unless confirmation is otherwise provided in this article, the legislature shall determine which board and commission members are subject to confirmation by the legislature.

The resolution provides that this amendment be put before the voters at the next general election.

HJR

32

HJR 32 Requesting the establishment of an Arctic Circumpolar Cultural and Technical Interchange Center. Buchholdt

SUMMARY

Resolves that the legislature urges congress to authorize a program for the establishment and operation in Alaska of an institution concerned with Arctic circumpolar cultural and economic research, development and the exchange of ideas and views through arrangements with public educational or other non-profit institutions; grants, fellowships and other aid to outstanding scholars and authorities from circumpolar nations and making the facilities of the institution available for study to other qualified persons on a reasonable basis.

SUPPORTING INFORMATION

This bill was reported back from House HESS on March 15 with a majority recommending DO PASS. Buchholdt introduced an amendment which was adopted March 19 and the resolution passed the House 38-0.

Mrs. Buchholdt is preparing a memo to our committee which we will get on Monday April 2, 1979. She will also be present to testify at the committee meeting.

RELATED LEGISLATION: None

FISCAL NOTE: None

INTERESTED PARTIES: Buchholdt (She has been notified of the meeting and she will take care of notifying other interested parties.)

April 2, 1979

To Senator Bob Mulcahy,
Chairman
Senate State Affairs Committee

From Rep. Thelma Buchholdt TB

Subject HJR 32 am Arctic Circumpolar Center

There have been several attempts at creating a unified circumpolar community during the past few years. Very little success has been seen out of these various endeavors. It's time that we try something that works, and I propose to copy the East-West Center in Hawaii as a model for our Arctic community development embodied in HJR 32.

Although recent activities indicate that we are coming into better communications with other Arctic nations, I feel the need to get the cooperation of the federal government with our state in a way never done before. The establishment of an Arctic Cicumpolar Center would be an answer. The East-West Center in Hawaii has proven to be an effective forum for the federal/state and Asian nations in the expression of human relations, education, and other ventures.

I urge the favorable action of your committee in considering HJR 32 am today.

Thank you.

HJR

70

COMMITTEE REPORT

SENATE

FURTHER: None

3/6/80

Date: March 12, 1980

Mr. President:

The Committee on STATE AFFAIRS has had HJR 70
operations at bush airports 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 _____ [ ] 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

S 60 (Rev. 12/78)

Official Business

Alaska State Legislature

Senate

Committee on State Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

March 11, 1980

HJR 70 - Relating to operations at bush airports in Alaska.

BY: Representative Hurlbert, et al.

The resolution states that numerous small communities in Alaska are dependent on aviation for virtually all aspects of their existance. The vast majority of these communities have small, predominately unimproved airstrips ranging from 1400 to 2500 feet in length.

In the past few years, remarkable advances have been made in the development of short takeoff and landing (STOL) aircraft. However, federal regulations adopted in 1952 have not been revised to reflect the latest STOL technology and capabilities. These regulations, which establish an arbitrary maximum gross weight of 12,500 pounds for operations on Alaskan bush airstrips, largely prohibit STOL aircraft from operation on the very airfields for which they were designed.

The operation of STOL aircrafts on bush airstrips would greatly enhance service to Alaskan rural communities, especially by improving the delivery of cargo too large or heavy to be fitted into aircraft now used. This would greatly help the 38 communities suffering energy shortages this winter because of the inability of smaller aircraft to efficiently transport oil.

The Governor has already recommended to the Administrator of Federal Aviation Administration (see attached letter) that he consider requests for exemptions from these regulations (14 C.F.R. section 135.385 (b) and (c), attached) so that STOL aircraft may serve the remote areas of the state. Other F.A.A. regulations (14.C.F.R. sections 11.25 (b) (1) and 11.27, attached) provide for expedited consideration of such requests.

Therefore, the resolution urges the F.A.A. to give prompt and favorable consideration to the requests for exemption from restricting regulations, so that STOL aircraft may be licensed for use at remote airstrips and so that service may begin as soon as possible.

For further details regarding this problem, please see the letter to Representative Hurlbert from Air Logistics of Alaska, Inc., attached.

Introduced: 2/18/80
Referred: Commerce

BY HURLBERT, HALFORD, ANDERSON, BARNES, BROWN, FREEMAN, FULLER, HAUGEN, HAYES, MCKINNON, MALONE, MARTIN, MILES, MILLER, MONTGOMERY, MOSS, MUNSON, OSTERBACK, RANDOLPH, ROGERS, ZHAROFF AND GARDINER

IN THE HOUSE

HOUSE JOINT RESOLUTION NO. 70

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

Relating to operations at bush airports in Alaska.

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

WHEREAS the State of Alaska is the largest and most sparsely populated state in the Union, with numerous small communities broadly dispersed; and

WHEREAS these communities typically have no roads or other surface access to neighboring communities or to regional population centers for their basic needs; and

WHEREAS these communities are necessarily dependent on aviation for all aspects of their existence as well as for their communications with the outside world; and

WHEREAS the vast majority of these communities depend on aviation services provided from small, predominately unimproved airstrips ranging from 1400 to 2500 feet in length; and

WHEREAS remarkable advances in aviation technology, especially in short takeoff and landing (STOL) equipment have been made in the past few years; and

WHEREAS certain regulations of the Federal Aviation Administration adopted in 1952 have not been revised to take into consideration current STOL technology and capabilities; and

WHEREAS these regulations establish an arbitrary gross aircraft weight of 12,500 pounds for operations on bush airstrips in Alaska; and

WHEREAS the regulations largely prohibit STOL aircraft from operation on the very airfields for which they were designed; and

WHEREAS the permission to utilize STOL equipment on bush airstrips in

Alaska would greatly enhance service to the rural communities by providing for the more regular and professional delivery of cargo too large or too heavy to be fitted into the aircraft presently used; and

WHEREAS the increased efficiency and capability of the use of STOL aircraft would achieve, among other things, a substantial, and a substantially needed, increase in the quality of life for the residents of the remote Native villages of Alaska; and

WHEREAS the use of STOL aircraft would help the 38 communities in Alaska that are presently suffering a substantial loss in the capability to generate electricity and heat because of difficulty in obtaining oil into the communities during the winter because of the inability of smaller aircraft to efficiently transport oil; and

WHEREAS the Governor of Alaska has recommended to the Administrator of the Federal Aviation Administration by letter of January 24, 1980, that consideration be given to requests for exemptions from the regulations to resolve the matter and to provide assistance to the rural Alaskan communities; and

WHEREAS exemption from regulation 14 C.F.R. section 135.385(b) and (c) of the Federal Aviation Administration would enable operation of such aircraft as the CARIBOU, CASA 212, and similar aircraft to serve the remote areas of the state; and

WHEREAS favorable consideration by the Administrator of the Federal Aviation Administration to a request for expedited consideration of the request under 14 C.F.R. sections 11.25(b)(1) and 11.27 would enable service to begin earlier than might otherwise be possible;

BE IT RESOLVED by the Alaska State Legislature that the Administrator of the Federal Aviation Administration is urged to give prompt and favorable action to the requests that STOL aircraft be licensed for use at remote Alaskan airstrips.

FAR 23
FAR 25

COPIES of this resolution shall be sent to the Honorable Jimmy Carter, President of the United States; to the Honorable Langhorne M. Bond, Administrator of the Federal Aviation Administration, and to the Honorable Ted Stevens and the Honorable Mike Gravel, U. S. Senators and the Honorable Don Young, U. S. Representative, members of the Alaska delegation in Congress.

HJP)

HJR 70 Relating to operations at bush airports in Alaska By Hurlbert et al.

Small communities in Alaska are ~~especially~~ dependent on aviation for virtually all aspects of their existence. The vast majority of these communities have small, predominately unimproved airstrips ranging from 1400 to 2500 feet in length.

In the past few years remarkable advances have been made in the development of short takeoff and landing (STOL) aircraft. However, federal regulations adopted in 1952 have not been revised to reflect the latest STOL technology and capabilities. These regulations, which establish an arbitrary maximum gross weight of 12,500 pounds for operations on Alaskan bush airstrips, largely prohibit STOL aircraft from operation on the very airfields for which they were designed.

The operation of STOL aircraft on bush airstrips would greatly enhance service to Alaskan rural communities, especially by improving the delivery of cargo too large or heavy to be fitted into aircraft now used. This would help the 38 communities suffering energy shortages this winter because of the inability of smaller aircraft to efficiently transport oil.

The Governor has already recommended to the Administrator of the F.A.A. that he consider requests for exemptions from these regulations (14 C.F.R. section 135.385 (b) and (c)) so that STOL aircraft may serve the remote areas of the state. Other F.A.A. regulations (14 C.F.R. sections 11.25 (b)(1) and 11.27) provide for expedited consideration of such requests.

Therefore this resolution urges the F.A.A. to give prompt

and favorable consideration to the requests for exemption from the restricting regulations, so that STOL aircraft may be licensed for use at remote airstrips and so that service may begin as soon as possible.

may limit or terminate exemptions so issued by them or by offices whose jurisdiction they may have assumed. Exemptions issued under these circumstances are at all times subject to modification and termination by the Director or Acting Director or officer in charge of the Region concerned, subject to ultimate action by the Director or Acting Director of the Service concerned.

(49 U.S.C. 1344, 1348, 1354, 1430)

[Amdt. 11-2, 29 FR 7091, May 29, 1964, as amended by Amdt. 11-5, 31 FR 11091, Aug. 20, 1966; Amdt. 11-10, 33 FR 17850, Nov. 30, 1968; Amdt. 11-11, 36 FR 3463, Feb. 25, 1971]

Subpart B—Rules Other Than Airspace Assignment and Use

§ 11.21 Scope.

(a) This subpart applies to substantive rules, other than those relating to airspace assignment and use.

(b) Unless the Administrator, for good cause, finds that notice is impracticable, unnecessary, or contrary to the public interest, and incorporates that finding and a brief statement of the reasons for it in the rule, the FAA issues notices of proposed rule making and allows interested persons to participate in rule-making procedings involving a substantive rule.

(c) Unless the Administrator determines that notice and rule-making procedures are to be followed, interpretive rules, general statements of policy, and rules of FAA organization, procedure, or practice are prescribed as final without notice or rule-making procedures.

(d) Whenever the Administrator so determines, the procedures prescribed in this subpart apply to exempting persons and classes from the requirements of a substantive rule.

§ 11.23 Initiating rule-making procedures.

The Administrator initiates rule-making procedures upon his own motion. However, in doing so, he considers the recommendations of other agencies of the United States and the petitions of other interested persons.

§ 11.25 Petitions for rule making or exemptions.

(a) Any interested person may petition the Administrator to issue, amend, or repeal a rule whether or not it is a substantive rule within the meaning of § 11.21, or for a temporary or permanent exemption from any rule issued by the Federal Aviation Administration under statutory authority.

(b) Each petition filed under this section must—

(1) In the case of a petition for exemption, unless good cause is shown in that petition, be submitted at least 120 days before the proposed effective date of the exemption;

(2) Be submitted in duplicate—

(i) To the appropriate FAA airport field office in whose area the petitioner proposes to establish or has established its airport, in the case of any petition for exemption filed under Part 139 of this chapter; and

(ii) To the Federal Aviation Administration, Washington, D.C. 20591, in all other cases;

(3) Set forth the text or substance of the rule or amendment proposed, or of the rule from which the exemption is sought, or specify the rule that the petitioner seeks to have repealed, as the case may be;

(4) Explain the interests of the petitioner in the action requested including, in the case of a petition for an exemption, the nature and extent of the relief sought and a description of each aircraft or person to be covered by the exemption; and

(5) Contain any information, views, or arguments available to the petitioner to support the action sought, the reasons why the granting of the request would be in the public interest and, if appropriate, in the case of an exemption, the reason why the exemption would not adversely affect safety or the action to be taken by the petitioner to provide a level of safety equal to that provided by the rule from which the exemption is sought.

(Secs. 313(a), 601(c), 72 Stat. 752, 775; 49 U.S.C. 1354(a) 1421(c); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

[Docket No. 1242, 27 FR 9586, Sept. 28, 1962, as amended by Amdt. 11-5, 31 FR 11091, Aug. 20, 1966; Docket No. 8084, 32 FR 5769, Apr. 11, 1967; Amdt. 11-8, 32 FR 6390, Apr. 25, 1967; Amdt. 11-12, 37 FR 19354, Sept. 20, 1972; Amdt. 11-14, 42 FR 34865, July 7, 1977; 42 FR 36242, July 14, 1977]

§ 11.27 Action on petitions for rule making or exemptions.

(a) No public hearing, argument, or other formal proceeding is held directly on a petition filed under § 11.25, before its disposition by the FAA.

(b) If the Administrator determines that the petition discloses adequate reasons, he issues a notice of proposed rule making, or adopts a final rule, or, if it is in the public interest, grants the exemption.

(c) If the Administrator determines that the petition does not justify instituting rule-making procedures or granting the requested exemption, he notifies the petitioner to that effect.

(d) Specific provisions covering actions on petitions are set forth in Subpart C of this part.

§ 11.29 Notice of proposed rule making.

(a) Each general notice of proposed rule making is published in the FEDERAL REGISTER, unless all persons subject to it are named and are personally served with a copy of it.

(b) Each notice, whether published in the FEDERAL REGISTER or personally served, includes—

(1) A statement of the time, place, and nature of the proposed rule-making proceeding;

(2) A reference to the authority under which it is issued;

(3) A description of the subjects and issues involved or the substance and terms of the proposed rule;

(4) A statement of the time within which written comments must be submitted and the required number of copies; and

(5) A statement of how and to what extent interested persons may participate in the proceedings, as prescribed by §§ 11.31 and 11.33.

(c) A petition for extension of the time for comments must be submitted in duplicate not later than two days before expiration of the time stated in the notice. The filing of the petition does not automatically extend the time for petitioner's comments. Such a

may limit or terminate exemptions so issued by them or by offices whose jurisdiction they may have assumed. Exemptions issued under these circumstances are at all times subject to modification and termination by the Director or Acting Director or officer in charge of the Region concerned, subject to ultimate action by the Director or Acting Director of the Service concerned.

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(4) A statement of the time within which written comments must be submitted and the required number of copies; and

(5) A statement of how and to what extent interested persons may participate in the proceedings, as prescribed by §§ 11.31 and 11.33.

(c) A petition for extension of the time for comments must be submitted in duplicate not later than two days before expiration of the time stated in the notice. The filing of the petition does not automatically extend the time for petitioner's comments. Such a

continue to the airport, to arrive at an altitude of at least 1,500 feet directly over the airport, and after that to fly for 15 minutes at cruise power or thrust, or both; and

(v) The consumption of fuel and oil after the engines fail is the same as the consumption that is allowed for in the net flight path data in the Airplane Flight Manual.

§ 135.385 Large transport category airplanes: turbine engine powered: landing limitations: destination airports.

(a) No person operating a turbine engine powered large transport category airplane may take off that airplane at a weight that (allowing for normal consumption of fuel and oil in flight to the destination or alternate airport) the weight of the airplane on arrival would exceed the landing weight in the Airplane Flight Manual for the elevation of the destination or alternate airport and the ambient temperature anticipated at the time of landing.

(b) Except as provided in paragraph (c), (d), or (e) of this section, no person operating a turbine engine powered large transport category airplane may take off that airplane unless its weight on arrival, allowing for normal consumption of fuel and oil in flight (in accordance with the landing distance in the Airplane Flight Manual for the elevation of the destination airport and the wind conditions anticipated there at the time of landing), would allow a full stop landing at the intended destination airport within 60 percent of the effective length of each runway described below from a point 50 feet above the intersection of the obstruction clearance plane and the runway. For the purpose of determining the allowable landing weight at the destination airport the following is assumed:

(1) The airplane is landed on the most favorable runway and in the most favorable direction, in still air.

(2) The airplane is landed on the most suitable runway considering the probable wind velocity and direction and the ground handling characteristics of the airplane, and considering other conditions such as landing aids and terrain.

(c) A turbopropeller powered airplane that would be prohibited from being taken off because it could not meet paragraph (b)(2) of this section, may be taken off if an alternate airport is selected that meets all of this section except that the airplane can accomplish a full stop landing within 70 percent of the effective length of the runway.

(d) Unless, based on a showing of actual operating landing techniques on wet runways, a shorter landing distance (but never less than that required by paragraph (b) of this section) has been approved for a specific type and model airplane and included in the Airplane Flight Manual, no person may take off a turbojet airplane when the appropriate weather reports or forecasts, or any combination of them, indicate that the runways at the destination airport may be wet or slippery at the estimated time of arrival unless the effective runway length at the destination airport is at least 115 percent of the runway length required under paragraph (b) of this section.

(e) A turbojet airplane that would be prohibited from being taken off because it could not meet paragraph (b)(2) of this section may be taken off if an alternate airport is selected that meets all of paragraph (b) of this section.

§ 135.387 Large transport category airplanes: turbine engine powered: landing limitations: alternate airports.

No person may select an airport as an alternate airport for a turbine engine powered large transport category airplane unless (based on the assumptions in § 135.385(b)) that airplane, at the weight anticipated at the time of arrival, can be brought to a full stop landing within 70 percent of the effective length of the runway for turbopropeller powered airplanes and 60 percent of the effective length of the runway for turbojet airplanes, from a point 50 feet above the intersection of the obstruction clearance plane and the runway.

AIR LOGISTICS OF ALASKA, INC. A DIVISION OF OFFSHORE LOGISTICS, INC.

February 16, 1980

The Honorable Vernon L. Hurlbert
Alaska State Representative
State Capitol Building
Pouch V
Juneau, Alaska 99811

Dear Representative Hurlburt:

Thank you so much for your interest and the opportunity to visit with you on the phone last night.

Per our discussion, I am forwarding you a copy of the letter we sent to Senator Ted Stevens just last week which gives a good, concise breakdown of what the problem is and where we are trying to go with it.

Additionally, here is the information I gave you at the end of the phone call on the two specific FAA Sections:

> Section 135.385 (b) & (c) of the Federal Air REgulations is the part that tells us how to calculate how long a field needs to be in order for any aircraft which weighs more than 12,500 on it's certification papers, to land. With our present charts, it works out to some 3,500 feet under most conditions.
>
> (we cannot make a landing at Sleetmute, technically)
>
> Section 11.25b (1) says that they will normally want us to send in such requests some 120 days before we want it to become effective. Since we started this on 13 Sept. 1979, we feel we've complied and do not need another delay.
>
> Section 11.27(j) says that there are various requirements to publish the request in the Federal Register for a month or so in advance, and since our original one last fall was published, we are requesting that we not be required to go through that again.

The plan now is for Dick Castner and I to leave for D.C. on Monday night and hit our attorney, all three Federal Legislators and a special assistant to President Carter as well as spending some work sessions with our counterparts

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in the FAA. When we come home at the end of the week, we should have it all lined out and ready for final typing. Also, we should have a memo or letter of support from Gravel, Stevens & Young and perhaps one from the White House to go along with the Governor's letter on 24 January 1980.

When we have it all typed and bound, we'll be certain to mail you an advance copy, and then our boss will fly to Washington D.C. for what we hope is a personal appointment with Administrator Langhorn Bond, where he will file the request. Hopefully we will have done our homework so well, that it will be approved in short order and we can begin planning for bush school construction, fuel hauls and other requirements in the short strips.

Our boss is in the States now trying to talk the parent company into looking into putting additional CASA 212s up here to go along with the one that has been such a great workhorse. We have high hopes, and will keep you posted. We look forward to seeing your resolution, and attaching a copy as additional support to our package in a week or two.

Thank you again!

Sincerely,

AIR LOGISTICS OF ALASKA, INC.

Kent Lee Woodman
Special Projects

KLW/gg

Encl: cy Sen Stevens' letter

AIR LOGISTICS OF ALASKA, INC. A DIVISION OF OFFSHORE LOGISTICS, INC.

February 11, 1980

The Honorable Ted Stevens
United States Senate
Washington, D. C.

Dear Ted,

I have been retained on a contract to assist AIR LOGISTICS in a project upon which, I am told, you have received some information from time to time. I refer to the request for exemption to section 135.835(b) and (c) of the FAR's.

Here is a very brief history of events to date:

- Air Log's attorneys filed the original request for for exemption in D.C. on 13 September 1979.

- Additional information was provided to the original filing in the form of Supplement Number 1 on 2 November 1979.

- The request for exemption was denied as "not being in the public interest".

- Our time runs out for request for reconsideration on or about the 14th of this month.

- Our attorney will file a very short request momentarily to tie to that time limit.

- We are in draft for Supplement to that request now, and will submit it in D.C. to complete the request.

Here is a very short background on the nature of the FAA regulation and our request and rationale:

- There is a magic figure in FAA regulations for our type operations, a gross aircraft weight of 12,500 pounds. Other aircraft such as the twin otter and the sky van are certified just under this limit in the U.S. in order to operate under certain conditions which are of great importance in Alaska.....though they are certified at higher weights outside of the U.S. where the limit is meaningless.

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- Our aircraft, the Spanish CASA 212, is certified for operations in STOL conditions at a gross weight of 14,332 lbs. and a landing weight of 13,781 lbs.

- The FAR provides a formula to be applied to the approach speed of the aircraft, rollout with no reverse and the like, and the results for our aircraft means we are restricted to fields of ±3,500 feet or more....in spite of the fact that the aircraft was designed for and operates well into fields down to half that figure!

Simply stated, we desired an exemption to that small portion of the FAR's in order that we could compute per the formula with a height over the fence of 20' instead of 50', and a percentage figure of the useful airfield length of 80% instead of 60%. This would result in our operations into fields of approximately 1600 feet.

We have put together quite a bit of material to show UBLIC NEED AND NECESSITY and to show that considerable higher quality service would be available to the ±70 fields in the state to which we are now denied. I'll not load this down with a lot of attachments and justifications; they go to the FAA. Suffice it to say that we have a 750 gallon tank modification for hauling fuel oil and nobody else has anything like it. We have hauled building beams 38' long into short dirt strips, and with school construction, Village Safe Water programs and other Public Works projects in the mill, we do not feel that the state is properly prepared for even seasonal work, let alone the long haul coming in the next five (5) to ten (10) years!

Our General Manager is, at this writing, meeting with the parent company President and the Spanish manufacturer's representative to make arrangements for adding two (2) additional CASA's to the Alaskan operations. The first is available immediately, the second at breakup. The future appears even more exciting for fixed wing and helicopter operations as well.

Our chief fixed wing pilot, Richard R. Castner (a fellow Air Guard pilot) and I will be in D.C. 18-22 February time period, and would propose to visit with you for about ten minutes, to show you the draft of the work we have prepared, and obtain any comments you may feel are appropriate. This trip is a working trip with our legal firm and several specialists at the FAA, preparing the draft for final submittal at the end of February or beginning of March.

We feel certain that your office is a focal point for complaints and problems concerning all nature of communications and transportation for villages, towns and cities in Alaska, and that you will have a continuing interest in our effort.

Our purpose in visiting with you is two-fold. First, we would very much appreciate any input that you or your staff may have. Secondly, we would appreciate some sort of indication of support of the effort, such as a memo or letter expressing your feelings on the appropriateness of our request for exemption in order to serve these areas. We will have all the backup documents with us, including charts and letters, and would have them available to answer any specific questions.

We do not request any sort of intervention on our behalf at the FAA, as we feel that our approach is correct, and that we have got it together the way they will want it submitted. We are requesting exemption to the criteria for computing landing distance for specific fields and with self-imposed weight restrictions for the more critical ones; not a blanket approval.

In discussions with your Anchorage office this date, we note that your Thursday-Sunday tour this direction next week will be one of your typical back-breakers, and we would not presume to interfere with it. I spoke with Kristan this morning, and she was to call me back tomorrow on the prospect of a few minutes with you either Tuesday afternoon the 18th, or sometime during the day of the 19th. I wanted to get this letter off to you in order that you and your staff in both offices have the material in advance, so it's signed and mailed without that return call.

I look forward to visiting with you; haven't done it in D.C. for over five years! Thank you very much in advance for your interest.

Sincerely,

AIR LOGISTICS OF ALASKA, INC.

Kent Lee Woodman
Special Projects

KLW:d

Encl: 1. Gov. Hammond's ltr of 24 Jan 80
2. Executive Summary; Walt Parker Study
3. Work Sheet on Village Fuel shortage problem (SB 125-Geo Hohman)

FROM A LETTER BY L.W. BAYS (DIR. OF OPERATIONS - AIR LOGISTICS OF ALASKA, INC.) TO U.S. SENATOR HOWARD CANNON

problem in context. The 12,500 pound arbitrary dividing line between "small" and "large" airplanes was established on 9 April 1953 by the CAB. Small aircraft in general use at the time were ranging up to a high of nearly 9000 pounds (the D-18 Twin Beechcraft). Larger airplanes started at about 28,000 pounds, (the Douglas DC-3). There was really nothing in between. It seemed that some line of distinction needed to be drawn to define small and large aircraft for certification and operational rule purposes. As a man who took part in the 1953 rule making said recently, "it seemed like a good number at the time". He then added, "and it still does". The rule did not have any real economical impact in 1953. While subsequent airframe and power plant design advanced the rule stagnated and petrified. It is now viewed upon as if it had been written upon a stone tablet in ancient Hebrew and started out "Thou shall not....". It is now an inflexible rule that is two decades behind the world aviation industry and the requirements of the people in this country.

The 12,500 pound rule has been economically stifling to the aviation industry in the whole free world. No manufacturer in the U.S. would consider making an airplane over 12,500 pounds unless it was a genuine large transport airplane, simply because he couldn't sell it. He could certify the airplane under Part 25, but he couldn't sell it because no air taxi or small commercial operator could operate the aircraft under the severe operating rules. Foreign manufacturers all faced the same problems because their best market for selling their airplanes was in the United States. Therefore, airplanes for civil use were not manufactured between 12,500 pounds and roughly 30,000 pounds. It is numbing to think of the fine airplanes that would be providing public service in this country if the 12,500 pound iron curtain had not lasted so long.

When the Spanish originally conceived the CASA 212 they did not consider the 12,500 pound barrier. The Spanish Air Force was providing support to their domestic and African operations with antiquated Douglas DC-3 (C-47) and left over German JU-52s (similar to the Ford Tri-Motor). In the 1960s they looked at the world airplane market and could not locate a suitable replacement. They saw the U.S. C-123s and C-130 Hercules and with those as the basic idea, produced a small version. They designed and are manufacturing the airframe and a few components. The engine, propellers, instruments, radios and almost everything else is of U.S. manufacture. The engines, as an example, are the very fine and well proven Garrett TPE-331 turbo-propeller power plants made in Pheonix. The Spaniards had no requirements to consider the 12,500 pound rule. It was sold to their own, the Portugese, and many South American governments for military use. The airplane first became operational in 1971. There are now over 180 flying in Spain, Portugal, Africa, South America, the Middle East, Indonesia, and Thailand to name a few areas of operation. To date, there has never been a fatal accident in a CASA-212. The airplane received U.S. certification in February, 1977. Since it

AIR LOGISTICS OF ALASKA, INC. A DIVISION OF OFFSHORE LOGISTICS, INC.

December 19, 1979

Representative Vern Hurlburt

Sleetmute, Alaska 99668

Dear Representative Hurlburt:

I wish to thank you for your interest in the problems confronting the aviation industry in Alaska, and hope this summary of our conversation will clarify the points I was trying to make, and perhaps give you some suitable posture to assume, should you deem it worthwhile.

There are three enclosures to this which more or less specify the position we've taken at this time. The petition and supplement to the petition are wordy, so will take a bit of patience on your part. The other enclosure is a sample of a letter which we've sent to various members of the U.S. House and Senate requesting aid or consideration. The letters went to Senators Stevens, Gravel, Glenn, Goldwater, and Cannon, and to Representative Young. Thus far we are not aware of much action one way or the other, though we have gotten letters expressing interest or sympathy.

Briefly, the situation we are dealing with is thus:

Aircraft are certificated under two sets of rules (FAR 23 or FAR 25) depending on gross weight, 12,500 pounds being the dividing line. When an aircraft is certified under FAR 23 and operates under 12,500 gross weight it is free to operate into and out of virtually any situation as long as the flight manual on the aircraft shows it can be done. If an aircraft is certified under FAR 25 certification rules it must take its landing data and compute it to comply with FAR 135.385 which briefly means you compute your required runway length from 50 feet above the end of the runway to the end of the landing roll using brakes only and this must fall within 60% of the available field length. This rule applies to

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Boeing 747s right down to aircraft weighing 12,501 pounds.

As I told you, the 12,500 pound dividing line was arrived at in 1953 by arbitrary means. At the time of the decision, aircraft did fall into two relatively distinct catagories and the 12,500 pound line was safely between the two. Since that time aircraft weights have been slowly creeping up and you now find numerous aircraft which are certificated to operate at 12,500 pounds, and not a pound more. The penalty paid for one extra pound is enormous.

Recently the FAA recognized the creeping aircraft weights and advances in technology, to some extent, by releasing a Special Federal Air Regulation 41, which allows operators to recertify aircraft which were formerly certified under 12,500 to increase maximum operating weights above that. Paradoxically they ruled that when the aircraft weighs more than 12,500 it must comply with the more stringent rule, but if on one leg of the day you should operate that same aircraft under 12,500 you may ignore it. As anyone can see, this is a situation begging for cheating. Who, for instance, would ever land an aircraft weighing over 12,500 pounds unless it was convenient to do so. Anyone associated with aviation recognizes the fact that much of the weight and balance computation done in the field is done by educated guess, and it is just as easy to guess light if it is convenient to do so.

Now then, the specifics of our situation are thus. We have an aircraft which is perfectly able to operate into 99% of the small bush strips in the state of Alaska, and capable of doing so safely---witness the number of operations on page 3 of the supplement to the Petition. However, despite this demonstrated capability, administrative fiat has declared this off limits for us because we are on the far side of the 12,500 pound line. The FAA has declared that it is perfectly acceptable for us to go into the same strips if we are employed in public service; tax money pays the bill. It thus makes it appear that if safety is the primary concern, it is acceptable to be unsafe while working for the Government, but not so while engaged in free enterprise. This self same situation exists for the Caribou and several other aircraft which fall into what is soon to be known as the "Light Transport" category. This arbitrary rule does not impose a hardship, with few exceptions, anywhere but in Alaska. In Alaska, as you well know, we deal in distances unknown in any other state, and we support literally hundreds of communities by air alone.

As was pointed out time after time in the "Parker Associates" Study, the citizenry in the Bush is paying heavily for the lack of flexibility imposed on them by inadequate runways, lack of options in aircraft kinds, insufficient numbers of aircraft in the hands of the operators, and general lack of interest created by the absence of competition in the industry. This self same absence of competition is likely to continue, for, under the present circumstances, the only real choices in equipment are the Skyvan and the Twin Otter. Any real advances made in either load carrying capability or economy of operation offered by alternative equipment available on the market do not accrue to the bush communities, because of the lack of flexibility imposed by inadequate airports, and/or the 12,500 rule.

One of the suggestions made in the "Parker" study is the upgrading of airports in the state to allow the bush communities to enjoy the benefits of more economical airlift. That, most certainly, is a valid suggestion. It is, however, costly, and it is a process which is likely to take twenty years or more. There are, after all, more than two hundred airports which fall into that category.

We offer, by way of alternative, the suggestion, the State of Alaska make every effort to secure exception to the operating rules which disallow the use of aircraft such as ours in the strips which already exist. Such exceptions will be granted by the FAA, have been in the past specifically for the State of Alaska (ref. FAR 91.38), if it can be shown it will serve the public interest, and that an equivalent level of safety can be achieved. We can demonstrate the safety aspects, and believe there is an irrefutable case which can be made for the public interest aspect.

We have applied for an exception to the operating rules which would stop us from operating our airplane into the bush communities. We believe it is in the best interest of the citizens of the State of Alaska that the State of Alaska join us in this endeavor via whatever means is available to it.

As a beginning we would suggest that both houses pass a resolution enjoining the Governor to use his good office to petition the FAA for favorable consideration of our Petition for Exemption.

We further believe it is in the best interest of the citizens of the State of Alaska that the Governor further

urge the FAA to consider the unique needs of the State of Alaska if, in the future, other operators should apply for similar exceptions with other equipment which would fall in this newly created Light Transport Category.

Sincerely,

AIR LOGISTICS OF ALASKA, INC.

Jack Wilson
Manager

JW/gg

January 24, 1980

Mr. Langhorn Bond
Administrator
Federal Aviation Administration
800 Independance Avenue, S.W.
Washington, D.C. 20591

Dear Mr. Bond:

I would like to express my support of the petition of Air Logistics of Alaska, Inc. for exemption to the operating rules imposed on their CASA 212 aircraft, reference your docket number 19498.

Alaska has many communities whose only practical access for many months of the year is air transportation. Any foodstuffs or fuel transported to these communities at these times would indeed be considered public service operations.

We are presently facing in Alaska, the need to supply at least 30 villages with additional fuel to heat their homes. The only method of delivering this fuel is by aircraft. The availability of aircraft such as the CASA 212 aircraft or the Caribou, would indeed serve the public interest, now and in the future. I would ask that when considering Petitions for Exemption from the provisions of Section 135.385(b) and (c) of the Federal Aviation Regulations, that Alaska's particular circumstances be given every consideration.

The State of Alaska in no way suggests that the FAA compromise its safety standards, but only make provisions for advances in aircraft technology.

We appreciate your consideration of this matter.

Sincerely,

Jay S. Hammond
Governor

bcc: Charles R. Webber
Clarissa Quinlan

Air Logistics
1812 East 5th
Anchorage, Alaska 99501

AIR LOGISTICS OF ALASKA, INC. A DIVISION OF OFFSHORE LOGISTICS, INC.

December 19, 1979

Representative Vern Hurlburt

Sleetmute, Alaska 99668

Dear Representative Hurlburt:

I wish to thank you for your interest in the problems confronting the aviation industry in Alaska, and hope this summary of our conversation will clarify the points I was trying to make, and perhaps give you some suitable posture to assume, should you deem it worthwhile.

There are three enclosures to this which more or less specify the position we've taken at this time. The petition and supplement to the petition are wordy, so will take a bit of patience on your part. The other enclosure is a sample of a letter which we've sent to various members of the U.S. House and Senate requesting aid or consideration. The letters went to Senators Stevens, Gravel, Glenn, Goldwater, and Cannon, and to Representative Young. Thus far we are not aware of much action one way or the other, though we have gotten letters expressing interest or sympathy.

Briefly, the situation we are dealing with is thus:

Aircraft are certificated under two sets of rules (FAR 23 or FAR 25) depending on gross weight, 12,500 pounds being the dividing line. When an aircraft is certified under FAR 23 and operates under 12,500 gross weight it is free to operate into and out of virtually any situation as long as the flight manual on the aircraft shows it can be done. If an aircraft is certified under FAR 25 certification rules it must take its landing data and compute it to comply with FAR 135.385 which briefly means you compute your required runway length from 50 feet above the end of the runway to the end of the landing roll using brakes only and this must fall within 60% of the available field length. This rule applies to

Boeing 747s right down to aircraft weighing 12,501 pounds.

As I told you, the 12,500 pound dividing line was arrived at in 1953 by arbitrary means. At the time of the decision, aircraft did fall into two relatively distinct catagories and the 12,500 pound line was safely between the two. Since that time aircraft weights have been slowly creeping up and you now find numerous aircraft which are certificated to operate at 12,500 pounds, and not a pound more. The penalty paid for one extra pound is enormous.

Recently the FAA recognized the creeping aircraft weights and advances in technology, to some extent, by releasing a Special Federal Air Regulation 41, which allows operators to recertify aircraft which were formerly certified under 12,500 to increase maximum operating weights above that. Paradoxically they ruled that when the aircraft weighs more than 12,500 it must comply with the more stringent rule, but if on one leg of the day you should operate that same aircraft under 12,500 you may ignore it. As anyone can see, this is a situation begging for cheating. Who, for instance, would ever land an aircraft weighing over 12,500 pounds unless it was convenient to do so. Anyone associated with aviation recognizes the fact that much of the weight and balance computation done in the field is done by educated guess, and it is just as easy to guess light if it is convenient to do so.

Now then, the specifics of our situation are thus. We have an aircraft which is perfectly able to operate into 99% of the small bush strips in the state of Alaska, and capable of doing so safely---witness the number of operations on page 3 of the supplement to the Petition. However, despite this demonstrated capability, administrative fiat has declared this off limits for us because we are on the far side of the 12,500 pound line. The FAA has declared that it is perfectly acceptable for us to go into the same strips if we are employed in public service; tax money pays the bill. It thus makes it appear that if safety is the primary concern, it is acceptable to be unsafe while working for the Government, but not so while engaged in free enterprise. This self same situation exists for the Caribou and several other aircraft which fall into what is soon to be known as the "Light Transport" category. This arbitrary rule does not impose a hardship, with few exceptions, anywhere but in Alaska. In Alaska, as you well know, we deal in distances unknown in any other state, and we support literally hundreds of communities by air alone.

As was pointed out time after time in the "Parker Associates" Study, the citizenry in the Bush is paying heavily for the lack of flexibility imposed on them by inadequate runways, lack of options in aircraft kinds, insufficient numbers of aircraft in the hands of the operators, and general lack of interest created by the absence of competition in the industry. This self same absence of competition is likely to continue, for, under the present circumstances, the only real choices in equipment are the Skyvan and the Twin Otter. Any real advances made in either load carrying capability or economy of operation offered by alternative equipment available on the market do not accrue to the bush communities, because of the lack of flexibility imposed by inadequate airports, and/or the 12,500 rule.

One of the suggestions made in the "Parker" study is the upgrading of airports in the state to allow the bush communities to enjoy the benefits of more economical airlift. That, most certainly, is a valid suggestion. It is, however, costly, and it is a process which is likely to take twenty years or more. There are, after all, more than two hundred airports which fall into that category.

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urge the FAA to consider the unique needs of the State of Alaska if, in the future, other operators should apply for similar exceptions with other equipment which would fall in this newly created Light Transport Category.

Sincerely,

AIR LOGISTICS OF ALASKA, INC.

Jack Wilson
Manager

JW/gg

AIR LOGISTICS OF ALASKA, INC. A DIVISION OF OFFSHORE LOGISTICS, INC.

October 8, 1979

Senator Howard Cannon
United States Senate
Washington D. C. 20510

Dear Senator Cannon:

I am writing to you to solicit your aid in an aviation matter. I write to you because of your position as Chairman of the Senate Aviation Subcommittee and at the suggestion of an old friend and comrade, Lt. General Thomas H. Miller USMC(retired). Tom told me of your deep interest in aviation matters. We realize that you are a very busy man, but if you could devote some of your time to this problem, it would be greatly appreciated and would help to rectify an inherent wrong in the Federal Aviation Regulations (FARs). Please excuse the length of this letter. We feel that it is necessarily long in order to thoroughly explain the problem.

Air Logistics of Alaska is introducing a new airplane to Alaska and indeed to North America. This airplane is the Spanish built CASA-212. (There is a photograph of the CASA along with other data enclosed.) The CASA (Construcciones Aeronauticas, S.A.) has a maximum certified take-off weight of 14,332 pounds which, being over 12,500 pounds, places it in the "Large Transport Category". Landing restrictions imposed by the FARs upon this small, simple, and impressive little airplane are the same as those applicable to the behemoths such as the Boeing 747, etc. Air Logistics feels that these operational limitations are wholly unrealistic and has therefore applied for an exemption in order to be allowed to operate this aircraft in a more competative manner. These landing restrictions deprive Alaska, and particularly the Alaskan bush of the services of this very fine airplane. In our numerous discussions with FAA representatives, we have found an astonishing lack of flexability in their thinking in the matter. They seem to be able to distinguish only two colors, black and white. This lack of realistic thinking is imposed upon the FAA personnel by the long standing, out of date, and economically stifling 12,500 pound rule. This is the basis of our problem.

A copy of our petition, filed with FAA as docket Number 19498, is attached. This petition explains the situation fairly well, however, there are some other aspects to be considered. In doing so it is necessary to place the whole

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problem in context. The 12,500 pound arbitrary dividing line between "small" and "large" airplanes was established on 9 April 1953 by the CAB. Small aircraft in general use at the time were ranging up to a high of nearly 9000 pounds (the D-18 Twin Beechcraft). Larger airplanes started at about 28,000 pounds, (the Douglas DC-3). There was really nothing in between. It seemed that some line of distinction needed to be drawn to define small and large aircraft for certification and operational rule purposes. As a man who took part in the 1953 rule making said recently, "it seemed like a good number at the time". He then added, "and it still does". The rule did not have any real economical impact in 1953. While subsequent airframe and power plant design advanced, the rule stagnated and petrified. It is now viewed upon as if it had been written upon a stone tablet in ancient Hebrew and started out "Thou shall not....". It is now an inflexible rule that is two decades behind the world aviation industry and the requirements of the people in this country.

The 12,500 pound rule has been economically stifling to the aviation industry in the whole free world. No manufacturer in the U.S. would consider making an airplane over 12,500 pounds unless it was a genuine large transport airplane, simply because he couldn't sell it. He could certify the airplane under Part 25, but he couldn't sell it because no air taxi or small commercial operator could operate the aircraft under the severe operating rules. Foreign manufacturers all faced the same problems because their best market for selling their airplanes was in the United States. Therefore, airplanes for civil use were not manufactured between 12,500 pounds and roughly 30,000 pounds. It is numbing to think of the fine airplanes that would be providing public service in this country if the 12,500 pound iron curtain had not lasted so long.

When the Spanish originally conceived the CASA 212 they did not consider the 12,500 pound barrier. The Spanish Air Force was providing support to their domestic and African operations with antiquated Douglas DC-3 (C-47) and left over German JU-52s (similar to the Ford Tri-Motor). In the 1960s they looked at the world airplane market and could not locate a suitable replacement. They saw the U.S. C-123s and C-130 Hercules and with those as the basic idea, produced a small version. They designed and are manufacturing the airframe and a few components. The engine, propellers, instruments, radios and almost everything else is of U.S. manufacture. The engines, as an example, are the very fine and well proven Garrett TPE-331 turbo-propeller power plants made in Pheonix. The Spaniards had no requirements to consider the 12,500 pound rule. It was sold to their own, the Portugese, and many South American governments for military use. The airplane first became operational in 1971. There are now over 180 flying in Spain, Portugal, Africa, South America, the Middle East, Indonesia, and Thailand to nam a few areas of operation. To date, there has never been a fatal accident in a CASA-212. The airplane received U.S. certification in February,1977. Since it

is slightly over 12,500 pounds (1832 pounds) the aircraft was certified under the very stringent rules outlined in FAR 25 as a "Large Tranport Category Airplane." Thus it meets the same structural and design safety criteria as the behemoths, whereas its main competitors such as the Short SC-7 Sky Van (manufactured in the United Kingdom) and the Canadian De-Haviland Twin Otter are certified under the much less restrictive measures of SFAR-3 and Part 23 respectively. These very slightly lighter airplanes are allowed to operate under different landing rules. FAR 135.385(b) outlines rules for turbine engine powered Large Transport Catagory Airplanes. This rule requires the destination airport to be of sufficient length for the aircraft to come to a full stop landing within 60% of the effective length of the runway after passing over the landing end at an altitude of 50 feet. If the approved Airplane Flight Manual (AFM) for a Sky Van, Twin Otter, or any other airplane 12,500 pounds or less indicated a required runway of 1600 feet from over 50 feet, they could legally land on a runway 1600 feet in length. Whereas the CASA pilot would have to factor his 1600 feet with the 60% effective runway rule and would therefore require 2666 feet of runway to legally land his airplane. It has been said by some FAA inspectors that to allow the CASA to operate under the same rules as a Van or Otter would be "unsafe" even though he knows very well that the landing performance data for the CASA is comparable to that of the other two aircraft. He also knows that, due to the certification rules met by the CASA and not the other two aircraft, that the CASA is in fact a safer airplane. The 1832 pounds creates the problem for him and he cannot or will not look over the 12,500 pound wall. On 21 December 1978, the FAA Administrator signed an announcement of a regulatory review of a new proposal Part 24. Part 24 is not applicable here, but a statement that he made in that announcement is. He let it be known that one of his goals is "To implement the President's policy on improving government regulations, agencies must consider alternative ways to deal with a problem and an analysis of the economic consequences of each alternative." FAA personnel that we have encountered do not seem to be taking the Administrator's nor the President's goal very seriously.

Air Logistics has applied for an exemption from the requirements of FAR 135.385(b) and (c). This petition, FAA Docket #19498 attached, goes much further into all the ramifications. Our problem is immediate and becomes more pressing every day. We are desirous of providing much needed services this winter in the further development of the National Petroleum Reserve. In addition, we need some relief from this unrealistic landing restriction in order to provide much better and more versatile service to the Alaskan bush communities. The granting of relief from these staid old rules will not adversely effect aviation safety, and is very definately in the public interest. If we fail in this matter it is felt that a very fine airplane will be relagated to oblivion in North America. Any asistance that you can provide will be greatly appreciated.

If you or your staff should have further questions, I am at your disposal. In addition, we are represented in this matter by Mr. Edward W. Sauer of Squire, Sanders & Dempsey, 21 Dupont Circle N.W., Washington D.C., telephone 862-7050. Mr. Sauer is well versed on the subject, and is at your disposal.

Sincerely,

AIR LOGISTICS OF ALASKA, INC.

Leslie W. Bays
Director of Operations

LWB/gg

Please expand the criteria of the disclosed information about the loss of the helicopter and an airplane crashed with an Ranger. The Ranger and Hercules were dialogued by Sec. Mr. Sauer can provide a considerable amount of additional information.

L. W. Bays

AIR LOGISTICS

AND

THE CASA 212

Air Logistics is the Aviation Division of Offshore Logistics, Inc. with headquarters in Lafayette, La. The parent company operates over 120 supply, tow, and crew vessels in support of the oil industry worldwide.

Air Logistics operates 110 helicopters and aircraft from various bases in the United States and in a number of overseas countries. The airlift capability is rapidly expanding, with more than 50 new helicopters on order and additional fixed wing aircraft backlogged to fill the logistics support role worldwide.

As the first U.S. operator of the CASA-212 aircraft, Air Logistics of Alaska, Inc. is in a unique position to inform the aviation public of the capabilities of this versatile aircraft. To this end, we have made a comparison study of the CASA 212 and two other aircraft which might be generally considered as its closest competition, namely the DHC-6-300 Twin Otter and the Shorts SC-7 Skyvan. A considerable amount is known about these two aircraft, while the CASA 212 is so new to the market that some general comments on its background are appropriate. The airplane is manufactured by C.A.S.A. (Construcciones Aeronauticas, Sociedad Animas). It is fabricated in four plants in Spain and assembled in their Seville facilities. In the 1960s the Spanish Air Force investigated the world market for an airplane to replace their antiquated C-47 and Junkers 52 (German version of Ford Tri-Motor) airplanes. Because there was nothing available on the market that suited their purposes, they elected to build their own, and the result was an aircraft that appears to bear the blood lines of the U.S. C-123, but on a smaller scale. The airframe is manufactured in Spain but nearly everything else has other origins. The engines, propellers, instruments, radios, navigation equipment, electrical components, batteries, and other principal items, are of U.S. manufacture. The airframe, which is very solidly constructed, was designed and built by CASA, who were producing quality airplanes prior to and during World War II, including such aircraft as the ME-109.

CASA is a partner in the European Airbus Industrie, collaborates in European and Spanish space programs and does major overhaul and repair work on tactical aircraft

of the U.S. Navy's 6th Fleet and the U.S. Air Forces, Europe. In addition, they manufactured approximately 70 F5 Freedom Fighters under license from Northrop. They have designed and are beginning manufacture on the CASA 101 which is a jet trainer similar in configuration to, and is programmed to replace, their aging U.S. T-33s. More than 130 CASA-212 airplanes have been built since 1971 and are operating largely in Europe, the Mid-East, Indonesia, Africa and South America. The airplane is powered by two AirResearch Garrett TPE 331-5-251C engines capable of 840 SHP and flat rated to 750 SHP. The TPE 331 engine has been used very successfully on a world-wide basis on numerous types and models of military and civil aircraft and has been quite effectively operated here in the Far North for more than a decade on Volpar, Skyvan, Swearingen and Mitsubishi airplanes.

It is not our intention to belittle competitive aircraft or engines, but simply to state the facts as we see them. The attached chart and explanatory notes clearly reflect the basic differences between the three aircraft as presently operated in Alaska and it is our firm conviction that the CASA 212 offers a combination of versatality, operational efficiency, and practical economy that has not been available in an aircraft of this type.

Air Logistics is proud of the part it has played in introducing this fine aircraft to the U.S. and we are confident that it is going to have a long term impact on the aviation industry in this country.

If further information is required either on Air Logistics or the CASA 212, please do not hesitate to contact us.

Sincerely,

AIR LOGISTICS OF ALASKA, INC.

Jack Wilson
Manager

JW/gg

COMPARISON CHART

No.	Description	CASA 212	300 Series Otter	Skyvan
1.	Max. Gross Takeoff Weight	14,332 lbs.	12,500 lbs.	12,500 lbs.
2.	Useful Load	5,532 lbs.	4,760 lbs.	4,160 lbs.
3.	Passenger Capacity	19	19	Refer Comments
4.	True Airspeed (Cruise at Max. Weight)	188 knots	145 knots	140 knots
5.	Fuel Capacity	3,538 lbs.	2,550 lbs.	2,340 lbs.
6.	Fuel Consumption	600 lbs/hr	600 lbs/hr	600 lbs/hr
7.	Max Range (45 Min. Res)	1,050 Stat Mi.	585 Stat Mi.	515 Stat Mi.
8.	Takeoff Distance Over 50' Obstacle	1,700 feet	1,500 feet	1,590 feet.
9.	Landing Distance Over 50' Obstacle	1,750 feet	1,940 feet	1,480 feet
10.	Cabin Volume	840 cu.ft.	384 cu. ft.	780 cu. ft.
11.	Cargo Door	Rear Ht. 5'11" Wide 5'7"	Side Ht. 4'2" Wide 4'8"	Rear Ht. 6'5" Wide 5'9"
12.	Hydraulic Ramp	yes	Side Door Only	No
13.	De-Icing Leading Edges Windshield Propeller Engine Intake	 Pneumatic Boots Electric Electric Bleed Air Heat	 Pneumatic Boots Electric or Alcohol Electric No Heat but Snow Baffles	 Alcohol or None Alcohol or None Electric Bleed Air Heat
14.	Single Engine Service Ceiling	13,800 ft.	11,500 ft.	8,000 ft.
15.	Charter Rate -Wet (Alaska)	$660/Hr.	$560/Hr.	$500/Hr.
16.	Payload Anchorage-Fairbanks (222 nautical mi.) Cost/Lb. Cost/Naut. Mi.	4386 lbs. $.18/lb. $3.97/NM	3404 lbs. $.25/lb. $3.86/NM	2780 lbs. $.29/lb. $3.58/NM

EXPLANATION OF COMPARISON CHART

Item 2. Useful Load (Payload + Fuel) Useful load is computed herein by adding the aircraft Basic Empty Weight (BEW), a two-man crew at 170 lbs/man, and 100 pounds for survival equipment/incidentals to reach the Basic Operating Weight (BOW). The computations are as follows:

	CASA 212-5	300 Series Otter	Skyvan
BEW	8300	7300	7900
Survival/Incidentals	100	100	100
Crew	*400	340	340
BOW	8800	7740	8340
MGTOW	14,332	12,500	12,500
Useful Load	5,532 lbs.	4,760 lbs.	4,160lbs.

*Aircraft weighing over 12,500 lbs. are required by the new FAR 135.2 (e)(1)(ii)(A) to compute each crewmember at 200 pounds.

Item 3. Passenger Capacity The Skyvan is not certified for the carriage of passengers without the installation of side doors which adds a considerable amount to the basic weight of the aircraft.

Item 4. True Airspeed The CASA 212 speeds are based upon a nearly 10,000 mile flight from Spain to Anchorage and over 400 additional flight hours. The Skyvan figures are based upon over 2000 hours of recent personal flight experience in the Skyvan by one of our supervisory pilots. The 300 Series Twin Otter speeds are based upon flight experiences of numerous Twin Otter pilots and published reference material.

Item 6. Fuel Consumption The fuel consumption of the three aircraft is almost identical. However, because of its extra speed, the CASA will use less fuel to go the same distance and in fact, savings in fuel costs of over 30 per cent can be expected compared with the two other aircraft.

Items 8 & 9. Take-Off/Landing Distance This data is taken from the respective flight manuals of the three aircraft and is based upon clearing a 50 foot obstacle both on take-off and landing. Operational experience has shown that the Spanish manufacturer has been very conservative in the preparation of the performance charts since the aircraft performance exceeds the published data significantly.

Item 11. Cargo Door The CASA and Skyvan both have rear loading doors of similar size. The CASA has a hydraulically operated lower loading ramp identical in concept to the C-130 Hercules that is 5'7" x 5'5". This ramp will hold 3600 pounds during loading and affords a 660 pound capacity cargo or luggage compartment. This ramp allows small vehicles (American sub-compacts & Datsun/Toyota size cars and trucks) to be driven on and off the aircraft without any external equipment. The Skyvan does not have such a ramp and the Twin Otter has only a side loading cargo/passenger door.

Item 13. Anti and De-Icing The CASA 212 and the Skyvan both have engine intake heat while the Twin Otter is equipped with engine intake vanes to deflect excessive snow or rain. The CASA and the Twin Otter have pneumatic boots on all leading edge surfaces while the Alaska based Skyvans vary from a very ineffective alcohol spray system to no anti or de-icing equipment on the surfaces at all. All three aircraft have electrically heated propellers. The CASA has electric windshield heat as do some of the Twin Otters (others have only alcohol). Some Skyvans do not have any windshield anti or de-icing at all and others have alcohol.

Item 14. Single Engine Service Ceiling The single engine service ceiling of the CASA exceeds that of the Otter by 30% and the Skyvan by over 70% which means that the customer has that much greater safety margin when the aircraft is operating in mountainous areas.

Item 15. Charter Rate These are the rates (including fuel) currently being charged in Alaska.

In summary, the CASA has the following major advantages over the Twin Otter and the Skyvan:

1. A thirty per cent higher cruise speed which results in reduced costs to the customer.

2. A greater cubic cargo capacity than that of the Skyvan and more than twice the cabin volume of the Twin Otter.

3. A passenger capability exceeding the Skyvan and similar to the Otter, but with extra room and airline type seats.

4. A rear cargo door superior to the Skyvan and with a configuration similar to the Hercules C-130. The Twin Otter has a smaller side door.

6. A range nearly double that of the Twin Otter and more than double that of the skyvan.

PETITION FOR EXEMPTION

To the Administrator, Federal Aviation Administration

Pursuant to the provisions of Section 11.25 of the Federal Aviation Regulations, Air Logistics of Alaska, Inc. (Air Logistics), hereby petitions the Administrator of the Federal Aviation Administration (FAA) for an exemption from the provisions of Section 135.385(b) and (c) of the Federal Aviation Regulations to the extent necessary to permit Air Logistics to land its present and future CASA 212 aircraft with due regard only to the limitations imposed by its Aircraft Flight Manual. Air Logistics requests expedited processing of this petition pursuant to FAR 11.27(j), and submits that good cause for this expedited processing, as well as for Air Logistics' failure to submit this petition within the 120-day period normally provided by FAR 11.25(b)(1) is clearly established by the information set forth below. Air Logistics also requests that its Operations Specifications be revised accordingly. In support of this petition, Air Logistics states as follows:

1. Petitioner, Air Logistics of Alaska, Inc., is a corporation established in Alaska approximately two years ago as a subsidiary of the Louisiana-based Offshore Logistics, Inc. Offshore Logistics is currently the second largest helicopter carrier in the United States and has amassed the finest helicopter safety record in the industry. Since its inception, Air Logistics has provided transportation services throughout the State of Alaska

primarily through the use of helicopters. In the process, Air Logistics has made a substantial commitment to safety and believes it has compiled a very strong safety record. In 1978, Air Logistics determined that market demand justified the addition of fixed wing equipment to its fleet. Accordingly, on May 11, 1978, Air Logistics took delivery of a CASA 212 STOL aircraft from its Spanish manufacturer, Construcciones Aeronauticas, S.A. The CASA 212 is a twin engine turbopropeller powered fixed wing aircraft with a maximum certificated take-off weight of 14,332 and a landing weight of 13,781 pounds. Its highly sophisticated design characteristics give it outstanding STOL capabilities as shown in the attached landing performance charts taken from its approved flight manual (Attachment A).

13781
1250
12/1

2. Air Logistics purchased its CASA 212 equipment with a view toward operations into and from the Alaskan bush. At the present time, approximately 55% of Alaska's population is concentrated at the major centers of Anchorage, Fairbanks, and Juneau. The remaining population is scattered throughout outlying areas and concentrated primarily around relatively small airfields. These smaller communities are highly dependent upon air service for basic necessities. In particular, construction supplies frequently have to be flown in from central areas, and these shipments typically require high payload capacity, the ability to handle outsized loads and short field capacities. The CASA 212's 5,532-pound useful load and its spacious cargo hold and exceptional

performance characteristics make it ideally suited for supporting Alaskan requirements.

3. Most of the runways at these outlying areas are relatively short. A recent Alaska Supplement of the U. S. Flight Information Publication shows that there are 71 bush airfields between 1500 and 2,000 feet in length, an additional 79 such strips between 2,000 and 2500 feet, and 31 more between 2500 and 3,000 feet. The CASA 212 is well-suited for operation at most of these airfields under appropriate weather conditions, a fact which is readily demonstrated by the manual provisions set forth in Attachment A.

31
79
71
181
31

4. Air Logistics recently was advised by the FAA that, once this aircraft is placed in civil aircraft operations, landings will be permitted only at airstrips sufficiently long to permit a landing from 50 feet over the obstruction clearance plane within 60% of the usable runway space at the primary airport, and 70% at the alternate. This will relegate the CASA 212 when fully loaded to airstrips of approximately 3500 feet or more which, as a practical matter, will destroy its economic viability. Air Logistics submits that the extremely wide margin that these operating limitations provide is totally unnecessary in order to assure the highest degree of safety in operation of this aircraft.

5. FAR 135 draws several distinctions among the aircraft that may be operated by air taxi and commercial operators, such as Air Logistics. The CASA 212, with a maximum certificated take-off weight of 14,332 pounds, technically falls

within the large transport category and thus, pursuant to Section 135.385(b) is required under normal circumstances to operate only to primary airports at which it could land within 60% of the effective length of each runway from a threshold 50 feet above the intersection of the obstruction clearance plane and the runway. FAR 135.385(c) requires that only 70% of the available space at alternate airports be utilized, also subject to the 50-foot rule. In contrast, however, a number of aircraft with which the CASA 212 is capable of directly competing in the Alaskan bush markets -- the SC-7 Sky Van and the DHC-6 Twin Otter, for example -- are permitted to operate under the far less restrictive provisions of FAR 135.399 which do not impose this type of landing requirement upon them as an absolute rule.

The distinction drawn in the Regulations between the CASA 212 and its potential competitor aircraft is based primarily upon the fact that the CASA 212's maximum certificated takeoff weight exceeds 12,500 pounds, thus bringing it into the large aircraft category. The 12,500-pound dividing line was established on April 9, 1953 by the Civil Aeronautics Board and was based on the Board's determination that then-current studies showed that Part 3 of the Civil Air Regulations, as then in existence, "would not result in an acceptable level of safety for future designs of relatively large airplanes irrespective of their use." The Board went on to note that this demarcation was consistent with provisions of its economic regulations and other parts of the Civil Air

Regulations.

There can be no question that aircraft technology has undergone enormous advances since this 1953 CAB decision. In particular, no aircraft comparable to the CASA 212 [illegible] even in the design stage at that time and indeed none could have been since this aircraft represents state-of-the-art STOL technology at the present time. The studies upon which the CAB based its decision in 1953 thus could not have taken into account aircraft with the operating characteristics of the CASA 212. Indeed, to the extent that the 12,500-pound limitation was chosen in order to achieve harmony with the CAB's economic regulations, this limitation was not strictly based upon safety considerations in the first place.

Air Logistics does not maintain that the 12,500 demarcation should be totally abolished. Instead, its contention is that in the case of the CASA 212, the rigid application of 12,500-pound rule operates to place the aircraft into a class of equipment which, at least as far as landing characteristics are concerned, is not appropriate. The CASA 212 is only marginally over the 12,500-pound demarcation and yet pays a heavy penalty for this slight excess. Because of 1832 pounds of additional take-off weight (1281 pounds of landing weight), the CASA 212 finds itself classified with the very largest of aircraft which air taxis and commercial operators are permitted to utilize, and indeed, with regard to landing limitations, it is treated parallel to even the

most monstrous of widebodied equipment. The fact of the matter is that, notwithstanding its 1800 pounds of additional weight, the CASA 212's performance actually compares much more closely with the smaller aircraft which are operated under Part 135 without the limitation of Part 135.385(b) and (c) than with larger transport category equipment, a fact which is readily apparent from an examination of the pertinent operational data as set forth in Attachment B.

Accordingly, Air Logistics submits that the 12,500-pound limitation is arbitrary when applied to the landing characteristics of the CASA 212, and thus that an exemption from the landing limitations of Part 135.385(b) and (c) should be granted in this case. It is important to understand that Air Logistics does not maintain that the 12,500-pound distinction should be totally discarded since it has in the past served a useful guideline in safety regulation. Instead, it is Air Logistics' belief that in this unique case the extraordinary STOL capacity of the CASA 212 aircraft justifies excepting it from one of the rules normally applicable to the large aircraft category.

6. The CASA 212's unique STOL performance is achieved directly by the design of the aircraft under normal operating procedure. Unlike many other aircraft, the CASA 212 does not utilize special STOL flap settings to achieve its optimum landing and takeoff performance. Instead, take-off and landing procedures and flap settings on short airfields are exactly the same as those applicable to longer runways.

At all points during takeoff and landing, the appropriate V speeds are observed. Thus, the dangers inherent in the special configurations and low speeds which characterize STOL operation of other aircraft are not present in the case of the CASA 212.

7. For all of the reasons cited, Air Logistics submits that safety in aviation would not be adversely affected by permitting the operation of the CASA 212 as a civil aircraft, without application of Part 135.385(b) and (c). This would also have the effect of placing the CASA 212 under landing procedures similar to the Twin Otter and the Skyvan aircraft with which it will be in competition and with which its performance in landing most nearly compares. Indeed, besides weight, the only other distinction drawn between these aircraft in FAR 135 appears based on the earlier date of their type certifications. Air Logistics submits that this represents an unjustifiable penalty to the more recent technological developments which the CASA 212 incorporates. Air Logistics is not requesting unlimited authority to land the CASA 212 at any airport that it chooses under any conceivable set of weather conditions. Instead, it is requesting simply that it be permitted to operate its aircraft with due regard for flight manual limitations. The manual provisions, of course, contain allowances and adjustments for differing meteorological conditions and, in this connection, Air Logistics would intend to apply appropriate adjustment factors in the case of unpaved, wet, or slippery runways in

accordance with established practice. These procedures all contain built-in allowances for safety under varying conditions and thus would in no respect adversely affect safety. In point of fact, the liberal allowances provided by Part 135.385(b) and (c) are simply unnecessary in the case of an aircraft with the CASA 212's capabilities.

8. Under Section 601(c) of the Federal Aviation Act, the Administrator may grant exemptions of the type requested in this petition if he finds that such action would be in the public interest. The public interest is defined for this purpose by Section 103 of the Act to include:

> (a) The regulation of air commerce in such manner as to best promote its development and safety and fulfill the requirements of the national defense;
>
> (b) The promotion, encouragement, and development of civil aeronautics;

Air Logistics submits that it is clear that, its request for exemption is justified under these statutory standards. That safety would not adversely be affected by the granting of the exemption requested herein has been demonstrated above. At this point, the public interest in the promotion, encourage and development of civil aeronautics should also be considered.

The CASA 212 is a unique aircraft. Its characteristics permit it to utilize very short airfields for bush operations while at the same time affording a relatively large usable load both in terms of weight and space. The CASA Casa 212

this aircraft to runways of more than 3500 feet, the FAA would be effectively limiting it to markets in which it cannot hope to successfully compete under ordinary circumstances. If the exemption requested herein is not promptly granted, an unnecessary restriction would thus destroy the economic usefulness of the CASA 212 and require Air Logistics to give serious consideration to disposing of this aircraft. The end result would again be the unnecessary deprivation of the best possible air service to the people of the Alaskan bush country, and the consignment to oblivion of a very fine aircraft.

9. Air Logistics submits that good cause exists for its failure to file this petition within the 120-day period normally required by FAR 11.25(b)(1) and similarly that expedited processing under FAR 11.27(j) is called for in this case. Initial discussions with officials of the manufacturer and local FAA personnel at the time the aircraft was purchased left Air Logistics with the impression that the strict rules of FAR 135.385(b) and (c) would not be applied to this equipment. When Air Logistics first learned in August of 1979 that FAR 135.385(b) and (c) would be applied to civil operations by this aircraft, it promptly requested deviation authorization from the Alaska regional FAA office. This request was denied on August 28, 1979, and this petition has been submitted as promptly as possible thereafter. In these circumstances, Air Logistics submits that good cause exists for its failure to submit this applica ion

within the 120-day period normally provided by FAR 111.25(b)(1) and similarly that Air Logistics acted in a timely manner in filing this exemption petition within the meaning of FAR 11.27(j)(3)(iii).

The remaining requirements for expedited processing under FAR 11.27(j)(3) are also present here. As noted above, the CASA 212 is a unique commercial aircraft, and Air Logistics owns the only such aircraft presently flying in North America. The granting of an exemption designed to give it greater flexibility in landing would accordingly not seem to create a precedent of wide applicability in other cases. Grant of this exemption to Air Logistics would at most establish the principle that in an extraordinary case where an aircraft is only minimally above the 12,500-pound demarcation and yet performs comparably to aircraft below that line which are not subject to the full FAR 135.385(b) rules, the FAA would be willing to consider the granting of an exemption permitting greater landing flexibility where safety would clearly not be adversely affected. Air Logistics is unaware of any other aircraft existing at the present time whose operating situation parallels the CASA 212 and thus would not expect the grant of this exemption to provide an immediate precedent for any existing aircraft.

It is clear that the delay in acting upon this petition for exemption which would result from the use of standard publication procedures would be seriously detrimental to Air Logistics, as well as to the public interest. Air Logistics'

CASA 212 now sits idle on the ground and, absent the exemption sought here, can be expected to remain idle indefinitely. This aircraft represents a $1,400,000 investment for Air Logistics, and the loss of its use extracts a continuing daily penalty in terms of lost revenues and fixed expenses which continue to accrue. Indeed, if the requested exemption is not shortly forthcoming, Air Logistics will be forced to seriously consider disposing of this aircraft. This will be doubly unfortunate since, in addition to depriving Air Logistics of the profits which could be obtained from the operation of advanced fixed wing equipment, disposal of this aircraft would at the same time detract from the air service that could be offered in the bush by fixed wing equipment. For these reasons, Air Logistics submits that good cause exists under FAR 11.27 to process this exemption request without the publication and comment procedures which would otherwise apply. Nonetheless, in compliance with FAR 11.25(d), Air Logistics submits the following summary information in proper form for publication in the Federal Register:

1. Citation of each rule from which relief is requested: FAR 135.385(b) and (c);

2. Brief description of the general nature of the relief requested: Air Logistics requests that it be relieved of the obligation to comply with FAR's 135.385(b) and (c) to the extent necessary to permit it to operate CASA 212 aircraft with due regard to the landing limitations set forth in its Aircraft Flight Manual. Air Logistics further requests that its Operations Specification be revised accordingly.

10. In conclusion, Air Logistics reiterates that the grant of the limited exemption requested here will not adversely affect safety in aviation and yet at the same time will serve to promote civil aeronautics in the public interest. In particular, Air Logistics would note the emphasis which has been recently placed by the Congress and the Carter Administration upon maximizing competition in civil aviation. Congressional and Administration policy at this time clearly recognizes that the public interest is best served by the removal of unnecessary regulatory restrictions so as to maximize the degree of competition available in air transportation, thus providing the highest degree of service to the public. As noted above, the denial of this exemption request would effectively remove the most advanced STOL aircraft from the Alaskan market. This will be a serious detriment to competition, Air Logistics, and the public at large. Since the regulatory restrictions which are involved in this case are not necessary for safety, there would seem to be no justification for applying these restrictions to

the CASA 212 aircraft and every public interest justification for removing them. Accordingly, Air Logistics of Alaska respectfully requests that the Federal Aviation Administration grant the exemption requested in this petition as soon as possible.

Respectfully submitted,

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Re Docket No. 19498

SUPPLEMENT NO. 1 TO PETITION OF AIR LOGISTICS OF ALASKA

Air Logistics of Alaska, Inc. hereby submits this Supplement to its Exemption Petition in Docket 19498 for the the purpose of further defining the scope of the exemption relief sought, and providing additional information for consideration by the FAA in ruling upon the merits of that petition.

1. Air Logistics continues to believe that its original exemption request in Docket 19498 is fully justified due to the unique nature of its CASA-212 aircraft, the public interest in service by that aircraft in Alaska, and considerations of safety equivalency. Nonetheless, Air Logistics wishes to advise the FAA that a substantial portion of the operational problem discussed in more detail in its original petition in this docket could be resolved by granting exemption relief similar to that originally requested in this proceeding but restricted to an exemption from only the 60 percent and 70 percent restrictions of FAR 135.385, applicable only to day VFR, cargo-only operations within the State of Alaska. Air Logistics believes that an exemption of the type

discussed herein is the minimum relief which would provide a realistic opportunity for permitting service by its CASA-212 aircraft in the Alaskan bush markets on an economically viable basis.

2. Air Logistics' CASA-212 is plainly a unique aircraft, both because of its unparalleled short-field landing characteristics for an aircraft of its size, as well as its design and equipment which provide a degree of reliability and safety which, as far as Air Logistics is aware, far exceeds that of any other aircraft operated under FAR 135, at least in the Alaskan market.

Air Logistics has already brought to the FAA's attention the information contained in the Aircraft Flight Manual for the CASA-212 as approved by the Spanish civil aviation authority (Instituto Nacional de Tecnica Aerospacial) demonstrating the CASA-212's remarkable short-field capabilities in supervised flight tests. Air Logistics has also demonstrated that the landing and take-off performance of the CASA-212 in fact more closely compares with aircraft that operate without the landing limitations imposed by FAR 135.385. It is not, however, necessary to rely solely upon flight manual provisions and statistical data to demonstrate the CASA-212's operating capabilities. The following table summarizes statistical information concerning landings that have been made by Air Logistics utilizing its CASA-212 in public aircraft service:

Airfield Length	No. of Landings
1,750 feet & less	58
1,751 to 2,000 feet	53
2,001 to 2,500 feet	49
2,501 to 3,000 feet	39
3,001 to 3,500 feet	13

(Source: Company records)

These operations have been performed without accident or incident, operating under the commard of four different Air Logistics captains. Air Logistics believes that these operational statistics forcefully demonstrate that its CASA-212 aircraft can be operated into landing fields significantly shorter than those to which the aircraft would be relegated in civil aircraft service by virtue of the full panoply of present FAR 135.385 restrictions.

The CASA-212's safety record in worldwide operations has also been an exemplary one. At the present time, Air Logistics understands that there are approximately 154 CASA-212 aircraft in operation throughout the world, with the most extensive utilization being in South and Central America, Africa, the Middle East, Indonesia, Malaya, Thailand, India, and Spain and Portugal. Thus far, these CASA-212 aircraft have logged approximately 110,000 hours without a major accident or fatality.

The reason for this fine safety record is first and foremost the basic design philosophy of the aircraft. At every phase of design, emphasis was placed upon simplicity and reliability. Thus, for example, as previously noted the

CASA-212 does not utilize special "STOL" control settings for short-field operations. Instead, short-field performance is built directly into the aircraft design and does not require the use of special equipment or settings with the concomitant risk of failure. Additionally, where the manufacturer has purchased components for the aircraft abroad (and indeed a large portion of the CASA consists of U.S.-manufactured components) the emphasis has consistently been upon quality and proven perfo ıance.

The aircraft's turbopropeller engines and propeller reversing systems are excellent examples of the manufacturer's emphasis upon reliability and simplicity in design. The CASA-212 is powered by two Garret TPE-331-5 engines. Garret maintains records of inflight engine shutdowns by engine series and has advised that at the present time the lowest rate for a series has been zero and the highest .172 inflight shutdowns per 1,000 hours. The series which is utilized on the CASA-212 has had a shutdown rate of .08 per 1,000 hours. In fact, Air Logistics has never experienced an inflight shutdown of the engines on its CASA-212 equipment. Air Logistics' captains have accumulated approximately 20,000 hours in Garret-powered aircraft without ever experiencing an in-flight shutdown.

The CASA-212's propeller reversing system also illustrates the simplicity and reliability which typify the design of this aircraft. The reversing system is operated by

a direct mechanical linkage from the cockpit to the internal reversing mechanism. As a result of this design, Air Logistics has been informed by the manufacturer that there has never been a failure of the reversing system of the TPE-331 engine due to internal engine or propeller causes and Air Logistics has never experienced such a failure. The fundamental point is that the CASA-212 is an FAR 25 aircraft and has been designed to meet the more stringent requirements of that part. This has been done with a deliberate design philosophy of choosing the simplest and most reliable means of accomplishing each function necessary to the safe operation of the aircraft.

While the CASA-212 is deliberately simple in its design, it is also highly sophisticated in its instrumentation. For example, Air Logistics' CASA-212 aircraft is equipped with fully redundant navigation and communication equipment. Thus, there are dual Sperry VHF transceivers, dual Collins VHF navigation equipment providing VOR, DME, and ILS capabilities, dual transponders equipped with altitude encoding, and Bendix mapping and weather radar. There is also a complete set of dual flight instruments powered by dual Tarson gyroscopes. Under normal conditions, individual gyros drive the Captain's and copilot's instruments, although in the case of failure of either gyro, the remaining one can be selected to drive all instrumentation. The horizontal gyros are driven by two gyro-stabilized flux-gate compasses and utilize a

selection system of the type discussed above. In addition to the horizontal gyros, there are two radiomagnetic indicators. The aircraft is also equipped with a Sperry Stars direction system. As far as Air Logistics is aware, no other aircraft operated by any Part 135 carrier is comparably equipped, and indeed this instrumentation is believed to be better than that of many aircraft utilized by Part 121 operators.

Additional safety equipment is also under consideration at the present time. CASA has requested Goodyear to develop a prototype non-skid breaking system for the CASA-212 aircraft and has indicated that if this system results in a significant improvement in landing roll distances it will be made available to customers. Consistent with its commitment to the highest degree of safety, Air Logistics intends to purchase a non-skid breaking system for its CASA equipment if that system is proven to be reliable and effective.

As the foregoing illustrates, the CASA-212 is truly a unique aircraft. Air Logistics is not aware of any other equipment presently available on the commercial market which offers a similar combination of payload capacity, short-field operating characteristics, design simplicity and reliability, sophisticated instrumentation, and proven short-field operating characteristics. Air Logistics requests that the FAA recognize this uniqueness in evaluating its exemption request in Docket 19498.

3. Air Logistics also submits that concerns of safety equivalency should present no barrier to the granting of the requested exemption in view of the narrowness of the relief requested, the uniqueness of the aircraft involved, and Air Logistics' own operating and training policies and procedures.

At the outset it should be noted that the exemption request being made by Air Logistics as further defined in this Supplement is an exceedingly narrow one. It is restricted to operations within the State of Alaska since it is in that state where the bush market and the particular operational problem which led to the filing of this exemption request are most prevalent, and also because Alaska is the base of Air Logistics' flight operations. The FAA has recognized on several occasions in the past that the special operating environment of Alaska requires adjustments in operational procedures otherwise applicable on a nationwide basis, and Air Logistics submits that these previous FAA actions offer ample precedent for the granting of relief as requested herein, restricted to the Alaska market.

Secondly, Air Logistics is no longer requesting exemption relief from the 50 foot height requirements of FAR 135.385. Thus, its short-field operations in Alaska with the CASA-212 aircraft would, if the requested exemption were granted, have the additional margin against short landings or failure to clear obstructions which the 50 foot rule is designed to provide.

Restricting exemption relief to day VFR operations, if considered necessary by the FAA, would add a further safety margin. It is widely recognized in the aviation industry that pilots are capable of making shorter landings under day VFR situations than other operating modes and thus this limitation would provide an additional margin of safety. Finally, by restricting exemption operations to cargo flights, the FAA would also be limiting the potential consequences of an accident no matter how remote the actual possibility of the accident is.

A second factor bearing on safety equivalency is the design philosophy, construction, and equipment which has been built in to Air Logistics' CASA-212 aircraft as discussed above, all of which serve to reduce significantly the possibility of accidents or incidents, and thus lessen the need for additional operating restrictions in order to operate the CASA-212 aircraft in a safe manner. That these design, manufacturing, and instrumentation features serve their designated purpose has been amply demonstrated by Air Logistics' fine operating record concerning this aircraft in Alaska, as well as the aircraft's excellent worldwide operating history, as discussed above.

A final factor is Air Logistics' operating and training and policies and procedures. As a matter of policy, Air Logistics has been highly selective in choosing individuals to serve as its captains and has made a deliberate effort

to offer top incentives and benefits in order to employ the very best available personnel. At the present time, all of Air Logistics' CASA captains are ATP certificated, have at least 13,000 hours flying time, and a minimum of 2,000 hours in aircraft powered by Garret engines. With one exception, all of these pilots completed more than 100 hours in type before functioning as a captain in commercial operations.

These select flight personnel are subjected to a training program which substantially exceeds the requirements of FAR 135. Air Logistics' original training procedures were designed to meet Part 121 standards and have not been substantially changed since the recent comprehensive revision of Part 135. Attached to this Supplement is a copy of Air Logistics' present CASA-212 Ground Training Manual which demonstrates the unusual thoroughness of Air Logistics' ground training procedures. Also included is a copy of Air Logistics' approved Operations Manual, which includes as Appendix A Air Logistics' CASA flight training manual. Finally, as a further implementation of its concern for safety Air Logistics is presently considering the development of a further very thorough set of standard operating procedures to supplement these documents.

In summary, Air Logistics believes that safety equivalency is established first by the uniqueness of its CASA-212 aircraft, second by Air Logistics' own stringent attitudes on safety matters, and third, by the narrowness of

the exemption relief requested. Air Logistics is truly a unique carrier operating a unique aircraft under unique circumstances. It submits that proper recognition of these factors by the FAA fully justifies the limited exemption relief that is being requested.

4. Finally, Air Logistics reiterates its belief that the public interest in an air transportation system capable of serving the needs of Alaska clearly mandates the granting of appropriate exemption relief in this case. In this connection, it should be noted that it is not Air Logistics' contention that the financial burden which it incurs due to its inability to operate its CASA-212 equipment into short airfields in civil operations in and of itself establishes the public interest justification for grant of an exemption in this proceeding. While Air Logistics feels that such factors are proper ones for consideration by the FAA, Air Logistics believes that the broader public need of the State of Alaska for improved air transportation services is the clearest public interest justification for the exemption requested herein. As has previously been demonstrated to the FAA, Alaska is the largest state in the Union in terms of geographic area. While slightly more than half of its population is concentrated in the three metropolitan centers of Anchorage, Fairbanks, and Juneau, the remainder of Alaskan populace is largely spread throughout the relatively remote Alaskan bush area. Much of the Alaskan bush is not readily

accessible by surface transportation during all or a substantial portion of the year, and thus these bush communities typically depend heavily on air transportation, not simply for discretionary travel or luxury goods, but also for basic necessities, and important equipment and supplies. Air Logistics' CASA-212 is ideally suited to serve these bush markets in that it offers a payload capacity and cargo-hold size which exceed those otherwise normally available at Alaskan bush airstrips. It is thus particularly useful for the carriage of large, heavy shipments, or outsized articles such as construction supplies. As Air Logistics has demonstrated in its prior submissions in this docket, there can be no question that there is a public need for the type of service which Air Logistics and its CASA-212 aircraft are equipped to provide. Obviously, this is a problem which will not diminish but rather which will gain additional importance as more of Alaska's natural resources are made available for exploration, development, and production. Additionally, Air Logistics would note that the native Alaskans who live in bush communities served by short airfields are in many cases attempting to establish better dwellings, to procure more goods and services, and generally to elevate their living standards. Air Logistics believes that its CASA-212 is well suited to assist in meeting this demand.

A recent case in point is the State of Alaska's efforts to build schools, hospitals, and community facilities

in bush areas. In 1979 Alaska inaugurated a $250 million construction program designed to improve these facilities; however, this program was not fully successful in part, Air Logistics believes, because of the difficulty of transporting essential construction materials to these remote areas. [To cite one example, as far as Air Logistics is aware, the CASA-212 is the only aircraft presently in Alaska capable of carrying long support beams into these short airfields]. A similar construction program of even larger proportions is presently contemplated for 1980; however, it is clear that adequate air transportation will be essential to its prospects for total success. Air Logistics believes that its CASA-212 equipment can fill a void which might otherwise exist in the transportation needs of this type of program.

Considerations of more general aviation policy, as previously discussed in Air Logistics' exemption petition also support the grant of the limited exemption relief requested herein. As noted previously, the present aviation policies of the Carter Administration and the United States Congress strongly favor the maximization of competition in aviation markets both domestically and internationally. This policy can only be implemented if federal agencies are willing to demonstrate administrative flexibility in cases where the facts warrant such action. Air Logistics submits that its application in Docket 19498 presents exactly such a case. By granting the exemption requested herein, Air Logistics submits

that the FAA would be maximizing the availability of high quality air transportation to the people of the Alaskan bush without at the same time compromising justifiable safety concerns. To deny this application would be to unnecessarily stifle competition in the bush markets and to deprive the people of the Alaskan bush of the best air service which can presently be made available to them. Accordingly, Air Logistics renews its request for appropriate exemption relief as discussed in its original petition in this docket as well as in this Supplement.

Respectfully submitted,

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Dated: November 2, 1979

HJR

71

COMMITTEE REPORT

SENATE

FURTHER: None

3/12/80

Date: April 16, 1980

Mr. President:

The Committee on STATE AFFAIRS has had HJR 71
Begich-Boggs Visitor Center

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

Bob Mackey
Pat Rodey

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bob Mackey
CHAIRMAN

S 60 (Rev. 12/78)

Introduced: 2/18/80
Referred: State Affairs

IN THE HOUSE BY CARNEY

HOUSE JOINT RESOLUTION NO. 71

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

Relating to the Begich Boggs Visitor Center.

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

WHEREAS the Portage Glacier, near Anchorage, is an outstanding natural feature; and

WHEREAS Portage Glacier is one of the few glaciers in the world which is located near and is easily accessible from a major population center; and

WHEREAS the U.S. Forest Service is planning the construction of a visitor center at the foot of the glacier; and

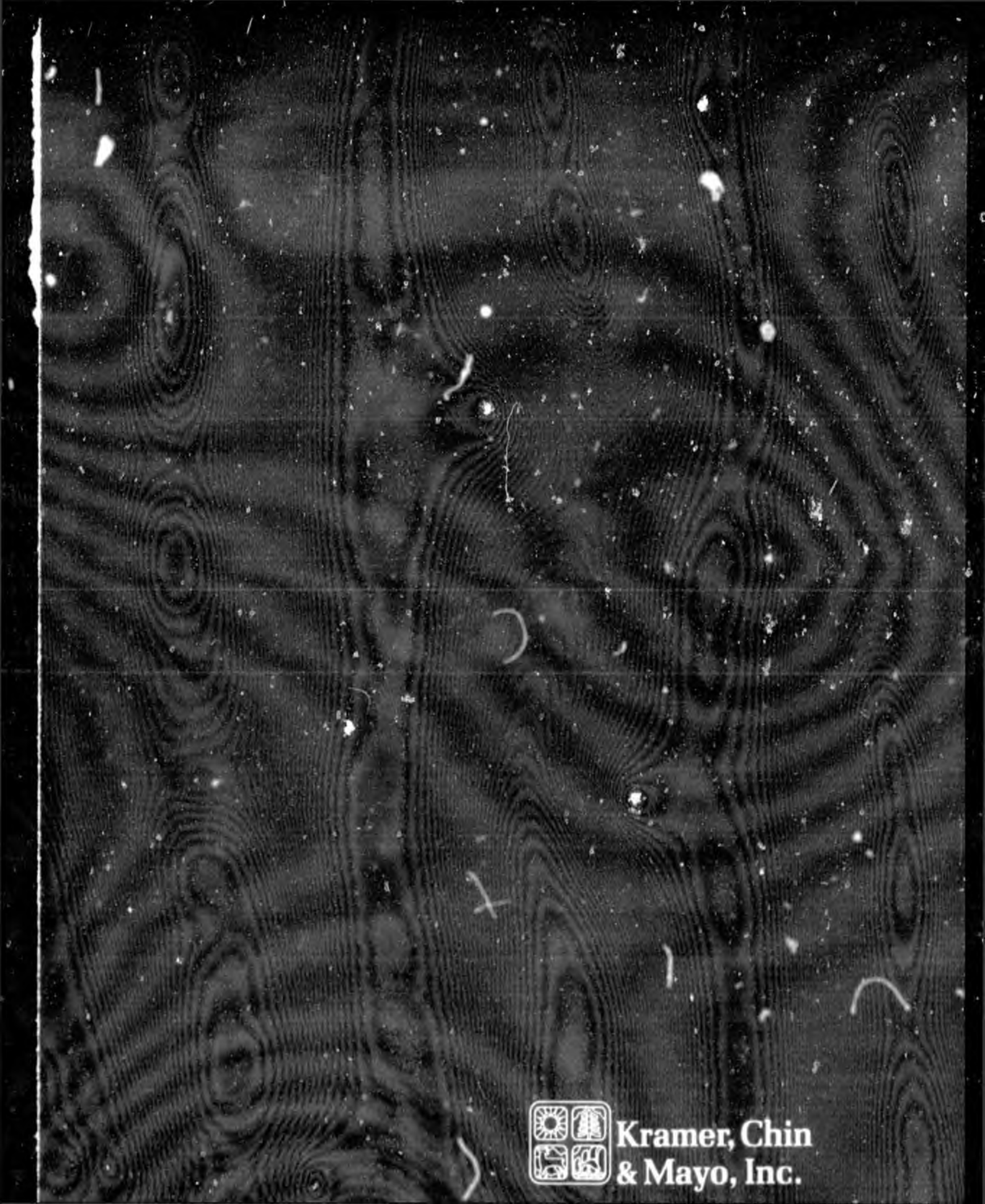
WHEREAS the Forest Service plans to use the visitor center for its various interpretive activities, including the display of a film depicting the glacier during different seasons of the year; and

WHEREAS the visitor center will be named after Congressman Nick Begich and House Majority Leader Hale Boggs, lost in a plane crash while in the service of Alaska and the nation; and

WHEREAS Congress has not yet authorized the construction of this visitor center or appropriated funds for it;

BE IT RESOLVED BY the Alaska State Legislature that it respectfully requests the United States Congress to authorize and appropriate funds for the construction of the Begich-Boggs Visitor Center at Portage Glacier.

COPIES of this resolution shall be sent to the Honorable Ted Stevens and the Honorable Mike Gravel, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.


Kramer, Chin
& Mayo, Inc.



The Juneau Marine Park

The Begich, Boggs Visitor
Center

determine their capability to handle additional waste loads. Final design and construction documents will 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 [illegible] emphasis was given to the relationship between the physical characteristics and surrounding environment. The [illegible] tended and adapted to the existing [illegible] and [illegible]

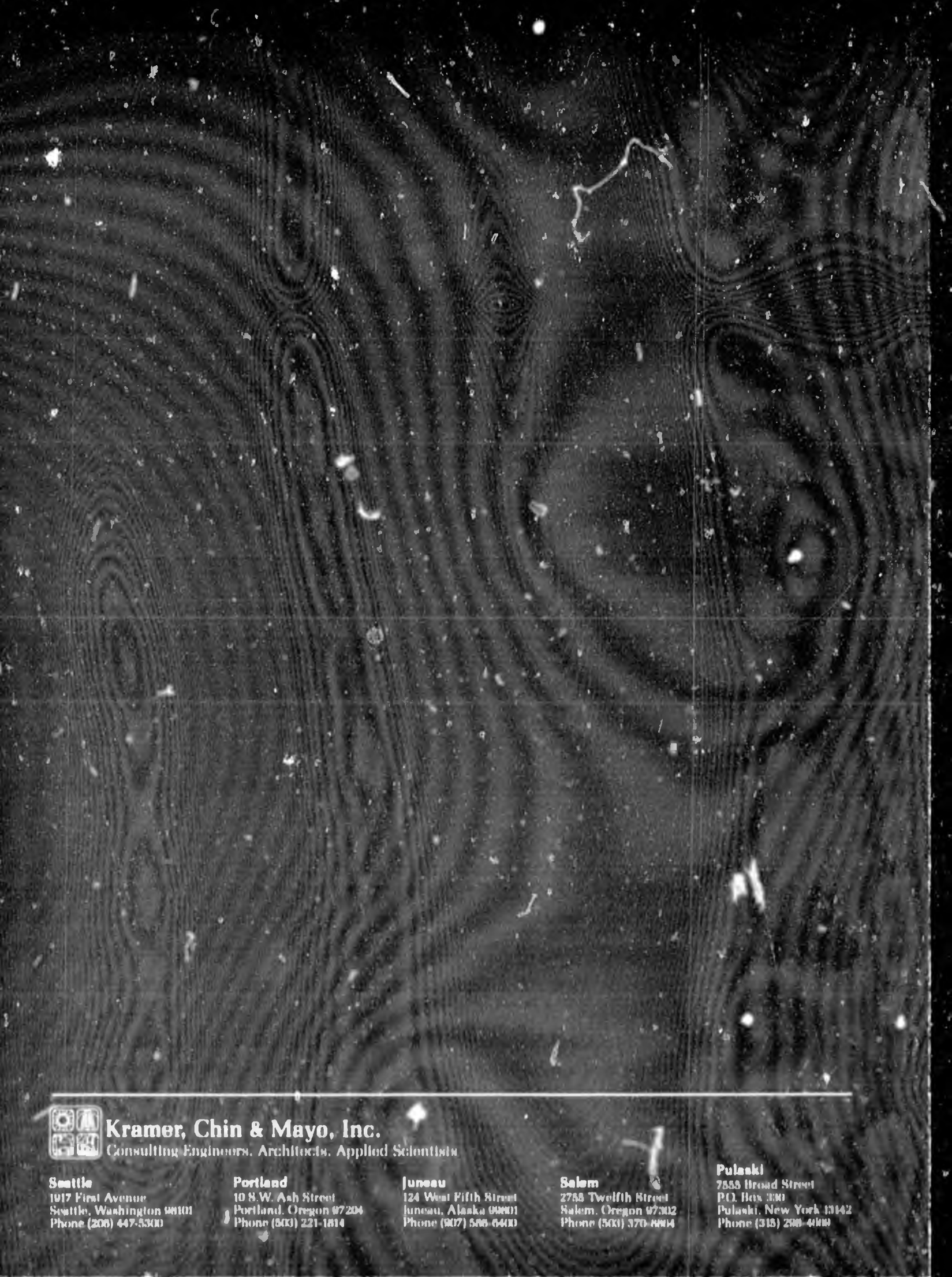
them blend into the physical site. Earth mounds will soften the transition from nature to manmade objects. The building's architectural design continues this harmonious feeling. Walls will be rough textured concrete, colored to be compatible with the surrounding landscape. Rounded corners will further soften the building forms.

KCM recommended that landscape plantings [illegible] of seedlings grown from cones gathered at the site, and of cuttings from indigenous plants so as to blend with the state's natural landscape and to adapt to the site's poor soil and severe wind and temperature conditions. [illegible] protect the mound [illegible] the [illegible]

KCM [illegible]







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